

ORDINANCE NO. 12-17

AN ORDINANCE RELATING TO MAKING CERTAIN FINDINGS CONCERNING AND ESTABLISHING A LOCAL DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE COUNTY TO BE KNOWN AS THE FRIENDLY MARKET LOCAL DEVELOPMENT AREA; APPROVING A LOCAL DEVELOPMENT AREA AGREEMENT AMONG THE COUNTY AND THE FRIENDLY MARKET LLC; ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF REDEVELOPMENT ASSISTANCE AND PROJECT COSTS PREPARATION; DESIGNATING THE COUNTY 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 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 to encourage investment in and development of areas of the County, (2) enter into agreements in connection with the establishment and development of a local development area, (3) establish a special fund for deposit of incremental revenues resulting from the development of a local development area, and (4) designate an agency to oversee, administer and implement projects within a local development area; and

WHEREAS, the County desires to establish a "local development area" as defined in the Act to encourage investment and development within such local development area and to pledge a portion of the "incremental revenues" as defined in the Act generated from the development of such local development area to the payment of redevelopment assistance and project costs and/or financing costs within such local development area; and

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

WHEREAS, the County has determined to establish the Local Development Area as a local development area pursuant to the Act 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 the payment of Increment Bonds (hereinafter defined), if issued upon agreement of the County and Developer, or to otherwise pay for Redevelopment

Assistance and Project Costs (hereinafter defined) if bonds are not issued, under a Local Development Area Agreement (hereinafter defined); and

WHEREAS, the County pursuant to the Act held a public hearing on August 21, 2012 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 County of Boone, Kentucky.

"Local Development Area" means a contiguous geographic area of undeveloped land, 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 located and consisting of less 1,000 acres, as more specifically described in Exhibit A attached hereto, to be known as the "Friendly Market Local Development Area".

"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.

"Increment Bonds" means bonds or notes issued pursuant to the Act to pay for Redevelopment Assistance, Project costs, and Financing Costs, the payment of which Increment Bonds shall be supported solely by Incremental Revenues pledged by the County and Special Districts.

"Incremental Revenues" means the amount of revenues received by the County and Special Districts (if applicable) with respect to the Local Development Area by subtracting Old Revenues (as defined in the Act) from New Revenues (as defined in the Act) in a calendar year.

“Local Development Area Agreement” shall mean the Local Development Area Agreement among the County, the Special Districts, the Agency and the Developer, attached as Exhibit “B” hereto.

“Project” means the development of the Project Site, including the construction of the Friendly Market Project” within the Project Site, and other development within the Local Development Area being undertaken by the Friendly Market, LLC (the “Developer”).

“Project Costs means any investment (as defined by the Act) made by the Developer, together with financing costs thereon to construct the Project.

“Pledged Revenues” means that portion of the Incremental Revenues which are pledged by the County and Special Districts (if applicable), pursuant to the Local Development Area Agreement, to the pay for Redevelopment Assistance, Project Costs and/or Financing Costs (as those terms are defined in the Act) for the Local Development.

“Special District” means any local special taxing districts, other than the school district and fire district, that has agreed to pledge their respective Incremental Revenues to support the development of the Local Development Area.

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 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 4.73 acres;

2.2 The Local Development Area constitutes undeveloped land as required by KRS 65.7043;

2.3 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 2011 was \$675,000; and the total assessed value of taxable real property within the County for the calendar year 2011 exceeds \$10,000,000,000. 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.

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 "Friendly Market Local Development Area". At the time of the enactment of this Ordinance the Local Development Area is less than 1,000 acres, being 4.73 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 Development Area is the date of execution of the Local Participation Agreement and the Termination Date shall be exactly twenty (20) years subsequent to such date; provided, that if the Local Development Area Agreement relating to the Local Development Area has a Termination Date that is later than the Termination Date established in this Ordinance, the Termination Date for the Local Development Area shall be extended to the Termination Date of the Local Development Area Agreement. 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. Local Development Area 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, any Special Districts, who have approved a pledge of their Incremental Revenues, 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 Project Costs. The form of Local Development Area Agreement to be signed by the County Judge/Executive on behalf of the County, the Special Districts (if applicable), and the Developer, 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 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 inclusive of and not in addition to any general occupational tax imposed by the County on the gross wages of employees working within the County, and 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 for its general occupational tax. The job assessment fee, less a four (4) percent collection fee charged by the County, shall be used to pay Project Costs as provided by the 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 Friendly Market 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, and the Local Development Area Agreement and related documents to pay for Project 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: (a) pay directly Project Costs, as those terms are defined in the Act and herein, as determined from time to time by the County in accordance with the Local Development Area Agreement ; (b) pay debt service and costs of issuance on Increment Bonds, including Financing Costs, which may be issued by the County, or agency created by the County to issue Increment Bonds, issued to finance Project Costs and (c) for such other purposes as may be determined by the County and that are appropriate and in compliance with the purposes set forth in this Ordinance, and the Local Development Area Agreement, as the 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 itself as the Agency for purposes of oversight, administration and review responsibility of this Local Development Area Ordinance, 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 and the financing of Project Costs therein.

