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ORDINANCE NO. 110.2

AN ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF SIMPSON, KENTUCKY ("COUNTY"), AUTHORIZING AND ESTABLISHING A DEVELOPMENT AREA FOR ECONOMIC AND INFRASTRUCTURE DEVELOPMENT TO BE KNOWN AS THE "SIMPSON COUNTY DEVELOPMENT AREA NO. 1;" ESTABLISHING THE PERCENTAGE OF INCREMENT THAT THE COUNTY OF SIMPSON AND/OR CITY OF FRANKLIN WILL DISTRIBUTE EACH YEAR; REQUESTING INCREMENTS FROM SIMPSON COUNTY IN ACCORDANCE WITH AND PURSUANT TO THE APPLICABLE PROVISIONS OF THE KENTUCKY REVISED STATUTES, KRS 65.7041 TO 65.7083; APPROVING AND AUTHORIZING THE AMOUNT OF INCREMENTS TO BE SUBMITTED; AND TO TAKE SUCH OTHER ACTIONS AS ARE NECESSARY OR REQUIRED WITH RESPECT TO THE ESTABLISHMENT OF THE "SIMPSON COUNTY DEVELOPMENT AREA NO. 1," INCLUDING THE AUTHORITY TO ENTER INTO LOCAL DEVELOPMENT AREA AND INTERLOCAL AGREEMENTS WITH OTHER ENTITIES AND TO IMPOSE ASSESSMENT FEES ON NEWLY CREATED JOBS WITHIN THE DEVELOPMENT AREA

WHEREAS, KRS 65.7041 through 65.7083 of the Kentucky Revised Statutes, provides for the establishment of local development areas within the County of Simpson, Kentucky ("County") and/or the City of Franklin, Kentucky ("City") created for public purposes and economic and infrastructure development;

WHEREAS, KRS 65.7047 provides that the County may create local development areas for economic and infrastructure development and toward that end, define the local development area boundaries, and the City and County may undertake projects, issue industrial revenue or increment bonds and pledge increments to the payment of debt charges or increment bonds or other projects, create a special fund for the deposit of increments and other funds to pay bonds and costs of projects, utilize increments to pay for projects and the amounts due on increment bonds and impose assessments;

WHEREAS, the Fiscal Court of Simpson County finds that the creation and establishment of the Simpson County Development Area No. 1, as described and set forth in Exhibit "A," for economic and/or infrastructure development and the commencement of one or more projects therein, will result in increased employment within the County;

WHEREAS, the Fiscal Court of Simpson County hereby determines that the establishment of the Simpson County Development Area No. 1 is for a public purpose, including economic and/or infrastructure development, and that the establishment and creation of the Simpson County Development Area No. 1, within the County, is for the benefit and welfare of the County's citizens;

WHEREAS, the Fiscal Court of Simpson County hereby determines that the establishment of the Simpson County Development Area No. 1 will entitle the County to the receipt of Increments or revenues, which will assist in the funding of economic and infrastructure development in the City and County;

WHEREAS, the Fiscal Court of Simpson County deems it necessary and appropriate to authorize the establishment of the Simpson County Development Area No. 1 for economic and/or infrastructure development, to include the receipt of revenues and/or Increments, as authorized and/or permitted by the Kentucky Revised Statutes;

WHEREAS, the City shall pass a similar Ordinance to adopt a local development area agreement for revenue and expense sharing purposes, for the issuance of industrial revenue bonds and/or for all other purposes necessary, appropriate and/or permitted by and through the Kentucky Revised Statutes; and,

WHEREAS, the Fiscal Court of Simpson County and the City Commission of the City of Franklin deem it necessary to enact an Ordinance in accordance with and pursuant to the terms and provisions of the Kentucky Revised Statutes, and for the purposes set forth and described herein.

NOW, THEREFORE, IT IS ORDAINED by the Fiscal Court of Simpson County as follows:

#### **SECTION 1. Definitions.**

1.1 "Act" means KRS 65.7041 through 65.7083.

"Activation Date" means the date established in Section 6 of this Ordinance, which shall also constitute the Commencement Date.

"Additional Assessment" shall be 1.15% of the 1.9% total occupational licensing fees assessed against newly created jobs in "Simpson County Development Area No. 1."

"City" means the City of Franklin, Kentucky.

"Commonwealth" means the Commonwealth of Kentucky.

"County" means Simpson County, Kentucky.

