

ORDINANCE NO. 05-13

AN ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF BOONE, KENTUCKY ("COUNTY"), AUTHORIZING AND ESTABLISHING A DEVELOPMENT AREA FOR INFRASTRUCTURE DEVELOPMENT TO BE KNOWN AS THE "BOONE COUNTY, DEVELOPMENT AREA NO. 1"; ESTABLISHING THE PERCENTAGE OF INCREMENT THAT THE COUNTY OF BOONE WILL DISTRIBUTE EACH YEAR; REQUESTING FOR INCREMENTS FROM BOONE COUNTY IN ACCORDANCE WITH AND PURSUANT TO THE PROVISIONS OF THE INCREMENTAL FINANCING FOR ECONOMIC DEVELOPMENT ACT, KRS 65.680 TO 65.699; APPROVING AND AUTHORIZING THE MAXIMUM AMOUNT OF INCREMENTS TO BE SUBMITTED; AND TO TAKE SUCH OTHER ACTIONS AS ARE NECESSARY OR REQUIRED WITH RESPECT TO THE ESTABLISHMENT OF THE "BOONE COUNTY DEVELOPMENT AREA NO. 1", INCLUDING THE AUTHORITY TO ENTER INTO GRANT CONTRACTS WITH OTHER CITIES OR COUNTIES AND TO IMPOSE ASSESSMENT FEES ON NEWLY CREATED JOBS WITHIN THE DEVELOPMENT AREA.

WHEREAS, KRS 65.680 through 65.699, the Incremental Financing For Economic Development Act ("Act"), provides for the establishment of development areas, within County of Boone, Kentucky ("County"), created for public purposes and economic and infrastructure development;

WHEREAS, KRS 65.684 provides that the County may create development areas for infrastructure development and toward that end, define its boundaries, undertake projects, issue increment bonds and pledge increments to the payment of debt charges on those increment bonds, create a special fund for the deposit of increments and other funds to pay increment bonds and costs of projects, utilize increments to pay for projects and the amounts due on increment bonds and impose assessments;

WHEREAS, the Fiscal Court of Boone County finds that the creation and establishment of the Boone County Development Area No. 1, as described and set forth in Exhibit "A", for infrastructure development and the commencement of one or more projects therein, will result in increased employment within the County;

WHEREAS, the Fiscal Court of Boone County hereby determines that the establishment of the Boone County Development Area No. 1 is for a public purpose, including infrastructure development, and that the establishment and creation of the Boone County Development Area No. 1, within the County, is for the benefit and welfare of the County's citizens;

WHEREAS, the Fiscal Court of Boone County hereby determines that the establishment of the Boone County Development Area No. 1 will entitle the County to the receipt of Increments from the issuance of increment bonds or other revenues, which will assist in the funding and development of infrastructure development;

WHEREAS, the Fiscal Court of Boone County deems it necessary and appropriate to authorize the establishment of the Boone County Development Area No. 1 for infrastructure development, to include the receipt of Increments, as authorized and permitted by the Act; and

WHEREAS, the Fiscal Court of the County deems it necessary to enact this Ordinance, in accordance with and pursuant to the terms and provisions of the Act, and for the purposes set forth and described herein.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE FISCAL COURT OF THE COUNTY OF BOONE, KENTUCKY, AS FOLLOWS:

Section 1. Definitions:

1.1 "Act" means KRS 65.680 through 65.699.

"Activation Date" means the date established in Section 6 of this Ordinance, which shall also constitute the Commencement Date.

"Commonwealth" means the Commonwealth of Kentucky.

"County" means Boone County, Kentucky.

"Financial Advisor" means Ross, Sinclair & Associates.

"Increment" or "Increments" means the amount of revenues received by the County and/or Agency determined by subtracting the amount of old revenues from the amount of New Revenues, in any calendar year, with respect to the Boone County Development Area No. 1.

"KRS" means Kentucky Revised Statutes, as amended.

"New Revenues" shall have the same meaning and definition as set forth and defined in KRS 65.680(20).

"Old Revenues" shall have the same meaning and definition as set forth and defined in KRS 65.680(21).

“Project” or “Economic Development Project” shall have the same meaning as set forth in KRS 65.680 (24), and specifically shall refer to the economic and infrastructure development for industrial/commercial use, located within the Boone County Development Area No. 1, established by this Ordinance, which has been determined by the Fiscal Court for the County as contributing to economic development.

"Special Counsel" means Peck, Shaffer & Williams, LLP.

