

ORDINANCE NO. BG2019 - 36

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 11 (FINANCE,  
TAXATION AND ECONOMIC DEVELOPMENT) OF  
THE CITY OF BOWLING GREEN CODE OF  
ORDINANCES TO RESCIND SUBCHAPTER 11-7  
(INCREMENTAL TAX REVENUE DISTRICT –  
HARTLAND DEVELOPMENT AREA)

WHEREAS, in 1989, the City approved Subchapter 11-7 of the Code of Ordinances to create an incremental tax revenue district to help finance the costs of the construction of a convention center in the Hartland development area; and,

WHEREAS, bonds to construct the convention center were issued in 1993 with the bonds becoming mature on December 1, 2018; and,

WHEREAS, the incremental tax revenue district was created by state statute with the statutory provisions providing that the incremental tax revenue district was to expire upon payment of the bonds and the bonds have now been paid in full; and,

WHEREAS, it is in the best interest of the City to rescind Subchapter 11-7 of the Code of Ordinances related to the incremental tax revenue district in the Hartland Development Area.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 11 (Finance, Taxation and Economic Development) is hereby amended as follows:

11-1 GENERAL PROVISIONS.

...

~~[11-7 INCREMENTAL TAX REVENUE HARTLAND DEVELOPMENT  
AREA.]~~

~~[11-7.01 Preamble.]~~

~~[a. The City of Bowling Green engaged in the study and analysis of the feasibility of the acquisition, construction and installation of major convention center and trade show facilities to~~

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~~serve the City, the County of Warren and the economic area of the City and County, which facilities would provide and carry out the following public purposes: (i) the provision of governmentally owned, public convention and trade show facilities, (ii) the enhancement of economic development and economic growth within the Bowling Green—Warren County area, (iii) the enhancement of tourism in the Bowling Green—Warren County through the provision of modern, governmentally owned, public convention and trade show facilities, (iv) inducement of business and industrial expansion compatible with convention and trade show activities and (v) enhancement of the tax base of the Bowling Green—Warren County area and creation of employment opportunities for the citizenry of such area.]~~

~~[b. ——— It has been determined by the City, acting by and through its Board of Commissioners, that the acquisition, construction and installation of a governmentally owned convention and trade show facilities, to consist of convention and trade show facilities providing approximately 65,000 square feet of facilities, will constitute the carrying out of a public purpose and that the facilities will constitute a "public project" as such term is defined in KRS Chapter 58 (the "Project").]~~

~~[c. ——— The Commonwealth of Kentucky, acting by and through the Economic Development Cabinet, has announced its intention to provide a portion of the costs of the proposed Project upon the basis of the economic and tourism contribution which the Project will make not only to Bowling Green and Warren County, but to the Commonwealth generally.]~~

~~[d. ——— In order to finance the Project, the City has heretofore caused to be created The Convention Center Corporation, a nonprofit, non-stock Kentucky corporation, which is a corporation described in and meeting the qualifications of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Corporation") in order that the Corporation may act as the agency, instrumentality and constituted authority of the City pursuant to the provisions of KRS 58.180 in the financing of the Project.]~~

~~[e. ——— Formerly KRS 99.751 to 99.771, inclusive, (the "Tax Increments Act") authorized "taxing districts," including counties and cities of the second class, such as the County of~~

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~~Warren and the City, to create “development areas,” and to enter into contracts with “agencies” as defined in the Tax Increments Act, now KRS 65.680 to 65.699, inclusive, (the “Kentucky Increment Financing Act”), for the release of incremental revenues created in such development areas to such agencies, and the Corporation, being a nonprofit corporation established pursuant to KRS Chapter 58, constitutes an “agency” within the meaning of the Tax Increments Act, and is legally qualified to accept tax increments derived from additional ad valorem taxes and occupational license fees generated within the Development Area and utilize such tax increments for public purposes, including for the financing of the Project; and the City has determined that it will, as a taxing district within the meaning of the Tax Increments Act, create a Development Area within the corporate limits of the City and designate the Corporation as its Agency to receive tax increments from such Development Area following the establishment of the Development Area, so that such tax increments may be utilized by the Corporation for, with other funds, if required, the amortization of obligations issued by the Corporation in order to finance the construction, acquisition and installation of the Project.]~~