"Increment" or "Increments" means the amount of revenues received by the County, City and/or Agency determined by subtracting the amount of Old Revenues from the amount of New Revenues, in any calendar year, with respect to the Simpson County Development Area No. 1.

"KRS" means the Kentucky Revised Statutes, as amended.

“New Revenues” shall have the same meaning and definition as set forth and defined in KRS 65.7045(23).

“Old Revenues” shall have the same meaning and definition as set forth and defined in KRS 65.7045(24).

“Project” shall have the same meaning as set forth in KRS 65.7045(27), and specifically shall refer to the economic and infrastructure development for industrial/commercial use, located within the Simpson County Development Area No. 1, established by this Ordinance, which has been determined by the Fiscal Court for the County as contributing to economic development.

“Special Fund” means “Simpson County Development Area No. 1 Fund” in which increments and/or other revenues collected within the development area are deposited and from which funds are used to pay the costs of projects, to pay debt charges associated with the Simpson County Development Area No. 1, or for any other lawful purpose.

“Simpson County Development Area No. 1” means a contiguous geographic area located within the geographical boundaries of the County which is created for economic and/or infrastructure development purposes by this Ordinance in which one or more Projects are proposed to be located to be known as “Simpson County Development Area No. 1.”

1.2 Any term not defined herein shall have the same meaning as set forth in KRS 65.7045.

## **SECTION 2. Establishment and Designation of the Simpson County Development Area No. 1.**

2.1 All that area described in Exhibit “A” attached hereto and incorporated herein by reference is located within the County and is hereby established and designated as the “Simpson County Development Area No. 1.”

2.2 The “Simpson County Development Area No. 1” as described in Exhibit “A” is hereby created and established as of the date this Ordinance shall become effective as set forth in Section 6.2 (“Activation Date” or “Commencement Date”).

## **SECTION 3. Findings.**

The County specifically finds, in accordance with and pursuant to the KRS, that the Project, and the creation and establishment of the “Simpson County Development Area No. 1” is for a public purpose and for infrastructure and economic development purposes for the benefit and welfare of the citizens of the City and County. The Fiscal Court further finds that the establishment and designation of the “Simpson County Development Area No. 1” will result in the increase in the value of property located within the “Simpson County Development Area No. 1” and/or result in an increase in employment within and around the “Simpson County Development Area No. 1.” The County therefore finds that there is a necessity for the

establishment and creation of the "Simpson County Development Area No. 1" as authorized by this Ordinance, and therefore directs the establishment of said "Simpson County Development Area No. 1" in accordance with the terms and conditions as set forth in the KRS, and in accordance with these findings.

#### **SECTION 4. Establishment of Percentage of Increments.**

4.1 The percentage of revenue and/or Increment that the County shall distribute each year for the use in the infrastructure or economic development of the "Simpson County Development Area No. 1" or other such qualifying projects shall be one hundred percent (100%) of the "additional assessment." The maximum amount of Increment to be requested from the County for taxes or licensing fees in the area shall be one hundred percent (100%) during the existence of the "Simpson County Development Area No. 1." Said amount shall be pledged and/or utilized pursuant to a Local Development Area Agreement and/or Interlocal Agreement executed pursuant hereto.

4.2 All Increments derived from the County shall be received by the County and City, and shall be used to pay the costs of the economic and/or infrastructure development and Projects, and to pay, when necessary and appropriate, debt services and charges on any bonds or financing which may be authorized by a subsequent agreement, ordinance or resolution of the County, and for such other purposes as may be determined by the County by its Fiscal Court, and that are appropriate and in compliance with the purposes set forth in this ordinance and within the KRS.

4.3 The County, by and through the Fiscal Court, shall enter into a Local Development Area Agreement with the City and/or any other agency for the release of increments in furtherance of any project within the development area, or for any other lawful purpose authorized by the KRS.

4.4 The County, by and through Fiscal Court, pursuant to KRS 65.7056, will impose a one and nine tenths percent (1.9%) assessment fee on certain newly created jobs as a result of Projects within the development area, such employees being subject to the state tax imposed by KRS 141.020. The total assessment levied by the County under this provision shall not exceed an amount equal to one and nine tenths percent (1.9%) of the gross wages of the employee and shall be paid in accordance with the procedures set forth in the Simpson County Code of Ordinances and the special levy set forth in this ordinance. When such assessment is levied, one hundred percent (100%) of the payroll tax and/or occupational license fee receipts over and above the amount due pursuant to the previously enacted sections of the Simpson County Code of Ordinances, and the special levy set forth in this ordinance, shall be applied as part of the assessment fee toward the development area or for any other lawful purpose. Prior to such an assessment, all conditions contained within the KRS shall be met. The amounts assessed for the occupational license fee/payroll tax pursuant to this section shall be offset against the countywide existing rate of .75%.