“Special Fund” means “Boone County Development Area No. 1 Fund” in which increments and other revenues collected within the development area are deposited and from which funds are used to pay the costs of projects or to pay debt charges on increment bonds associated with the “Boone County Development Area No. 1”.

"Boone County Development Area No. 1" means a contiguous geographic area, located within the geographical boundaries of the County, which is created for infrastructure development purposes by this Ordinance in which one (1) or more Projects are proposed to be located to be known as “Boone County Development Area No. 1”.

1.2 Any term not defined herein shall have the same meaning as set forth in KRS 65.680.

Section 2. Establishment and Designation of the Boone County Development Area No. 1.

2.1 All that area described in Exhibit “A”, attached hereto and incorporated herein by reference, is located within the County and is hereby established and designated as the "Boone County Development Area No. 1".

2.2 The Boone County Development Area No. 1, as described in Exhibit “A”, is hereby created and established as of the date this Ordinance shall become effective as set forth in Section 6.2 ("Activation Date" or "Commencement Date").

Section 3. Findings. The County specifically finds, in accordance with and pursuant to the Act, that the Project, and the creation and establishment of the Boone County Development Area No. 1, is for a public purpose and for infrastructure and economic development purposes for the benefit and welfare for the citizens of the County. The Fiscal Court further finds that the establishment and designation of the Boone County Development Area No. 1 will result in the increase in the value of property located within the Boone County Development Area No. 1 and/or result in an increase in employment within and around the Boone County Development Area No. 1. The County

therefore finds that there is a necessity for the establishment and creation of the Boone County Development Area No. 1 as authorized by this Ordinance, and therefore directs the establishment of said Boone County Development Area No. 1 in accordance with the terms and conditions as set forth in the Act, and in accordance with these findings.

Section 4. Establishment of Percentage of Increments.

4.1 The percentage of Increment that the County shall distribute, each year, for use in the infrastructure development of the Boone County Development Area No. 1, shall be 50%. The maximum amount of Increment to be requested from the County for real and personal property taxes shall be 80%.

4.2 All Increments derived from the County shall be received by the County and shall be used to pay the costs of the infrastructure development and Projects, and to pay, when appropriate, debt services and charges on any Increment bonds which may be authorized by a subsequent ordinance, or resolution, of the County, and for such other purposes as may be determined by the County by its Fiscal Court and that are appropriate and in compliance with the purposes set forth in this Ordinance and within the Act.

4.3 The County, by and through Fiscal Court, may enter into a Grant Contract with any other city or county for the release of increments in furtherance of any project within the development area in accordance with KRS 65.696.

4.4 The County, by and through Fiscal Court, pursuant to KRS 65.6851, will impose a two percent (2%) assessment fee on certain newly created jobs as a result of a project within the development area, such employees being subject to the state tax imposed by KRS 141.020. The total assessment levied under this provision shall not exceed an amount equal to two percent (2%) of the gross wages of the employee and shall be paid in accordance with the procedures set forth in Section 110.15 through Section 110.25 of the Boone County Code of Ordinances and the special levy set forth in Section 110.35 through Section 110.99 of the Boone County Code of Ordinances, inclusive of mental health and general fund portions of said payroll tax. When such assessment is levied, 100% of the payroll tax receipts over and above the amount due pursuant to Section 110.15 through Section 110.25 of the Boone County Code of Ordinances and the special levy set forth in Section 110.35 through Section 110.99 of the Boone County Code of Ordinances, inclusive of mental health and general fund portions of said payroll tax, shall be applied as part of the assessment fee toward the development area. Prior to such an assessment, all conditions contained within KRS 65.6851 shall be met.

Section 5. Appointment of Special Counsel and Financial Advisor.

5.1 The County hereby authorizes and approves the appointment of Peck, Shaffer & Williams, LLP, as Special Counsel to the County for purposes of the establishment of the Boone County Development Area No. 1, such approving legal opinions as may be required for the establishment of the Boone County Development Area No. 1 and, to act as Bond Counsel with respect to the issuance of any Increment bonds which may be authorized and issued after the date and adoption of this Ordinance and the approval of the Boone County Development Area No. 1.

5.2 The County hereby authorizes and approves the appointment of Ross, Sinclair & Associates, as Financial Advisor to the County with respect to the development of the Boone County Development Area No. 1 and the issuance of any Increment bonds after the date and adoption of this Ordinance and approval of the Boone County Development Area No. 1.

