

ORDINANCE NO. 5, 1998 SERIES

RECORDED & FILED
MAR 13 1998
JOHN W. TATE
SECRETARY
COMMONWEALTH OF KENTUCKY

AN ORDINANCE RELATING TO COOPERATIVE INTERLOCAL AGREEMENT BY THE CITY OF FRANKFORT AND THE FRANKLIN COUNTY FISCAL COURT TO PROVIDE FINANCING FOR THE ACQUISITION, IMPROVEMENT AND DEVELOPMENT OF INDUSTRIAL PARK SITE OR SITES WITHIN FRANKLIN COUNTY

FILED
MAR 10 10 32 AM '98
WORLD CHIFFETTE
D.C. BARRACLOUGH

THIS COOPERATIVE INTERLOCAL AGREEMENT ORDINANCE made and entered into by and between the CITY OF FRANKFORT, party of the First Part, and the FRANKLIN COUNTY FISCAL COURT, party of the Second Part;

W I T N E S S E T H

WHEREAS, KRS 65.245 permits cities and counties by ordinance to enter cooperative interlocal agreements to share their revenues; and

WHEREAS, KRS 65.157 permits the governing body of a city to appropriate funds to the county in which it is located to enable the county to perform proper and necessary governmental functions which the county is by statute authorized or required to undertake and which involves the public interest of citizens of the city in accordance with KRS Chapter 91A; and

WHEREAS, KRS 65.157 permits the governing body of a county to appropriate funds to a city within the county to enable the city to perform proper and necessary governmental functions which the city is by statute authorized or required to undertake and which involves the public interest of the citizens of the county in accordance with KRS Chapter 68; and

WHEREAS, the Capital Community Economic/Industrial Development Authority is a non-profit industrial authority created by the City of Frankfort and Franklin County pursuant to KRS 154.50 -301 (Local Industrial Development Authority Act) with statutory purpose including aid in the acquisition, retention and development of land for industrial and commercial purposes in Kentucky; and

WHEREAS, the Capital Community Economic/Industrial Development Authority has the power to acquire, retain, develop and promote land for industrial and commercial purposes in Kentucky; and

WHEREAS, KRS 154.50 - 340 authorizes legislative bodies in Frankfort and Franklin County to make annual appropriations from their general fund to provide money for the purchase of property necessary to develop industrial sites with any appropriation to be made in such proportion and upon such terms as the legislative

COOPERATIVE INTERLOCAL AGREEMENT ORDINANCE

Page 2

bodies determine and with the industrial authority to use the appropriated funds for purposes of carrying out its duties and powers; and

WHEREAS, the Capital Community Economic/Industrial Development Authority is authorized to borrow money on its own credit in anticipation of revenue to be derived from appropriations from the City of Frankfort and the Franklin County Fiscal Court and to pledge the appropriations or income anticipated from the City of Frankfort and the Franklin County Fiscal Court pursuant to KRS 154.50 - 340; and

WHEREAS, the Capital Community Economic/Industrial Development Authority intends to purchase land in Franklin County, Kentucky to develop as an Industrial Site; and

WHEREAS, the Capital Community Economic/Industrial Development Authority intends to borrow funds to finance the purchase of said industrial site and necessary roads and utility services which are not provided by grants from state or federal funds; and

WHEREAS, the Capital Community Economic/Industrial Development Authority does not have sufficient funds for such purposes and will require appropriations from the City of Frankfort and Franklin County to finance projects until sales of sites cover the cost of the industrial park project; and

WHEREAS, the City of Frankfort and the Franklin County Fiscal Court have determined the acquisition and development of additional industrial park sites to be in the best interest of the citizens of Frankfort and Franklin County, Kentucky; and

WHEREAS, the legislative bodies of the City of Frankfort and Franklin County have agreed that all principal and interest costs incurred by the Capital Community Economic/Industrial Development Authority resulting from any loan or loans it secures in relation to said industrial park project, to the extent such costs are not covered from net sales proceeds of land by the Authority, will be jointly and equally guaranteed by the City of Frankfort and Franklin County, each of which will hold an equal co-first mortgage on said industrial park property; and