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.

That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

Introduced and given First Reading on the **7th day of August, 2012.**

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the **18th day of September, 2012** and signed by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.

GARY W. MOORE
BOONE COUNTY JUDGE/EXECUTIVE

DAPHNE KORNBLUM
FISCAL COURT CLERK

ORDINANCE NO. 12-

AN ORDINANCE RELATING TO MAKING CERTAIN FINDINGS CONCERNING AND ESTABLISHING A LOCAL DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE COUNTY TO BE KNOWN AS THE FRIENDLY MARKET LOCAL DEVELOPMENT AREA; APPROVING A LOCAL DEVELOPMENT AREA AGREEMENT AMONG THE COUNTY AND THE FRIENDLY MARKET LLC; ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF REDEVELOPMENT ASSISTANCE AND PROJECT COSTS PREPARATION; DESIGNATING THE COUNTY 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.

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

WHEREAS, the County has determined to establish the Local Development Area as a local development area pursuant to the Act 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 the payment of Increment Bonds (hereinafter defined), if issued upon agreement of the County and Developer, or to otherwise pay for Redevelopment

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WHEREAS, the County pursuant to the Act held a public hearing on August 21, 2012 after giving proper notice concerning the County's intention to establish the Local Development Area; and

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SECTION 5. Local Development Area 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, any Special Districts, who have approved a pledge of their Incremental Revenues, 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 Project Costs. The form of Local Development Area Agreement to be signed by the County Judge/Executive on behalf of the County, the Special Districts (if applicable), and the Developer, 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 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 inclusive of and not in addition to any general occupational tax imposed by the County on the gross wages of employees working within the County, and 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 for its general occupational tax. The job assessment fee, less a four (4) percent collection fee charged by the County, shall be used to pay Project Costs as provided by the 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 Friendly Market 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, and the Local Development Area Agreement and related documents to pay for Project 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: (a) pay directly Project Costs, as those terms are defined in the Act and herein, as determined from time to time by the County in accordance with the Local Development Area Agreement ; (b) pay debt service and costs of issuance on Increment Bonds, including Financing Costs, which may be issued by the County, or agency created by the County to issue Increment Bonds, issued to finance Project Costs and (c) for such other purposes as may be determined by the County and that are appropriate and in compliance with the purposes set forth in this Ordinance, and the Local Development Area Agreement, as the 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 itself as the Agency for purposes of oversight, administration and review responsibility of this Local Development Area Ordinance, 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 and the financing of Project Costs therein.

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.

That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

Introduced and given First Reading on the 7th day of August, 2012.

