

ORDINANCE NO. 105, SERIES 2013

AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO KRS 65.7049-65.7053 TO BE KNOWN AS THE KENTUCKY KINGDOM DEVELOPMENT AREA, DESIGNATING THE METRO DEVELOPMENT AUTHORITY, INC. AS AN “AGENCY”, ADOPTING THE DEVELOPMENT PLAN FOR THE DEVELOPMENT AREA, APPROVING ENTERING INTO A LOCAL PARTICIPATION AGREEMENT, AUTHORIZING THE PAYMENT OF THE “RELEASED AMOUNT” PURSUANT TO THE TERMS AND CONDITIONS OF THE LOCAL PARTICIPATION AGREEMENT, REQUIRING THE SUBMISSION OF REGULAR REPORTS TO THE COUNCIL AND AUTHORIZING THE EXECUTION AND DELIVERY OF ANY OTHER DOCUMENTS AND THE TAKING OF ANY OTHER ACTIONS NECESSARY TO ACCOMPLISH THE PURPOSES AUTHORIZED BY THIS ORDINANCE.

Sponsored by: Council Members Johnson, Downard, King

WHEREAS, KRS 65.7041-65.7083 (the “Act”) authorizes cities and counties to establish development areas to encourage private investment in the development of projects that will have a significant economic impact in the Commonwealth; and

WHEREAS, KENTUCKY KINGDOM, LLLP, a Kentucky Limited Liability Limited Partnership (“Kentucky Kingdom”) intends to invest significant funds to revitalize and reopen the closed Kentucky Kingdom site on the grounds of the Kentucky Fair and Exposition Center (the “Site”) as an amusement park to be called Kentucky Kingdom (the “Project”); and

WHEREAS, Kentucky Kingdom has presented evidence to Louisville/Jefferson County Metro Government (“Louisville”) that the Project would not be feasible without state and local financial incentives; and

WHEREAS, on April 10, 2013, Kentucky Kingdom entered into a Tourism Development Agreement with the Kentucky Tourism Development Finance Authority for the Project to receive tourism tax credits pursuant to KRS 148.850 et.seq.; and

WHEREAS, Kentucky Kingdom has requested Louisville to designate the Site as a Development Area pursuant to the Act with boundaries as illustrated on the plat attached hereto as Exhibit A (the “Development Area”); and

WHEREAS, in accordance with the provisions of the Act a Development Plan, attached hereto as Exhibit B (the “Development Plan”), has been prepared and a public hearing has been held after giving proper notice concerning Louisville’s intention to consider the adoption of the Development Plan; and

WHEREAS, within the Development Area, as illustrated in the Development Plan, there has been a substantial abandonment of commercial structures; more than fifty percent (50%) of the commercial structures are deteriorating rapidly; and the current conditions existing in the

Development Area substantially impairs the growth and economic development of Louisville; and

WHEREAS, the Development Area is an area in need of public improvement and the Project to be undertaken in the Development Area by Kentucky Kingdom will result in the increase in value of the property located in the Development Area and will result in increased employment within the Development Area; and

WHEREAS, it is therefore in the interest of Louisville and Kentucky Kingdom that there be a plan for the optimal revitalization and development of the Development Area in a most efficient manner; and

WHEREAS, the use of tax increment financing has proven to be successful and of great benefit to areas in need of revitalization and development in Kentucky and other parts of the country; therefore, the establishment of the Development Area to enable Louisville to use tax increment financing to encourage major economic development projects within the Development Area is a worthy public purpose; and

WHEREAS, Louisville is authorized under the Act to execute a local participation agreement or contract with an agency in acknowledgement of benefits to be derived by Louisville within a development area in order to promote the public purpose of Louisville; and

WHEREAS, Metro Development Authority, Inc. (“MDA”) is organized and incorporated as a non-profit, non-stock corporation organized on behalf of Louisville pursuant to KRS Chapter 58; and

WHEREAS, Louisville desires to assist Kentucky Kingdom with the costs of the Project and agrees to enter into the Local Participation Agreement with the MDA in order to pay to the MDA the Released Amount (as hereinafter defined) for use solely for purposes of the Project; and

WHEREAS, the adoption of the Development Plan and the establishment of the Development Area within Louisville are for a public purpose.

NOW THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

Section 1. The Development Plan, attached hereto as Exhibit B, is hereby adopted.