WHEREAS, the City of Frankfort and the Franklin County Fiscal Court require that this binding interlocal agreement be enacted by ordinance to permanently assure the Capital Community Economic/Industrial Development Authority and its lenders that adequate financing will be provided by the City of Frankfort and the Franklin County Fiscal Court to jointly and equally pay for

COOPERATIVE INTERLOCAL AGREEMENT ORDINANCE

Page 3

any and all principal and interest expenses necessary for loans said authority obtains to complete the acquisition and development of additional industrial park land purchased in Franklin County; and

WHEREAS, all parties agree and understand that industrial park development cannot be accomplished without the joint and permanent legal commitment of financing and payment of the authority's principal and interest expenses by the City of Frankfort and Franklin County;

NOW THEREFORE, the City of Frankfort and the Franklin County Fiscal Court shall be and hereby are bound and obligated as follows:

1. The Capital Community Economic/Industrial Development Authority shall acquire for development as industrial park properties, site or sites as approved by the legislative body of the City of Frankfort and Franklin County Fiscal Court for such sum or sums approved by first and second parties.

2. The Capital Community Economic/Industrial Development Authority shall finance the purchase of the subject industrial park site or sites upon the best available terms with local banks or other available lenders with approval of first and second parties. The loans to Capital Community Economic/Industrial Development Authority to acquire and develop the industrial park site or sites will be jointly and equally guaranteed by the City of Frankfort and Franklin County, each of which will hold an equal co-first mortgage on the industrial park property acquired pursuant to this agreement.

3. The Capital Community Economic/Industrial Development Authority shall develop a plan for providing roads and other utility services to the site with the cost and expense of same to be approved by first and second parties. Minimum Sales Prices for tracts within the development sites, sufficient to retire all principal and interests costs incurred by the Authority, shall be established and approved by first and second parties.

4. All principal and interest costs related to loans obtained by said authority for the acquisition and development of subject industrial park property, to the extent not covered by net sales proceeds of land by the Authority, shall be jointly and equally shared by the City of Frankfort and the Franklin County Fiscal Court (but it is agreed that the Franklin County Fiscal Court's share of said costs may be paid by the Franklin

COOPERATIVE INTERLOCAL AGREEMENT ORDINANCE
Page 4

County Industrial Development Authority, an agency created solely by Franklin County pursuant to KRS 154.50 - 301.

5. All parties understand and intend that this ordinance will permanently fix the joint and equal liability and obligation of the City of Frankfort and the Franklin County Fiscal Court as authorized by law to permit funding and financing of the Capital Community Economic/Industrial Development Authority for principal and interest expenses it incurs for loans needed to acquire and develop with roads and necessary utility services to subject industrial park site or sites in Franklin County, Kentucky approved by all parties to this interlocal agreement.

6. All principal and interest costs related to loans to the authority for the acquisition and development of industrial park site or sites shall be approved in advance by the City of Frankfort and the Franklin County Fiscal Court. All net sales receipts from property sold by the authority in said industrial park site or sites and any other income from the industrial park development shall first be applied to any outstanding principal loans obtained by the authority unless approved otherwise by the City of Frankfort and the Franklin County Fiscal Court. After the payment of all loans obtained by the Authority pursuant to the terms of this agreement, all net sales receipts from property sold by the Authority shall be applied to the reimbursement to the City of Frankfort and Franklin County Fiscal Court of all sums advanced pursuant to this agreement by the City of Frankfort and the Franklin County Fiscal Court on an equal basis. If the Authority sells land in the industrial park pursuant to the "Minimum Sale Price" as required in Section 3 above, first and second parties agree to jointly release their co-first mortgages.

7. Compliance by all governmental bodies as parties to this interlocal agreement shall be effected as to the "Short Term Borrowing Act" (KRS 65.7701 et seq), "Governmental Leasing Act" (KRS 65.940 et seq) and any other applicable law relating to the acquisition, development, financing and promotion of the industrial park site.

8. Pursuant to KRS 65.250 (1) (a), the duration of this agreement shall be perpetual, but may be terminated by either party with 60 days notice after the satisfaction of any obligations made by either of the parties under this Cooperative Interlocal Agreement Ordinance.