~~[f. For the foregoing reasons, it is now deemed appropriate and necessary by the City to (i) formally and officially approve and adopt the Project and order its immediate implementation, (ii) designate the Corporation as its agency, instrumentality and constituted authority for the financing of the Project, (iii) agree to enter into at the appropriate time a lease of the Project on an annually renewable basis as authorized by Kentucky law for rentals (subject to credits from tax increments received by the Corporation from the Development Area) sufficient to amortize the obligations to be issued by the Corporation for the acquisition, construction and installation of the Project, (iv) create a Development Area pursuant to the Tax Increments Act, (v) contract with the Corporation as the designated Agency under the Tax Increments Act to lease eighty percent (80%) of all ad valorem tax revenues and occupational license fee revenues derived within the Development Area over and above the amount of revenues received by the City from such tax sources from the Development Area in the~~

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~~last year prior to the establishment of the Development Area, such tax increments to be used by the Corporation to amortize and pay the obligations issued for the financing of the Project, and (vi) authorize the immediate undertaking and financing of the Project.]~~

~~[11-7.02 — Adoption of Public Project; Implementation of Project.]~~

~~[A public project consisting of the acquisition, construction and installation of an approximately 65,000 square foot governmentally owned public convention and trade show facility to be situated within the corporate limits of the City of Bowling Green (the "Project") is hereby officially approved, adopted and confirmed. The Project is a public project within the meaning of KRS Chapter 58 and it is hereby found and determined that the project is necessary and will perform essential governmental functions. Accordingly, the Project is ordered to be and shall be undertaken and implemented forthwith, subject only to the condition that the Commonwealth of Kentucky provides funding for a sufficient portion of the costs of the Project.]~~

~~[11-7.03 — Corporation to Act as Agency of the City.]~~

~~[The Corporation is hereby authorized, empowered and directed to continue to act as the agency, instrumentality and constituted authority of the City in connection with the financing and acquisition of the Project. Such financing and acquisition shall be carried out pursuant to KRS Chapter 58. In that regard, the Corporation is hereby authorized, directed and empowered to take and carry out all actions in respect to the formal authorization of its obligations, the sale of such obligations and the application of the proceeds thereof of the construction, installation and acquisition of the Project for lease to and occupancy and use by the City. The Corporation shall enter into a lease agreement with the City Pursuant to which the Project shall be leased by the Corporation to the City for rentals equal to the amortization requirements in respect to the obligations to be issued by the Corporation, together with the cost of operating, maintaining and insuring the facility.]~~

~~[11-7.04 — Lease of Project by Corporation to City.]~~

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~~[The Project shall be leased by the Corporation to the City on an annual basis subject to annual automatic renewals over such term of years as shall be adequate to amortize in full all obligations issued by the Corporation for the financing of the Project. Any and all tax "increments" as hereinafter defined, received by the Corporation from the Development Area representing the proceeds of ad valorem taxes and occupational license fees collected within the Development Area, hereinafter defined, shall be credited by the Corporation against rental payments otherwise required to be made by the City under such financing lease. In the event tax increments received by the Corporation from the Development Area exceed the amortization requirements on the obligations of the Corporation issued to finance the Project, plus the cost of operating, maintaining and insuring the Project, such tax increments shall be returned by the Corporation to the City and to the County of Warren, pro rata upon the basis of the original interests of each such unit of government in such underlying ad valorem taxes and occupational license fees.]~~

~~[11-7.05 — Immediate Undertaking of Project Authorized.]~~

~~[The immediate undertaking and implementation of the Project is hereby authorized and directed. The Corporation is directed to undertake the formulation of a financing plan, to cause the Project to be designed, to enter into such agreements and undertakings as shall be reasonably required in the circumstances to carry out the implementation and financing of the Project and to do all other things useful and necessary in furtherance of the construction and financing of the Project.]~~