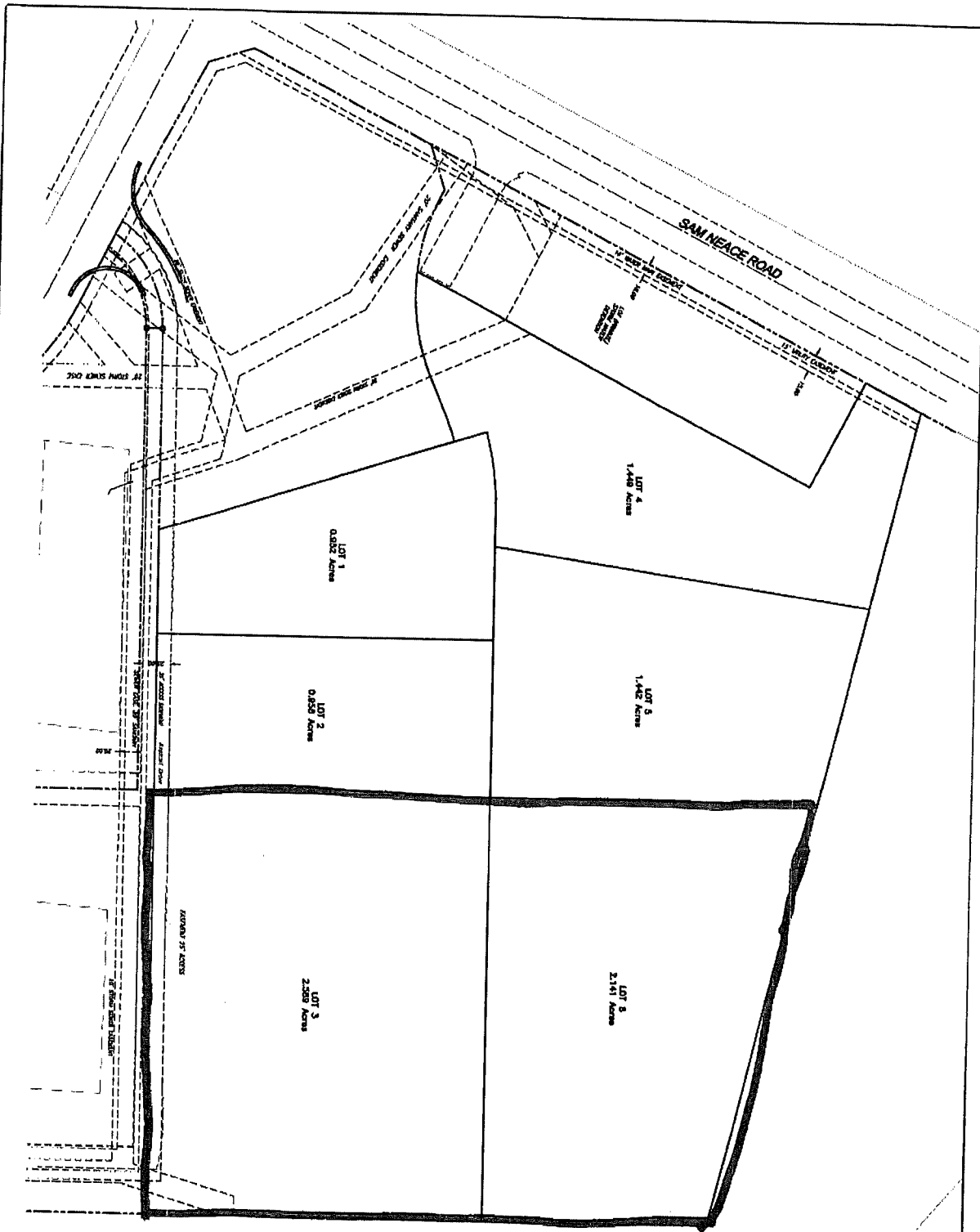
Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the _____ and signed by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.

GARY W. MOORE
BOONE COUNTY JUDGE/EXECUTIVE

DAPHNE KORNBLUM
FISCAL COURT CLERK

EXHIBIT A.

IA
(Exh. "1")



FRIENDLY MARKET
Local Development Area ↑

DATE: 11/12/14
SCALE: AS SHOWN
BY: [Signature]

PAGE C

LAYOUT PLAN
KENTUCKY PROUD - MT. ZION CROSSING
BOONE COUNTY, KENTUCKY



VIOX & VIOX

Civil Engineers, Surveyors, and Landscape Architects
444 Chicago Road • Erlanger, Kentucky 41041
Tel: (502) 772-0303 • Fax: (502) 727-4422 • www.vioxandviox.com

~~IV~~A
(Exh. "2")

**LOCAL DEVELOPMENT AREA AGREEMENT
FOR
FRIENDLY MARKET LOCAL DEVELOPMENT AREA
BY AND BETWEEN
COUNTY OF BOONE, KENTUCKY
AND
FRIENDLY MARKET LLC
September 1, 2012**

Exhibit A – Plat of the Local Development Area

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TO
LOCAL DEVELOPMENT AREA AGREEMENT
DATED
September 1, 2012
COUNTY OF BOONE, KENTUCKY
AND
FRIENDLY MARKET, LLC

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LOCAL DEVELOPMENT AREA AGREEMENT
Friendly Market Local Development Area

