

## ORDINANCE 2023-06

**AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING ORDINANCE 2023-03, AN ORDINANCE RELATED TO THE BUTTERMILK PIKE/ROYAL DRIVE DEVELOPMENT AREA (THE “DEVELOPMENT AREA”) TO REPLACE AND SUBSTITUTE THE FORT MITCHELL ECONOMIC DEVELOPMENT AUTHORITY, INC., AS THE AGENCY FOR THE DEVELOPMENT AREA WITH THE ADMINISTRATION DEPARTMENT OF THE CITY OF FORT MITCHELL, KENTUCKY, AND APPROVING A SECOND AMENDMENT TO THE LOCAL PARTICIPATION AGREEMENT RELATED TO THE DEVELOPMENT AREA AND AMENDED THE DATE OF THE LOCAL PARTICIPATION AGREEMENT AND THE ACTIVATION DATE FOR THE DEVELOPMENT AREA TO DELETE THE CHANGES TO THE DATE OF THE LOCAL PARTICIPATION AGREEMENT AND THE ACTIVATION DATE OF THE LOCAL PARTICIPATION AGREEMENT; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Fort Mitchell, Kentucky (the “City”) established the Buttermilk Pike/Royal Drive Development Area (the “Development Area”), pursuant to the provisions of KRS 65.7041 to KRS 65.7083 (the “Act”), by Ordinance 2014-16 (the “Development Area Ordinance”), adopted November 10, 2014; and

**WHEREAS**, the Development Area Ordinance designated the Fort Mitchell Economic Development Authority, Inc., a Kentucky non-profit corporation (the “Corporation”), as the Agency responsible for the oversight, administration, and implementation of the Development Area Ordinance; and

**WHEREAS**, the City adopted Ordinance 2023-03 to replace the Corporation as the Agency with the Administration Department of the City of Fort Mitchell, Kentucky, to make the implementation of the Development Area more efficient, and to change the date of the Local Participation Agreement and the Activation Date in the Local Participation Agreement applicable to the Development Area; and

**WHEREAS**, certain changes to the Local Participation Agreement the City authorized in Ordinance 2023-03 conflicts with the State Tax Incentive Agreement applicable to the Development Area, and

**WHEREAS**, the incentives available under the Tax Incentive Agreement are critical to the mixed-use commercial project related to the former Drawbridge Inn site (the “Project”) under the Master Development Agreement approved by the City on May 1, 2023 (the “Development Agreement”); and

**WHEREAS**, the City has submitted an updated application to the Kentucky Economic Development Cabinet related to the Tax Incentive Agreement, but the Kentucky Economic Development Cabinet will not review and act upon the updated application until the dates approved to the Local Participation Agreement by Ordinance 2023-03 are deleted; and

**WHEREAS**, to allow the Project to proceed timely it is critical that the Kentucky Economic Development Cabinet review and act upon the updated application as soon as possible; and

**WHEREAS**, there is a need to amend Ordinance 2023-03 to delete the changes made to the Effective Date and Activation Date of the Local Participation Agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY AS FOLLOWS:**

### **SECTION I**

That Section II of Ordinance 2023-03 be and hereby is amended to read as follows.

### **“SECTION II**

#### **Local Participation Agreement**

~~[A.— That the Effective Date of the Local Participation Agreement is hereby amended to be January 1, 2022.]~~

~~[B.— That the Activation Date of the Development Area, as set forth in the Local Participation Agreement, is hereby amended to be January 1, 2024.]~~

~~[C.]~~ A. That the Mayor is hereby authorized and directed to execute a Second Amendment to Local Participation Agreement, a copy of which is attached hereto as Exhibit A[-], to change the Agency applicable for the Development Area.

~~[D.]~~ B. Except as amended by the Amendment to Local Participation Agreement and the Second Amendment to Local Participation Agreement, the Local Participation Agreement shall remain in full force and effect.”

### **SECTION II**

That this Ordinance being necessary before the State will act on the updated application relating to the State Tax Incentive Agreement applicable to the Development Area, an emergency pursuant to KRS 83A.060(7) is declared to suspend the requisite of a second reading and publication prior to this Ordinance being effective.