~~[11-7.06 — Creation of Development Area.]~~

~~[a. Pursuant to KRS 99.751 through 99.771, inclusive, (the "Tax Increments Act"), a Development Area was officially designated and created by the City, which encompasses the geographic area described as follows:]~~

~~[PARCEL I:]~~

~~[A certain tract of real property lying on Scottsville Road at its southeastern intersection with~~

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~~South Park Drive, consisting of 67.136 acres, all as more particularly described as Tract 1 on Revision of the Smith Estate and Revision of Hartland Subdivision Section 2 as set forth in Plat Book 22, Page 47, in the Office of the Warren County Clerk.]~~

~~[PARCEL II:]~~

~~[A tract of land lying on Scottsville Road at its southeastern intersection with Ashley Street (proposed), containing 3.14 acres, and more particularly described as Tract 1 of the Wallace/Vanmeter Subdivision as set forth in Plat Book 22, Page 104, in the Office of the Warren County Clerk.]~~

~~[PARCEL III:]~~

~~[A certain tract of land located on Ashley Street (proposed), containing 2.90 acres, and designated as Lot 2 of the Wallace/Vanmeter Subdivision as recorded in Plat Book 22, Page 104, in the Office of the Warren County Clerk.]~~

~~[b. Pursuant to the Tax Increments Act, now KRS 65.680 to 65.699, inclusive, (the "Kentucky Increment Financing Action"), the City, as the "Taxing District," under such Act, hereby designates the Corporation as the "Agency" under such Act, to develop the Project within the Development Area and to receive tax increments derived from the Development Area and apply such tax increments to amortize the obligations to be issued by the Corporation to acquire, construct and install the Project.]~~

~~[e. There are hereby assigned to the Corporation eighty percent (80%) of the incremental ad valorem taxes and occupational license fees derived and to be derived within the Development Area. The incremental taxes shall be deemed to be the "increments," as defined in the Tax Increments Act, and shall be that amount of ad valorem tax receipts and occupational license fee receipts authorized to be received by the City from the Development Area in each year beginning calendar year 1990 over the amount of such ad valorem tax revenues and occupational license fee revenues authorized to be received by the City from the Development Area in calendar year 1989, being the last year prior to~~

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~~the establishment by the City, as Taxing District, of the Development Area. The City shall at a later date enter into an appropriate contract with the Corporation for the release and payment of such tax increments to the Corporation, subject to the terms negotiated at that time. It is hereby determined and declared that the increments hereby assigned to the Corporation as Agency, pursuant to the Tax Increments Act, represent increments expected to be derived by the City as a direct and proximate result of the undertaking by the City of the Project. All tax increments hereby assigned to the Corporation and to be contracted to the Corporation by the City shall be used solely and only for purposes of the Project and in the Development Area and shall be used for the amortization obligations issued by the Corporation for the financing of the Project, and for the operation, maintenance and insurance of the Project.]~~

~~[11-7.07—Corporation to Prepare Annual Budget.]~~

~~[The Corporation shall annually submit to the City by March 1 of each year an annual budget for the ensuing twelve-month period commencing July 1 and ending June 30. Said budget shall be submitted on forms provided to the Corporation by the City through its Department of Finance.]~~

~~[11-7.08—Authorization and Direction to Corporation.]~~

~~[The Corporation, as the agency, instrumentality and constituted authority of the City, pursuant to KRS Chapter 58, and as the Agency of the City, as Taxing District pursuant to the Tax Increments Act, is hereby authorized and directed to proceed forthwith to cause the Project to be designed, to engage appropriate professionals to assist in the implementation of the development of the Project, to develop a financing plan for the Project to finance the Project and to take and carry out any and all additional actions and steps as may be necessary and required in connection therewith.]~~

...

2. 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.

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3. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

4. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on August 6, 2019, and given final reading on August 20, 2019, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: August 20, 2019

APPROVED: Bruce Wilkerson  
Mayor, Chairman of Board of Commissioners

ATTEST: Ashley Jackson  
City Clerk

SPONSORED BY: Jeffery B. Meisel, City Manager, 07/29/2019, 4:30 p.m.