THIS LOCAL DEVELOPMENT AREA AGREEMENT (this "Agreement") is made as of the 1st day of September, 2012 (the "Effective Date") by and between the COUNTY OF BOONE KENTUCKY, a county government organized under the laws of the Commonwealth of Kentucky, and FRIENDLY MARKET, LLC, a Kentucky limited liability (the "Developer"); collectively (the "Parties");

RECITALS

WHEREAS, pursuant to the Act as hereinafter defined, the County on the _____ day of _____, 2012, adopted Ordinance Number _____, (the "Local Development Area Ordinance"), whereby it established the Friendly Market Local Development Area (the "Local Development Area") for the purpose of promoting a mixed use development within the County; and

WHEREAS, the County recognizes and determines construction of the Project, as hereinafter defined as contemplated by this Agreement will contribute to the public welfare of the citizens of the County and will thereby materially enhance the area and be in furtherance of the general health and welfare of the citizens of the County; and

WHEREAS, the Parties recognize that the development of the Local Development Area, will not occur without a public-private partnership and financial assistance provided to the Project by the County; and

WHEREAS, the Parties desire to set forth the duties and responsibilities of the Parties with respect to the administration, financing and pledging of Incremental Revenues in support of the development of the Project within the Local Development Area; and

WHEREAS, pursuant to Ordinance Number _____, adopted on the ___ day of _____ 2012, the Fiscal Court of the County has authorized the County Judge/Executive to execute and enter into this Agreement with the Developer, and the County desires to enter into this Agreement; and

WHEREAS, pursuant to a resolution adopted by the Developer, the Developer the managing member of the Developer to execute and enter into this Agreement with the County, and the Developer desires to enter into this Agreement; and

WHEREAS, pursuant to the Act, the County, and the Developer desire to set forth their mutual agreements, understandings and obligations in this Agreement, in order to facilitate development of the Project within the Local Development Area.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, and in consideration of the premises and the mutual covenants and undertakings contained herein, it is agreed and covenanted by and among the Parties hereto as follows:

SECTION I
Preambles

The Parties hereto agree that the above “preambles” or “preamble clauses” are incorporated herein by reference as if fully restated herein and form a part of the agreement among the Parties hereto.

SECTION II
Definitions

For the purposes of this Agreement, the following words and phrases shall have the meanings assigned in this Section II, unless the context clearly indicates that a contrary or different meaning is intended.

1. “Act” or “the Act”. Shall mean KRS 65.7041 to KRS 65.7083.

2. “Activation”. Shall have the meaning as defined by the Act.
3. “Agreement”. Shall mean this Local Development Area Agreement, including all Exhibits attached hereto.
4. “Bonds”. Shall mean the Increment Bonds or notes issued by the County to finance Project Costs within the Local Development Area, in accordance with the Financing Plan.
5. “Bond Documents”. Shall mean all of the documents constituting the bond transcript of proceedings in connection with the Bonds.
6. “County”. Shall mean the County of Boone, Kentucky.
7. “County Authorizations”. Shall mean those necessary governmental authorizations, resolutions, orders, hearings, notices, ordinances, and other acts, required by laws, rules, or regulations to provide the County and its officers with the proper authority to perform all obligations of the County resulting from this Agreement, and perform all other obligations of the County made necessary by, or resulting from the establishment of the Local Development Area.
8. “Developer”. Shall mean Friendly Market, LLC, a Kentucky limited liability company.
9. “Effective Date”. Shall have the meaning given in the introductory paragraph of this Agreement.
10. “Excess Incremental Revenues”. Means Incremental Revenues in excess of the amounts required to support the payment of Increment Bonds and to meet any coverage tests set forth in the Bond Documents.
11. “Financing Costs”. Shall have the meaning as provided in the Act.

12. "Financing Plan". Shall mean the plan for financing the Project as described in SECTION X of this Agreement, as it may be amended with the approval of the of the County.

13. "Increment Bonds". Shall mean the bonds or notes issued by the County pursuant to the Act to pay for Project Costs within the Local Development Area as approved by the issuer of the Increment Bonds, the payment of which shall be supported by Incremental Revenues pledged by the County and other revenues.

14. "Incremental Revenues". Shall mean the amount of revenues received by the County with respect to the Local Development Area by subtracting Old Revenues (as defined in the Act) from New Revenues (as defined in the Act) in a calendar year.