Section 2. As supported by the data and findings contained in the Development Plan, the Council finds as follows:

- A. All statements of fact set forth in the recitals to this Ordinance are found true and correct and are incorporated herein by reference; and
- B. The Development Area is a contiguous tract of land and the area contained therein is less than three square miles; and
- C. The Development Area constitutes previously developed land as required by KRS 65.7034; and

- D. The establishment of the Development Area will not cause the assessed taxable value of real property within the Development Area and within all “development areas” and “local development areas” established by Louisville (as those terms are defined in the Act) to exceed twenty percent (20%) of the total assessed taxable value of real property within Louisville; and
- E. The Development Area is not reasonably expected to be developed without public assistance and will continue to experience reduced employment and investment, reducing job opportunities for the residents of Louisville and reducing tax revenues to Louisville; and
- F. The public benefits to be derived by Louisville from the Project justify the public costs of the incentives to be provided to the Project; and
- G. The area immediately surrounding the Development Area has not been subject to growth and development through investment by private enterprise; and
- H. The conditions within the Development Area meet the criteria described in KRS 65.7049.

Section 3. That the Development Area, as illustrated in Exhibit A, is designated as a development area pursuant to the Act and shall be named the Kentucky Kingdom Development Area and shall be established as of the effective date of this Ordinance and shall terminate on the earlier of (a) the termination of the Local Participation Agreement, attached hereto as Exhibit C, or (b) 14 years from the date hereof.

Section 4. That the Council adopts and incorporates herein the Development Plan for the Development Area attached hereto as Exhibit B.

Section 5. That the MDA, a Kentucky non-profit corporation, (a) is hereby designated as the Agency, pursuant to the terms of the Act, (b) shall be the recipient of the Released Amount under the Local Participation Agreement, and (c) shall oversee and administer the implementation of the Project within the Development Area.

Section 6. That the Mayor is authorized to negotiate and enter into a Local Participation Agreement substantially in the form attached hereto as Exhibit C with the MDA for the release to MDA of 100% of the Increment (as such term is defined in the Local Participation Agreement) (the “Released Amount”) to be derived by Louisville from the Project within the Development Area.

Section 7. That the MDA as the Agency for the Development Area is authorized to enter into the Local Participation Agreement with Louisville and to enter into an agreement with Kentucky Kingdom for the payment of the Released Amount.

Section 8. That the Office of Management and Budget (“OMB”) is designated as the department in Louisville to oversee the payment of the Released Amount and to review all documentation concerning the Project, its progress, costs and development. The OMB shall annually submit to the Council a report concerning the Development Area including but not limited to:

- A. An accounting of all payments made to the MDA pursuant to the Local Participation Agreement; and
- B. An analysis and review of development activity regarding the Project within the Development Area; and

C. The progress made toward meeting the stated goals of the Development Plan.


Section 9. That the Council authorizes Louisville to pay annually to MDA the Released Amount which shall be a sum equal to 100% of the Increment for a period not to exceed ten (10) years (as calculated pursuant to the Local Participation Agreement).

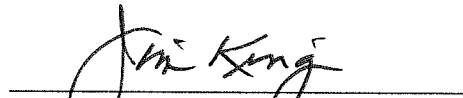
Section 10. That OMB shall establish a Special Fund pursuant to the Act for the Development Area as set forth in the Local Participation Agreement.

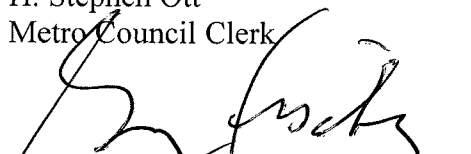
Section 11. That the Mayor and other appropriate Louisville officials, and each of them, for and on behalf of Louisville, are authorized, empowered and directed to do and perform any and all things necessary to effect the execution of the Local Participation Agreement, the performance of all obligations of Louisville under and pursuant to the Local Participation Agreement and related documents, and the performance of all other actions of whatever nature necessary to effect and carry out the authority conferred by this Ordinance and the Local Participation Agreement. The Mayor and other appropriate Louisville officials, and each of them, are further authorized, empowered and directed for and on behalf of Louisville to execute all papers, letter, documents, undertakings, certificates, assignments, forms, instruments and closing papers that may be required for the carrying out and effectuation of the authority conferred by and for the purposes of this Ordinance and the Local Participation Agreement, or to evidence said authority and purposes, and to exercise and otherwise take all action necessary to the full realization of the rights and purposes of Louisville under the Local Participation Agreement and related documents and to perform all of the obligations of Louisville under the Local Participation Agreement and related documents.

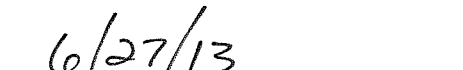
Section 12. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

Section 13. That this Ordinance shall take effect upon passage and approval.


H. Stephen Ott
Metro Council Clerk


Jim King
President of the Council


Greg Fischer
Mayor


Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: 

