

ANNEXATION AGREEMENT

COME NOW, the Marshall County Fiscal Court of 1101 Main Street, Benton, Kentucky 42025, by and through its Judge Executive, Kevin Neal and with approval of the Marshall County Fiscal Court, being the party of the first part (hereafter referred to as “**Marshall County**”), and the City of Benton, Kentucky of 1009 Main Street, Benton, Kentucky, by and through its Mayor, Rita Dotson, and with the approval of the Benton City Council, party of the second part (hereafter referred to as “**Benton**”), and hereby make and enter into the following annexation agreement:

RECITALS AND STIPULATIONS

WHEREAS, **Marshall County** entered into a certain option agreement on the 5th day of December, 2017, which is of record in Miscellaneous Book 160, Page 599, Marshall County Court Clerk’s Office, which agreement is hereafter referred to as the “option”;

WHEREAS, the real property subject to the aforementioned option is intended to be used for the development of an industrial park for commercial and economic development of the region (the property reference in said option shall be referred to herein as “the subject property,” the description of which is attached hereto as **Exhibit A**, and said description is incorporated into this agreement by reference as if fully set forth herein);

WHEREAS, the subject property abuts the current City Limits of **Benton** and is therefore eligible for annexation into the Benton City Limits;

WHEREAS, the annexation of the subject property would make the property subject to the planning and zoning laws of **Benton**;

WHEREAS, **Benton** is the closest and most feasible provider of certain municipal services which would benefit the subject property;

WHEREAS, the growth and development of this proposed industrial park would be a mutual benefit to the parties hereto, as well as an economic benefit to the City, County, and surrounding region;

WHEREAS, **Marshall County** has reviewed and approved this agreement, by Resolution of the Marshall County Fiscal Court No. _____, passed the ____ day of _____, 2018; and

WHEREAS, **Benton** has reviewed and approved this agreement, by Resolution of the City of Benton No. _____, passed the ____ day of _____, 2018;

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth in this agreement, for the mutual benefit of the parties, and for the benefit of the public, the receipt and sufficiency of which are acknowledge, it is HEREBY AGREED as follows:

TERMS AND CONDITIONS

1. **Marshall County** hereby expressly consents to the voluntary annexation of the subject property, pursuant to KRS 81A.412. This consent is expressly subject to **Marshall County** exercising its option on the subject property, and

becoming the fee simple owner of the subject property. The exercise of the option is a condition precedent to this agreement.

2. Pursuant to KRS 100.209, **Marshall County** hereby requests that the **Benton**, and its Planning and Zoning Commission, designate the subject property as Heavy Industrial (I-2), based on its intended use and development. **Marshall County** shall be responsible for any cost with any necessary public hearing or process to consider a zoning change. This zoning request is expressly subject to **Marshall County** exercising its option on the subject property, and becoming the fee simple owner of the subject property. This zoning request shall also be subject to all other applicable zoning ordinance(s) and regulations of the City of Benton, including but not limited to any and all principal permitted uses, conditional permitted uses, and/or mixed or conditional use application(s) which is or may be allowed or allowable by **Benton**, its Planning and Zoning Commission, and/or its Board of Adjustment.

3. **Benton** shall expeditiously and diligently follow all necessary and required procedures to propose the annexation of the subject property and the zoning classification of the subject property as Heavy Industrial (I-2). It is understood and agreed by all parties, that **Benton** cannot and shall not make any recommendations, proposals, findings, or conclusions with regard to the annexation or zoning of the subject property without first following the applicable statutes, including but not limited to KRS Chapters 81A, 100, and 424. As such, **Benton** shall not be bound or obligated to reach any intended result of the

questions of annexation or zoning, and any result that **Marshall County** determines is unfavorable shall not be deemed a breach of this agreement by **Benton**.

4. **Benton** shall cooperate with the development of the subject property as an industrial park, and shall provide utility services including but not necessarily limited to water, waste water, and natural gas services in order to service the subject property appropriately according to its zoning classification, or otherwise as an industrial park. As the extension of the above described municipal services will or may be expensive, **Benton** shall work to provide such services as the financial resources and capabilities of the municipal service system(s) allow. **Benton** shall cooperate with any regulatory body, engineering or architectural consultant, and/or any desirable prospective tenant of the Southwest One Industrial Park to facilitate and install adequate municipal services based on the need and intended use of the subject property. The ultimate decision making authority regarding the manner and specifics of the most appropriate and feasible way to provide municipal services to the subject property shall lie solely with **Benton** and/or the utility provider. It is noted that electrical service to the subject property is provided by West Kentucky Rural Electric Cooperative Corporation (WKRECC), and pursuant to KRS 96.890, **Benton** is prohibited from providing electrical service to the subject property unless a cooperative agreement with WKRECC is entered into. Therefore, **Benton** shall have no obligation to provide electrical service to the subject property under this contract.

5. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

6. This agreement shall be recorded in the public records of the Marshall County Court Clerk's office at the expense of **Marshall County**.

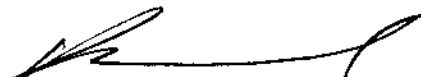
7. Immediately upon **Marshall County** becoming the owner of the subject property, this document shall constitute written consent to annexation pursuant to KRS 81A.412, and no further written consent to annexation shall be necessary or required. In the event this document shall be deemed by law to be inadequate or insufficient as written consent to annexation pursuant to KRS 81A.412 for any reason, **Marshall County** shall immediately execute such document(s) as may be reasonably required in order to carry out and perform this agreement according to its intent and purpose.

8. Immediately upon **Marshall County** becoming the owner of the subject property, this document shall constitute written request for Heavy Industrial Zoning (I-2) of the subject property pursuant to KRS 100.209, and no further written request shall be necessary or required. In the event this document shall be deemed by law, for any reason, to be inadequate or insufficient as a request for zoning change pursuant to KRS Chapter 100, **Marshall County** shall immediately execute such document(s) as may be reasonably required in order to carry out and perform this agreement according to its intent and purpose.

9. The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

10. In the event the option is terminated, expires, is nullified, or becomes ineffective for any reason, this agreement shall terminate.


Dated this 17 day of July, 2018.



KEVIN NEAL
Marshall County Judge-Executive

RITA DOTSON
Mayor, City of Benton

ATTEST:



DESIREE HERMOSILLO
Marshall County Fiscal Court Clerk

BETHANY COOPER
Benton City Clerk

COMMONWEALTH OF KENTUCKY

COUNTY OF MARSHALL, Sct.

I, Tim York, Clerk of the County Court of said County, do certify that the foregoing was this _____ day of _____, _____, lodged in my office for record. Whereupon the foregoing and this certificate have been duly recorded in my office in _____ Book _____, page _____.

Given under my hand this _____ day of _____, _____.

TIM YORK, CLERK

By: _____, D.C.

THIS INSTRUMENT PREPARED BY:

ZACHARY D. BRIEN
Benton City Attorney
1005 Main Street
P.O. Box 466
Benton, Kentucky 42025