15. "Local Development Area". Shall have the meaning given in the Recitals to this Agreement, and more specifically described on Exhibit A attached hereto.

16. "Local Development Area Ordinance." Shall mean Ordinance No. ____, adopted by the County on the ____ day of _____, 2012.

17. "New Revenues". Shall have the meaning as provided in the Act.

18. "Old Revenues". Shall have the meaning as provided in the Act.

19. "Project". Shall mean the comprehensive development described in SECTION IX of this Agreement within the Local Development Area.

20. "Project Costs". Shall mean any capital investment (as defined by the Act), including Financing Costs, necessary to construct the Project.

21. "Special Fund". Shall mean the Friendly Market Local Development Area Special Fund established by the County for the purpose of holding the County's Incremental Revenues pledged herein in connection with the development of the Project.

22. "Sub-Developer(s)". Shall mean any entity or individual to whom the Developer assigns rights, duties and obligations under this Agreement for all or a portion of the Project.

23. "Unavoidable Delays". Shall mean delays due to labor disputes, lockouts, acts of God, enemy action, civil commotion, riot, governmental regulations not in effect at the date of execution of this Agreement, conditions that could not have been reasonably foreseen by the claiming party, inability to obtain construction materials or energy, fire, or unavoidable casualty, provided such matters are beyond the reasonable control of the party claiming such delay.

SECTION III Parties

The parties to this Agreement shall be the County, and the Developer.

SECTION IV Duties and Responsibilities of County

The County shall have the following duties and responsibilities in connection with the development of the Local Development Area:

1. Provide for the establishment of the County Special Fund for the collection of Incremental Revenues pledged herein from County real *ad valorem* taxes and payroll taxes, within the Local Development Area from the Project.

2. Pledge one hundred percent (100%) of the County's Incremental Revenues from County real ad valorem taxes and fifty (50%) of the general business occupational license taxes generated within the Local Development Area for a thirty (30) year period to pay for Project Costs within the Local Development Area, which pledge is made in SECTION VI herein.

3. Establish, as provided by the Act, a special payroll tax of two percent (2%)

of gross payroll applicable only within the Local Development Area and pledge that amount, less the amount due to the County for its general occupational tax applicable throughout the County on the gross wages of employees, to pay for Project Costs within the Local Development Area for a thirty (30) year period, which pledge is made in SECTION VI herein.

4. Act as the issuer of the Increment Bonds in the event that Bonds are issued upon the agreement of the County and Developer to pay for Project Costs within the Local Development Area.

5. Act as the as the entity responsible for the oversight, administration, and implementation of the Local Development Area Ordinance.

6. Meet at least quarterly with the Developer for the purpose of reviewing the progress of the development of the Local Development Area and prepare an analysis of such progress for distribution to the respective legislative bodies of the County.

7. The County shall, as the "agency" for purposes of the Act, prepare by no later than March 1 of each year during the term of this Agreement an annual report and provide same to the Developer and the respective legislative bodies of the County that shall include, but not be limited to: (a) the total real property taxes, and payroll taxes payroll taxes collected within the Local Development Area during the previous calendar year; (b) a determination of New Revenues collected within the Local Development Area during the previous calendar year; (c) a summary of debt service paid on outstanding Increment Bonds during the previous calendar year; (d) the amount, if any, of Increment Bonds issued during the previous calendar year, and (e) if no Increment Bonds are issued, the amount, if any, of Incremental Revenues spent from the Special

Fund on Project Costs in connection with the Project.

SECTION V
Duties and Obligations of the Developer

1. The Developer shall undertake and construct the Project within the Local Development Area as required by the Development Agreement, with the understanding that elements of the Project may be undertaken by Sub-Developers chosen by the Developer.

2. The Developer shall meet at least quarterly with the County for the purpose of reviewing the progress of the development of the Local Development Area.

3. The Developer and any Sub-Developer shall annually provide to the County a detailed listing of any capital costs incurred on the Project.

4. It is understood by the Parties that any rights the Developer has under this Agreement to a payment of Incremental Revenues to reimburse Project Costs, may be assigned by the Developer to a Sub-Developer(s) to assist with the development of any part of the Project undertaken by a Sub-Developer within the Local Development Area.