9. Pursuant to KRS 65.250 (1) (b), the Capital Community Economic/Industrial Development Authority, having been created by the City of Frankfort and the Franklin County Fiscal Court under

COOPERATIVE INTERLOCAL AGREEMENT ORDINANCE

Page 5

KRS 154.50 - 301, et seq, shall be the precise organization to administer and perform all responsibilities, powers and duties set forth in this Cooperative Interlocal Agreement Ordinance and in KRS 154.50 - 320.

10. Pursuant to KRS 65.250 (1) (c), the purposes of the Capital Community Economic/Industrial Development Authority shall be those set forth in KRS 154.50 -301, et seq, (including KRS 154.50 - 320).

11. Pursuant to KRS 65.250 (1) (d), the manner of financing any and all undertakings and agreements relative to responsibilities of the units of government are set forth in KRS 150.50 - 340 and in this Cooperative Interlocal Agreement Ordinance. No transfer of employees shall be made between public agencies and KRS 65.280 shall not apply.

12. Pursuant to KRS 65.250 (1) (e), this Cooperative Interlocal Agreement Ordinance may be terminated and dissolved by either party upon 60 days notice after the satisfaction of any obligations made by either party under this Cooperative Interlocal Agreement Ordinance, provided however, all funds, property and other assets held by the Capital Community Economic/Industrial Development Authority shall be returned to the City of Frankfort and the Franklin County Fiscal Court in the same proportion of funds, property and other assets paid or contributed by the city or county. This section shall not apply and no termination or dissolution shall be made until such time as all legal obligations of the Capital Community Economic/Industrial Development Authority, the City of Frankfort and the Franklin County Fiscal Court shall be satisfied and all existing commitments fulfilled, including those set forth in this Cooperative Interlocal Agreement Ordinance (see also KRS 154.50 - 330).

13. Pursuant to KRS 65.250 (1) (f), the Capital Community Economic/Industrial Development Authority shall be the administering entity for this Cooperative Interlocal Agreement Ordinance and shall be a third party beneficiary of this ordinance.

14. This interlocal agreement shall be approved by the Attorney General of Kentucky as required by KRS 65.260 (2) and any other law.

COOPERATIVE INTERLOCAL AGREEMENT ORDINANCE

Page 6

First passage on the 9 day of February, 1998.
Final adoption on the 17 day of February, 1998.

William I. May, Jr.
MAYOR

Attest:

Shirley Brown
CITY CLERK

SUMMARY: This is a cooperative interlocal agreement ordinance by the City of Frankfort and the Franklin County Fiscal Court to provide joint and equal financing by the City of Frankfort and the Franklin County Fiscal Court for the acquisition, improvement and development of industrial park site or sites within Franklin County.

[Signature]
CITY SOLICITOR

Published by summary on February 22, 1998.

APPROVAL BY ATTORNEY GENERAL

This interlocal agreement is in proper form, is compatible with the laws of Kentucky and is hereby approved pursuant to KRS 65.260 (2) this 13 day of March, 1998.

A. B. Chandler, III Ass'ty Atty Gen
Kentucky Attorney General

AUTHORIZED AND APPROVED FOR ENACTMENT BY:

CITY OF FRANKFORT

FRANKLIN COUNTY FISCAL COURT

BY: William I. May, Jr.
William I. May, Jr.
Mayor

BY: David W. Hughes
David W. Hughes
County Judge/Executive

This Ordinance duly enacted by the City of Frankfort on February 17, 1998 after first reading on February 9, 1998 and advertisement on February 22, 1998.

CITY OF FRANKFORT

BY:

William I. May, Jr.
William I. May, Jr., Mayor

ATTEST:

BY:

Shirley Brown
Shirley Brown, City Clerk

This Ordinance duly enacted by the Franklin County Fiscal Court on February 24, 1998 after first reading on February 5, 1998 and advertisement on February 11, 1998.

FRANKLIN COUNTY FISCAL COURT

BY:

David W. Hughes
David W. Hughes
Judge/Executive

ATTEST:

BY:

Connie J. Thornton
Connie Thornton
Deputy Clerk

STATE OF KENTUCKY } SCT.
COUNTY OF FRANKLIN }

I, DONALD C. HULETTE CLERK OF SAID COUNTY COURT, HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT HAS BEEN DULY RECORDED IN MY BOOK 3 PAGE 40 IN MY SAID OFFICE. MSC
3-16-98

DONALD C. HULETTE, CLERK
BY: Donald C. Hulette D.C.

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