

**~~MEMORANDUM OF UNDERSTANDING~~**  
**INTERLOCAL AGREEMENT**

THIS DOCUMENT SHALL SERVE TO EXPLAIN THE BASIC UNDERSTANDING BETWEEN THE ~~COUNTY OF~~ MARSHALL COUNTY FISCAL COURT, THE MARSHALL COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY (hereinafter jointly and collectively referred to as "COUNTY") AND THE CITY OF BENTON (hereinafter referred to as "CITY") IN MOVING FORWARD WITH PLANS TO PROVIDE SEWER AND WATER TO A PROJECT KNOWN AS SOUTHWEST ONE.

WHEREAS, both the City and the County wish to cooperate to facilitate the servicing of Southwest One with sewer and water;

WHEREAS, KRS 65.210 *et seq.* specifically allows such an interlocal agreement;

NOW THEREFORE, Be it Ordained by the City of Benton and the Fiscal Court of Marshall County as follows:

1. The County has purchased, by and through the Marshall County Industrial Authority, real property known as Southwest One Industrial Park, located between the Highway 641 Bypass and Slickback Road in Benton, Kentucky, the Marshall County Industrial Authority having record title.
2. Pursuant to the annexation agreement previously entered into, the City has initiated the annexation and zoning process for said property, a first reading to annex and zone this property as I-2 having been held on January 28, 2019.
3. The need for infrastructure is urgent due to early interest in a portion of the property by a local business, and the purpose of this agreement is to move forward with the provision of utility services to Southwest One, an industrial park developed by the County to be annexed into the City.
4. The current estimate for installing the necessary facilities and improvements to provide water and sewer services (the Master Improvement Project) to Southwest One is approximately Two Million Two Hundred Thousand Dollars (\$2,200,000.00). By agreement of the City and County the project is being bid to get an exact cost.
5. At present, a portion of the Master Utility Project needed to upgrade the City system to properly service Southwest One, known as Interceptor Sewer Improvement Project, is estimated to cost Six Hundred Eighty Nine Thousand Four Hundred Dollars (\$689,400.00).
6. The County agrees to pay this amount for the necessary upgrades to the interceptor project, according to plans approved by the City. The City agrees to repay the County the cost of the interceptor project, in the maximum amount of \$689,400.00 or the actual cost of the interceptor project (whichever is less). These payments shall be made to

the County over a period of twenty years, beginning at the completion of the project, and shall carry no interest. There shall be no prepayment penalty. This loan shall be a revenue obligation of the City of Benton to be paid from the revenue received by the Water and Sewer Systems of the City of Benton. Payments from the City to the County shall be made monthly, the minimum monthly amount being Two Thousand Eight Hundred Seventy Two Dollars, Fifty Cents (\$2,872.50).

7. The County intends to be responsible for the balance of the Master Utility Project of installing the necessary facilities and improvements.

8. The infrastructure and all property, real or personal, acquired in the construction and/or installation of the Interceptor Sewer Improvement Project shall be owned and insured, including liability coverage, by the Marshall County Fiscal Court until completed. The County shall acquire any necessary real property ownership or interests necessary for the installation of the Master Utility Project, and shall permit the City, or any designee or contractor of the County or City, access to the real property as may be reasonably required to complete the Master Utility Project. Upon completion, all real and/or personal property shall be transferred to the City as part of its utility system.

9. The City of Benton shall have the authority to oversee and make decisions regarding the construction and/or installation of the Master Utility Project. Any changes necessary or advisable which do or may increase the cost of the project shall be approved by the County. In order to facilitate smooth and expeditious construction and installation, the City shall review all plans prior to the beginning of construction and shall provide the County with written approval of said plans if the plans indeed meet the City's approval.

10. Pursuant to the terms of the aforementioned prior agreement between the parties, the City shall be responsible for the provision of water and sewer service through the City's water and sewer departments, and the County shall and does hereby grant and allow all reasonable and necessary access to provide and maintain these services to Southwest One, as the City may deem necessary and/or appropriate.

11. The engineer's estimate and drawing for the Master Utility Project is attached hereto for reference.

12. As this agreement implicates the provisions of KRS 65.240(3), this agreement is subject to the provisions of the interlocal cooperation act, KRS 65.210 *et seq.*

13. This agreement shall expire upon all of the following to be completed:

- a. The full payment ~~of all~~ by the County ~~of~~ for all property, facilities, and improvements to the City's utility infrastructure.
- b. All payments made to or on behalf of one party by the other, including aforementioned loan payments from the City to the County.

- c. The transfer of all facilities, improvements, and infrastructure of the Master Improvement Project to the City.

14. No new entity is created hereby. This agreement shall be administered as follows:

- a. The approval and determination of the City's financial obligation regarding the Interceptor Sewer Improvement Project shall be by the City's legislative body.
- b. The maintenance and provision of water and sewer services shall be administered by the Mayor of the City, as the supervisor of the City's water and Sewer Departments.
- c. The City shall have the primary oversight of the installation and construction of the Master Improvement Project, according to paragraphs 8 and 9, above.
- d. The approval and determination of the County's financial obligation to the Interceptor Sewer Improvement Project shall be made by the County's legislative body.
- e. The approval of the plans and specifications shall require the approval of the legislative bodies of both parties.

~~15. In the event interpretation of this agreement is required, this agreement, having been reviewed by both parties hereto and their legal counsel, shall be interpreted in a neutral manner and not for or against either party, and the rule of interpretation against the party drafting this agreement shall not apply.~~

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

County:

City

\_\_\_\_\_  
Kevin Neal  
Judge/Executive

\_\_\_\_\_  
Rita Dotson  
Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Desireé Hermisillo  
Fiscal Court Clerk

\_\_\_\_\_  
Bethany Cooper  
City Clerk/Treasurer

First Reading: \_\_\_\_\_

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

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Publication: \_\_\_\_\_

Publication: \_\_\_\_\_

**THIS INSTRUMENT PREPARED BY:  
PRINCE & BRIEN, P.S.C.**

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