SECTION VI
Identification and Pledge of Incremental Revenues

1. The County hereby pledges one hundred percent (100 %) of the County's Incremental Revenues, from County real *ad valorem* taxes, fifty percent (50%) of the general business occupational license taxes and the two percent (2%) of gross wages from new employees within the Local Development Area, less the amount of the County's general payroll tax applicable throughout the County and a four percent (4%) collection fee, to pay for Project Costs within the Local Development Area for a thirty (30) year period starting from the 1st day of the calendar year following Activation. The Incremental Revenues shall be determined by calculating the New Revenues collected

from the Local Development Area, and subtracting the Old Revenues collected from within the Local Development Area for the base year, which is the calendar year 2011. The Old Revenues generated to the County during calendar year 2011 was \$702.

2. Incremental Revenues pledged by the County in this SECTION VI shall be deposited at least annually, no later than each March 1st after the first calendar year of Activation, to the Special Fund and used solely for the payment of Project Costs within the Local Development Area. Such Special Fund shall be continued and maintained until the Termination Date (as defined in the Local Development Area Ordinance) of the Local Development Area. Amounts in the Special Fund, together with interest accruing thereon, are hereby irrevocably pledged for the payment of Project Costs, including principal, interest and premium, if any, on Bonds issued to pay for Project Costs in the event that Bonds are issued to pay for Project Costs. If Bonds are not issued, amounts in the Special Fund shall be held by the County and paid annually to reimburse the Developer for Project Costs paid by the Developer.

3. If Increment Bonds are issued, this Agreement may be pledged and assigned by the County to a Trustee under a certain Trust Indenture for the Increment Bonds, by and between the County and the Trustee, as it may be amended or restated from time to time, and made a part of the trust estate established thereunder for the security of the Bonds as more particularly set forth therein.

4. If Increment Bonds are issued, Excess Incremental Revenues shall be paid annually to the Developer to reimburse the Developer for Project Costs paid by the Developer in addition to any Project Costs paid by the Increment Bonds.

5. At the Termination Date (as defined in the Local Development Area

Ordinance) all amounts not needed to pay the Increment Bonds or to reimburse the Developer for Project Costs shall be transferred to the General Fund of the County in proportion to the respective contributions to the Special Fund by the County.

SECTION VII
Anticipated Benefits to the County

The County anticipates receiving substantial benefits as a result of the pledge of their Incremental Revenues to support development of the Local Development Area as set forth herein. Based upon the listing of Old Revenues to the County attached the taxable assessment for calendar year 2011 within Local Development Area is \$675,000, and that generates \$702 in County taxes. The construction of the Friendly Market Project when fully developed is anticipated to increase the taxable assessments within the Local Development Area by over \$2,700,000 and create 40-45 new jobs with an estimate payroll of \$1,000,000, which is anticipated to generate new tax revenues to the County and Special Districts, even with deducting the Incremental Revenues pledged within this Agreement to pay for Project Costs. Based upon these estimates the Project will generate annually increased tax revenues to the County of 2,808 in real estate taxes and \$20,000 in payroll taxes to the County, which will grow over time.

The maximum amount of Incremental Revenues to be paid by the County shall be one hundred (100%) of the Incremental Revenues from real ad valorem taxes, fifty percent (50%) of the general business occupational license taxes and the two percent (2%) of gross wages from new employees within the Local Development Area, less the amount of the County's general payroll tax applicable throughout the County and a four percent (4%) collection fee , and the maximum number of years the payment of Incremental Revenues to support the payment of Project Costs within the development

of the Local Development Area is thirty (30) years.

SECTION VIII
Description of Local Development Area.

A detailed description of the Local Development Area is set forth in Exhibit A hereto.

SECTION IX
Description of Project; Costs

The Project shall be the construction and operation of the Friendly Market with indoor and outdoor facilities, which will provide a venue to market and sale locally grown and Kentucky products. It is anticipated that the construction of the first phase of the Project will begin on or before October 1, 2012, with an opening date of January 1, 2013, and involve capital investment in the approximate amount of \$1,600,000. Later phases of the Project will include additional capital investment estimated in the amount of \$1,100,000.