Section 6. Hearing, Conditions Precedent and Activation Date

6.1 This Ordinance shall not become effective until occurrence of the following:

(a) The County shall hold a public hearing in accordance with KRS 65.686 (1) upon a date certain at which all interested parties shall be afforded a reasonable opportunity to express their views on the proposed creation and establishment of the Boone County Development Area No. 1 and its boundaries.

(b) Prior notice of said public hearing shall be published in a local newspaper with general circulation at least 7 days, but no more than 21 days, prior to the scheduled hearing date and shall set forth the time and place of the hearing, including general description of the boundaries of the proposed Boone County Development Area No. 1 and include a declaration that the purpose of the hearing is to afford all interested parties an opportunity to express their views regarding the Boone County Development Area No. 1.

6.2 This Ordinance shall become effective on the date following completion of all the conditions precedent set forth herein, at which time the Boone County Development Area No. 1 shall be established hereby. Such date will be the Commencement Date and shall be the date on which the required hearing is concluded.

Section 7. Creation of Special Funds for Outstanding Increment Bonds. The County hereby establishes a Special Fund referred to as "Boone County Development Area No. 1 Special Fund." The County shall maintain the Special Fund, created hereby, which shall be pledged for the purposes set forth by this Ordinance. The County Treasurer will collect the Increments, and other revenue, as set forth in the Act and deposit the monies in the Special Fund.

Funds deposited in the Special Fund shall be disbursed at the times and in the amounts required by the County and, if permitted by the Act, to pay debt charges on Increment Bonds, if any, and for any other public legal purpose as determined by the County's Fiscal Court as provided for in the Act.

The County may establish other funds and accounts as may be necessary or required with respect to the Increments and the issuance of Increment Bonds.

Section 8. Incorporation of Recitals. The preamble or recitals to this Ordinance are hereby declared and determined to be true and accurate in all respects and are incorporated into the body of this Ordinance, in full, by reference thereto.

Section 9. Termination. The Boone County Development Area No. 1 shall cease to exist on the date marking twenty (20) years from the commencement date established under Section Six (6) herein.

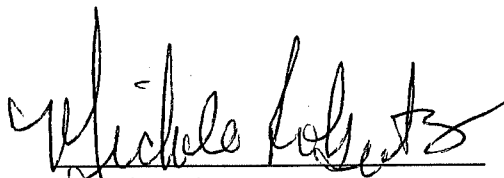
Section 10. Severability. In case any section or provision of this Ordinance is held to be illegal or invalid for any reason, such illegal or invalid section or provisions shall not effect the legality or validity of any other section or provision of this Ordinance, all of which shall be construed or enforced at the time as if such illegal section or provision were not contained herein.

Section 11. 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 in accordance with provisions of section 6.2 hereof.

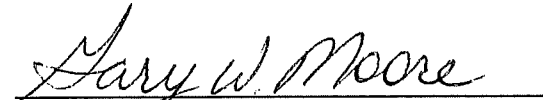
Given first reading on August 2, 2005.

Given second reading and passed and adopted on this 20th day of September 20, 2005.

Attest:



Michele Roberts
Fiscal Court Clerk

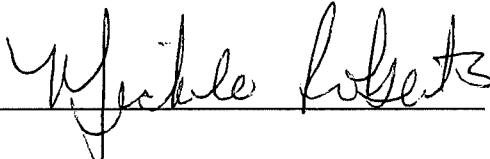


Gary W. Moore
County Judge/Executive

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Fiscal Court Clerk of the County of Boone, Kentucky; that the foregoing is a true and complete copy of a certain Ordinance duly adopted by the Fiscal Court of the County of Boone, Kentucky, at a duly convened meeting properly held on September 20, 2005; that said Ordinance appears as a matter of public record in the official records of the Fiscal Court; 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 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
21st of September, 2005.



Fiscal Court Clerk

EXHIBIT A

August 24, 2005

DESCRIPTION OF 378.691 ACRES
RICHWOOD PARK, LLC,
INDUSTRIAL DEVELOPMENTS INTERNATIONAL
AND MARLENE GUNNING, TRUSTEE

Located in Boone County, Kentucky, lying on the south side of Kentucky Highway 338 and the west side of U.S. Highway 25 and is more particularly described as follows:

Beginning at a point in the southerly right-of-way line Kentucky Highway 338 at the most northerly common corner of Marlene A. Gunning, Trustee (Deed Book 860, page 577) and Truckstops Corporation of America, Inc. (Deed Book 529, page 56); thence with said right-of-way and a curve turning to the left with an arc length of 252.19 feet, a radius of 1707.32 feet, a chord bearing of N 57°47'55" E, and a chord length of 251.96 feet to a point; thence N 53°14'24" E 126.06 feet to a point in the west right-of-way line of U.S. Highway 25; thence with said right-of-way line S 30°58'27" E 281.80 feet to a point; thence S 28°43'55" E 77.27 feet to a point; thence S 25°02'34" E 267.18 feet to a point; thence S 64°56'54" W 20.00 feet to a point; thence S 25°02'31" E 250.00 feet to a point; thence N 64°56'24" E 19.99 feet to a point; thence S 25°02'50" E 161.79 feet to a point; thence S 16°22'02" E 103.43 feet to a point; thence leaving said right-of-way line S 53°46'23" W 645.53 feet to a point; thence S 35°32'40" E 359.02 feet to a point; thence N 54°11'55" E 545.51 feet to a point in the in the west right-of-way line of U.S. Highway 25; thence with said right-of-way line S 15°44'09" E 234.56 feet to a point; thence S 36°37'34" E 57.58 feet to a point; thence with a curve turning to the left with an arc length of 214.00 feet, a radius of 1411.10 feet, a chord bearing of S 31°06'13" E, and a chord length of 213.79 feet to a point; thence S 35°26'54" E 150.00 feet to a point; thence with a curve turning to the right with an arc length of 342.23 feet, a radius of 1596.47 feet, a chord bearing of S 29°18'26" E, and a chord length of 341.57 feet to a point; thence S 23°09'58" E 366.76 feet to a point; thence S 66°50'02" W 5.00 feet to a point; thence S 23°09'58" E 75.00 feet to a point; thence N 66°50'02" E 5.00 feet to a point; thence S 23°09'58" E 305.54 feet to a point; thence S 21°29'55" E 159.56 feet to a point; thence S 17°09'22" E 104.91 feet to a point; thence S 15°54'24" E 487.50 feet to a point; thence with a curve turning to the left with an arc length of 396.02 feet, a radius of 1462.39 feet, a chord bearing of S 23°39'53" E, and a chord length of 394.81 feet to a point; thence S 31°25'22" E 456.90 feet to a point; thence S 27°29'54" E 608.97 feet to a point; thence S 62°30'06" W 5.00 feet to a point; thence S 27°29'54" E 50.00 feet to a point; thence N 62°30'06" E 5.00 feet to a point; thence S 27°29'54" E 345.01 feet to a point; thence leaving said right-of-way line S 49°25'30" W 506.87 feet to a point; thence S 26°24'07" E 440.43 feet to a point; thence N 50°18'11" E 247.05 feet to a point; thence N 45°58'06" E 271.92 feet to a point in the west right-of-way line of U.S. Highway 25; thence with said right-of-way line S 27°29'54" E 32.03 feet to a point; thence leaving said right-of-way line S 45°58'20" W 265.09 feet to a point; thence S 50°28'45" W 3994.39 feet to a point in the east right-of-way line of Interstate 75; thence with said right-of-way line N 04°02'29" W 1161.80 feet to a point; thence N 85°57'31" E 50.00 feet to a point; thence N 04°02'29" W 300.00 feet to a point; thence S 85°57'31" W 50.00 feet to a point; thence N 04°02'29" W 675.00 feet to a point; thence N 19°09'26" E 190.39 feet to a point; thence N 04°02'29" W 100.00 feet to a point; thence N 39°02'01" W 61.03 feet to a point; thence N 04°02'29" W 50.00 feet to a point; thence N 09°05'33" E 154.03 feet to a point; thence N 04°02'29" W 100.00 feet to a point; thence

N 20°44'27" W 261.01 feet to a point; thence N 04°03'18" W 2479.16 feet to a point; thence N 21°34'44" E 138.65 feet to a point; thence N 04°03'44" W 50.00 feet to a point; thence N 15°22'20" W 50.99 feet to a point; thence N 25°51'49" W 26.00 feet to a point; thence N 15°24'08" W 105.47 feet to a point; thence N 03°25'06" W 1295.12 feet to a point; thence N 06°56'54" E 224.07 feet to a point; thence leaving said right-of-way line S 83°02'25" E 299.03 feet to a point; thence S 69°58'42" E 101.42 feet to a point; thence N 24°02'39" E 467.33 feet to a point; thence N 25°32'10" E 113.24 feet to a point; thence N 15°17'28" E 232.39 feet to a point; thence N 53°46'30" E 136.13 feet to a point; thence N 35°41'10" W 140.37 feet to the point of beginning containing 378.691 acres .