### **SECTION III**

This Ordinance shall be in full force and effect from and after its passage, attestation and recordation.



MAYOR JUDE HEHMAN

ATTEST:

Amey K. Quentler  
CITY CLERK

Date Published: May, 26, 2023

**EXHIBIT A**

**SECOND AMENDMENT TO LOCAL PARTICIPATION AGREEMENT**

**SECOND AMENDMENT TO LOCAL PARTICIPATION AGREEMENT**

**FOR**

**BUTTERMILK PIKE/ROYAL DRIVE DEVELOPMENT AREA**

**By and Among**

**CITY OF FORT MITCHELL, KENTUCKY**

**and**

**COUNTY OF KENTON, KENTUCKY**

**and**

**PLANNING AND DEVELOPMENT SERVICE OF KENTON COUNTY**

**and**

**ADMINISTRATION DEPARTMENT OF THE CITY OF  
FORT MITCHELL, KENTUCKY**

**DATED**

**MAY 1, 2023**

**SECOND AMENDMENT TO LOCAL PARTICIPATION AGREEMENT**

This Second Amendment to Local Participation Agreement (the “Second Amendment”) by and among the City of Fort Mitchell, Kentucky (the “City”), the County of Kenton, Kentucky (the “County”), Planning and Development Services of Kenton County (“PDS”) and the Administration Department of the City of Fort Mitchell, Kentucky (the “Agency” and collectively the “Parties”);

**WITNESSETH**

WHEREAS, the City, County, PDS and the Fort Mitchell Economic Development Authority, Inc. executed a Local Participation Agreement, dated November 1, 2014, relating to the Buttermilk Pike/Royal Drive Development Area (the “Development Area”), established by the City pursuant to the provisions of KRS 65.7041 to KRS 65.7083 (the “Act”); and

WHEREAS, the Local Participation Agreement was amended by an Amendment to Local Participation Agreement dated March 31, 2017; and

WHEREAS, the City has replaced the Fort Mitchell Economic Development Authority, Inc. as the Agency for the Development Area with the Administration Department of the City of Fort Mitchell, Kentucky (the “Agency”);

**IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:**

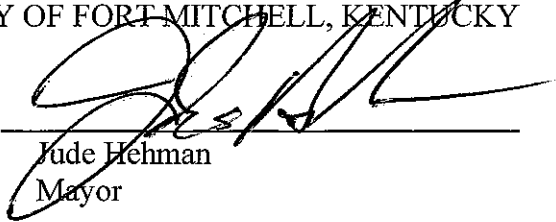
1. That the following definitions in Section II of the Local Participation Agreement are hereby amended as follows:
  3. “Agency”. Shall mean the Administration Department of the City of Fort Mitchell, Kentucky.
2. Except for the above amendments the Local Participation Agreement shall remain in full force and effect.

*SIGNATURE PAGE TO FOLLOW*

IN WITNESS WHEREOF, the Parties have hereunto set their hand on the Effective Date as indicated above.

CITY OF FORT MITCHELL, KENTUCKY

By: \_\_\_\_\_

  
Jude Hehman  
Mayor

COUNTY OF KENTON, KENTUCKY

By: \_\_\_\_\_

Kris Knochelmann  
Judge/Executive

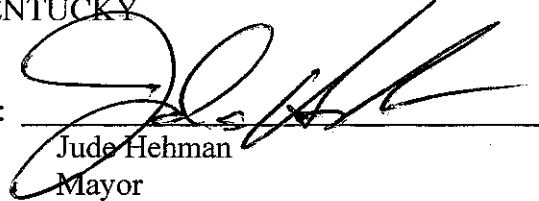
PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY

By: \_\_\_\_\_

CHAIRPERSON

ADMINISTRATION DEPARTMENT OF THE CITY OF FORT MITCHELL,  
KENTUCKY

By: \_\_\_\_\_

  
Jude Hehman  
Mayor