SECTION X
Financing Plan

It is anticipated by the Parties that the cost of construction of the Project shall be paid by the Developer with the understanding that after Activation any Incremental Revenues pledged by the County to pay for Project Costs pursuant to this Agreement shall be annually paid to the Developer (or to a Sub-Developer as directed by the Developer) to reimburse the Developer or Sub-Developer for Project Costs that have been reported to the County as required by SECTION V(3) of this Agreement. Provided, however, at the request of the Developer certain parts of the Project may be paid for through Increment Bonds issued by the County, and supported through the Incremental Revenues pledged by the County under this Agreement. In the event that Increment

Bonds are issued to pay for specified Project Costs, any Incremental Revenues pledged by the County under this Agreement shall first be used to pay any required debt service on the Increment Bonds; and any Excess Incremental Revenues will be paid annually to the Developer or Sub-Developer as directed by the Developer, to reimburse the Developer or Sub-Developer for Project Costs other than those Project Costs paid from the Increment Bonds. It is understood that the Financing Plan for the Project may be modified as development of the Project progresses and that more specific details of the nature of each aspect of financing the Project shall be more particularly contained in the Bond Documents and other documents at the time that each aspect of the financing needed for the Project is obtained. However, the pledge of Incremental Revenues herein to support payment of the Increment Bonds issued for the Project or to directly support construction of the Project shall not be modified without the specific approval of the County.

IT IS UNDERSTOOD BY THE PARTIES THAT THE NOTES OR BONDS THAT MAY BE ISSUED BY THE COUNTY PURSUANT TO THIS AGREEMENT AND SECURED SOLELY BY INCREMENTAL REVENUES SHALL NOT CONSTITUTE A DEBT OF THE COUNTY OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE COUNTY, AND THE COUNTY SHALL HAVE NO OBLIGATION TOWARD THE PAYMENT OF SUCH BONDS BEYOND THE PLEDGE OF INCREMENTAL REVENUES AS PROVIDED IN THIS AGREEMENT.

SECTION XI

Commencement Date; Activation Date; Termination Date

This Agreement shall commence and be effective on September 1, 2012. The Activation for the pledge of Incremental Revenues as set forth in SECTION VI hereof

shall be determined by the County and the Developer in accordance with the Act. This Agreement shall terminate thirty (30) years after the Activation as set forth above. This Agreement shall not terminate upon the execution of any deeds or other agreements required or contemplated by this Agreement, or referred to herein, and the provisions of this Agreement shall not be deemed to be merged into the deeds, or any other such deeds or other agreements, it being the intent of the parties hereto that this Agreement shall survive the execution and delivery of any such agreements.

SECTION XII
Default

If the County (a "Defaulting Party") shall default in its obligation to make payments of Incremental Revenues set forth herein or in the Bond Documents (in the event that bonds are issued), the Developer (unless it is the Defaulting Party) and/or the indenture trustee or trustees for outstanding Bonds secured by such Incremental Revenues shall have the power to enforce the provisions of this Agreement or the Bond Documents against the Defaulting Party. If the County materially breaches or defaults on any of its non payment related obligations under this Agreement, any other party and/or the indenture trustee or trustees for the outstanding Bonds may give notice that remedial action must be taken within thirty (30) days. The Defaulting Party shall correct such breach or default within thirty (30) days after such notice, provided however that if (i) the default is one which cannot with due diligence be remedied by the Defaulting Party within thirty (30) days and (ii) the Defaulting Party proceeds as promptly as reasonably possible after such notice and with all due diligence to remedy such default, the period after such notice within which to remedy the default shall be extended for such period of time as may be necessary to remedy the same with all due diligence.

However, notwithstanding any other provision of this Agreement in the event of a default no remedy shall permit the withholding by the County of the payment of any Incremental Revenues pledged in this Agreement if Increment Bonds are outstanding that are secured by a pledge of those Incremental Revenues.

SECTION XIII
Governing Law

The laws of the Kentucky shall govern as to the interpretation, validity and effect of this Agreement.

SECTION XIV
Severability

If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties essential objectives as expressed herein.

SECTION XV
Force Majeure

The County or Developer shall not be deemed to be in default in the performance of any obligation on such parties' part to be performed under this Agreement, other than an obligation requiring the payment of a sum of money, if and so long as the non performance of such obligation shall be directly caused by Unavoidable Delays; provided, that within fifteen (15) days after the commencement of such Unavoidable Delay, the non performing party shall notify the other party in writing of the existence

and nature of any such Unavoidable Delay and the steps, if any, which the non-performing party shall have taken or planned to take to eliminate such Unavoidable Delay. Thereafter, the non-performing party shall, from time to time, on written request of the other party, keep the other party fully informed, in writing, of further developments concerning such Unavoidable Delay and the effort being made by the non-performing party to perform such obligation as to which it is in default. All provisions of any construction schedule shall be adjusted in accordance with such Unavoidable Delay.