**SECTION 5. Approval of Agreement Relating to the Local Development Area and Special Provisions Required by KRS 65.7047**

5.1 Any entity, other than the City and/or County that receives financial assistance by and through this ordinance, whether in the form of a grant, loan, or loan guarantee, shall make an accounting, no less than annually, to the City and County.

5.2 The City and County shall make a written or verbal analysis, no less than annually, of the development activity in "Simpson County Development Area No. 1," either by and through each of their respective budgets or otherwise.

5.3 The City and County, jointly or severally, shall be responsible for the oversight and administration of this ordinance.

5.4 The City and/or County hereby approve all agreements related to the creation and/or operation of the "Simpson County Development Area No. 1" including, but not limited to the Local Development Area Agreement and/or any and all Interlocal Agreements executed on even date herewith or subsequent to the enactment of this ordinance.

5.5 The City and County hereby approve any and all other documents necessary and appropriate to effectuate the intent of this ordinance and authorize the County Judge Executive and/or Mayor to sign any and all said documents.

5.6 The City and County authorize and direct their respective attorneys to prepare any and all said documents deemed necessary or appropriate to effectuate the intent of this ordinance.

**SECTION 6. Hearing, Conditions Precedent and Activation Date**

6.1 This ordinance shall not become effective until occurrence of the following;

(a) The County and the City shall hold a public hearing in accordance with KRS 65.7047(2) upon a date certain at which all interested parties shall be afforded a reasonable opportunity to express their views on the proposed creation and establishment of the "Simpson County Development Area No. 1" and its boundaries.

(b) Prior notice of said public hearing shall be published in a local newspaper with general circulation at least seven (7) days, but no more than twenty-one (21) days, prior to the scheduled hearing date and shall set forth the time and place of the hearing, including general description of the boundaries of the proposed "Simpson County Development Area No. 1."

6.2 This ordinance shall become effective on the date following completion of all the conditions precedent set forth herein or established by the KRS, at which time the "Simpson County Development Area No. 1" shall be established hereby. Such date will be the Commencement Date and shall be the date on which the County's ordinance becomes effective pursuant to the KRS.

**SECTION 7. Creation of Special Funds for Outstanding Increment Bonds.**

The County hereby establishes a Special Fund referred to as "Simpson County Development Area No. 1 Special Fund." The County shall maintain the Special Fund, created hereby, which shall be pledged for the purposes set forth by this ordinance. The County Treasurer will collect the revenue and/or Increments, and other revenues, as set forth in the KRS and deposit the monies in the Special Fund. Funds deposited in the Special Fund shall be disbursed at the times and in the amounts required by the City and County and, if permitted by the KRS, to pay debt charges on any debts, bonds or financing, if any, and for any other legal public purpose as determined by the County's Fiscal Court and/or City Commission as provided for in the KRS.

The County may establish other funds and accounts as may be necessary or required with respect to the revenues and/or Increments and the terms of any financing or bonds required.

**SECTION 8. Incorporation of Recitals.**

The preamble or recitals to this ordinance are hereby declared and determined to be true and accurate in all respects and are incorporated into the body of this ordinance, in full, by reference thereto.

**SECTION 9. Termination.**

The "Simpson County Development Area No. 1" shall cease to exist on the date marking twenty (20) years from the commencement date established under Section 6 herein, or the length of time stated in the Local Development Area Agreement, whichever is longer.

**SECTION 10. Severability.**

If any section, subsection, clause or provision of this Ordinance is held to be illegal or invalid for any reason, such illegal or invalid section, subsection, clause or provisions shall not affect the legality or validity of any other section or provision of this ordinance, all of which shall be constructed or enforced at the time as if such illegal section or provision were not contained herein.

**SECTION 11. Conflicts Repeal.**

All ordinances, resolutions or parts thereof in conflict with provisions of this ordinance are hereby repealed and this ordinance shall take effect and be in full force in accordance with provisions of Section 6.2 hereof.