SECTION XVI
Notices

Any notice to be given under this Agreement shall be in writing, shall be addressed to the party to be notified at the address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three (3) days following deposit in the U.S. Mail with proper postage prepaid, Certified or Registered, (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by telecopy or personal delivery:

If to the County: Gary W. Moore
County Judge/Executive
2950 Washington Street
Burlington, KY 41005

With a Copy to: Robert Neace
County Attorney
2950 Washington Street
Burlington, KY 41005

If to the Developer: Nobert Berberich
9087 Alyssum Dr.
Covington, KY 41011

With a Copy to:

James E. Parsons
Taft, Stettinius & Hollister LLP
Special Counsel for Developer
1717 Dixie Highway, Ste. 910
Covington, KY 41011

SECTION XVII
Approvals

Whenever a party to this Agreement is required to consent to, or approve, an action by the other party, or to approve any such action to be taken by another party, unless the context clearly specifies a contrary intention, or a specific time limitation, such approval or consent shall be given within thirty (30) business days and shall not be unreasonably withheld or delayed by the party from whom such approval or consent is required.

SECTION XVIII
Entirety of Agreement

As used herein, the term "Agreement" shall mean this Local Area Development Agreement and the Exhibits attached hereto. This Agreement embodies the entire agreement and understanding of the Parties hereto with respect to the subject matter herein contained, and supersedes all prior agreements, correspondence, arrangements, and understandings relating to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by any party which has not been embodied in this Agreement, and no party shall be bound by or be liable for any alleged representation, promise, inducement, or statement of intention not so set forth. This Agreement may be amended, modified, superseded, or cancelled only by a written instrument signed by all of the parties hereto, and any of the terms, provisions, and conditions hereof may be waived only by a written instrument signed by the waiving

party. Failure of any party at any time or times to require performance of any provision hereof shall not be considered to be a waiver of any succeeding breach of any such provision by any part.

SECTION XIX
Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

SECTION XX
Headings and Index

The headings in this Agreement and the Index are included for purposes of convenience only and shall not be considered a part of this Agreement in construing or interpreting any provision hereof.

SECTION XXI
Exhibits

All exhibits to this Agreement shall be deemed to be incorporated herein by reference and made a part hereof, above the signatures of the parties hereto, as if set out in full herein.

SECTION XXII
No Waiver

No waiver of any condition or covenant of this Agreement to be satisfied or performed by the County or Developer shall be deemed to imply or constitute a further waiver of the same, or any like condition or covenant, and nothing contained in this Agreement nor any act of any party, except a written waiver signed by such party, shall be construed to be a waiver of any condition or covenant to be performed by the other party.

SECTION XXIII

Construction

No provisions of this Agreement shall be construed against a party by reason of such party having drafted such provisions.

SECTION XXIV
Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

SECTION XXV
Relationship of the Parties

Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the Parties hereto shall be deemed or construed by the Parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association among any of the Parties of this Agreement.

SECTION XXVI
No Third Party Beneficiary

Except as otherwise specified herein, the provisions of this Agreement are for the exclusive benefit of the Parties and their successors and permitted assigns, and not for the benefit of any other person or entity, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any other person or entity.

SECTION XXVII
Diligent Performance

With respect to any duty or obligation imposed on a party to this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of such duty or obligation as

soon as reasonably practicable after commencement of the performance thereof.
Notwithstanding the above, time is of the essence with respect to any time limit specified herein.

SECTION XXVIII
Assignment of Rights and Delegation of Duties

Except as provided in SECTION V(4) of this Agreement, no Party to this Agreement may assign this Agreement, or any part hereof, without the prior written consent of the other Parties.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands on the date and year first above set forth herein, to be effective as of the Effective Date.

COUNTY OF BOONE, KENTUCKY

Approval as to Form:

By: _____
Gary W. Moore
County Judge/Executive

Robert Neace
Boone County Attorney

FRIENDLY MARKET, LLC ,.

By: _____
Nobert Berberich
Sole Member