September 19, 2008

FIRST READING

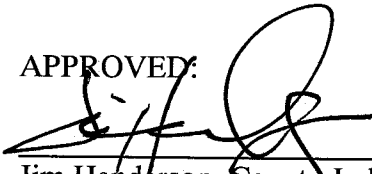
October 7, 2008

SECOND READING

At a meeting of the Fiscal Court of the County of Simpson, Commonwealth of Kentucky held October 7, 2008, on motion made by Honorable Marty Chandler and seconded by Honorable Larry Randolph, the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>Yes</u>	LARRY RANDOLPH
<u>Yes</u>	KELLY BANTON
<u>Yes</u>	MARTY CHANDLER
<u>Yes</u>	CHARLES McCUTCHEN
<u>Absent</u>	JIM HENDERSON

APPROVED:



\_\_\_\_\_  
Jim Henderson, County Judge Executive  
County of Simpson, Commonwealth of Kentucky

ATTEST:



\_\_\_\_\_  
Pam Rohrs, Fiscal Court Clerk  
County of Simpson, Commonwealth of Kentucky

## EXHIBIT "A"

### SIMPSON COUNTY AREA DEVELOPMENT NO. 1 PROPERTY DESCRIPTION

Description of a 440.02 acre tract

The following paragraph describes a tract of land in Simpson County, Kentucky located on U.S. Route 31W on the northerly city Limits of the City of Franklin; a composite tract containing portions of the properties originally conveyed to the Franklin Simpson Industrial Authority by deeds of record in Deed Book 220 Page 35 and Deed Book 278 Page 732, Sherry Ford as shown in Deed Book 161 Page 607 and Ann Piper Carpenter as originally shown in Deed Book 183 Page 472 of the public deed records of the Simpson County Clerk's Office; said premises being more particularly described as follows:

Beginning at an iron pin found #3290 in the easterly right of way of U.S. Route 31W (approximately 50 feet from centerline) a corner to the Franklin Simpson Industrial Authority as appears in Deed Book 220 Page 35, which is the northwesterly corner of the Novitec Parcel and is further located for reference as being North 12 degrees 06 minutes 16 seconds East a distance of 467.52 feet from the intersection of the easterly right of way of U.S. Route 31W with the northerly right of way of Reasonover Drive; thence along the meanders of the easterly right of way of U.S. Route 31W the following four calls; along the arc of a curve to the left having a field radius of 17103.17 feet, a chord bearing North 10 degrees 56 minutes 13 seconds East a chord distance of 229.42 feet to an iron pin set at a point of tangent; thence North 09 degrees 57 minutes 40 seconds East a distance of 285.90 feet to an iron pin found #3290 at the northwest corner of the Franklin Simpson Industrial Authority property described in Deed Book 220 Page 35; thence North 09 degrees 43 minutes 05 seconds East a distance of 1126.21 feet to an iron pin set; thence North 09 degrees 38 minutes 57 seconds East a distance of 852.63 feet to an iron pin found (no cap) at the southwesterly corner of Daniel Barron (Deed Book 270 Page 23); thence leaving said road on the lines of Daniel Barron the following three calls; North 86 degrees 00 minutes 19 seconds East a distance of 435.62 feet to an iron pin found; thence North 09 degrees 43 minutes 36 seconds East a distance of 200.04 feet to an iron pin found in the line of Sherry Ford (Deed Book 161 Page 607); thence South 86 degrees 00 minutes 39 seconds West a distance of 435.51 feet to an iron pin found #3290 in the easterly right of way of U.S. Route 31W at a corner of Sherry Ford and Daniel Barron; thence along the meanders of the easterly right of way of U.S. Route 31W the following four calls; North 09 degrees 33 minutes 34 seconds East a distance of 346.07 feet; thence North 09 degrees 06 minutes 39 seconds East a distance of 158.52 feet to an iron pin set at a point of curvature; thence along the arc of a curve to the left having a field radius of 19,790.62 feet a chord bearing North 06 degrees 39 minutes 10 seconds East a distance of 1422.52 feet to an iron pin set at a point of tangent; thence North 04 degrees 22 minutes 15 seconds East a distance of 156.22 feet to an iron pin set at the northwesterly corner of Sherry Ford at a corner with Ann Piper Carpenter (see Deed Book 183 Page 472); thence crossing said U.S. Route 31W North 82 degrees 11 minutes 35 seconds West a distance of 100.20 feet to an iron pin set at the intersection of the westerly right of way with U.S. Route 31W with the northerly right of way of Carr Road (30 ft. R/W); thence along the northerly right

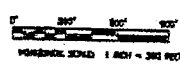
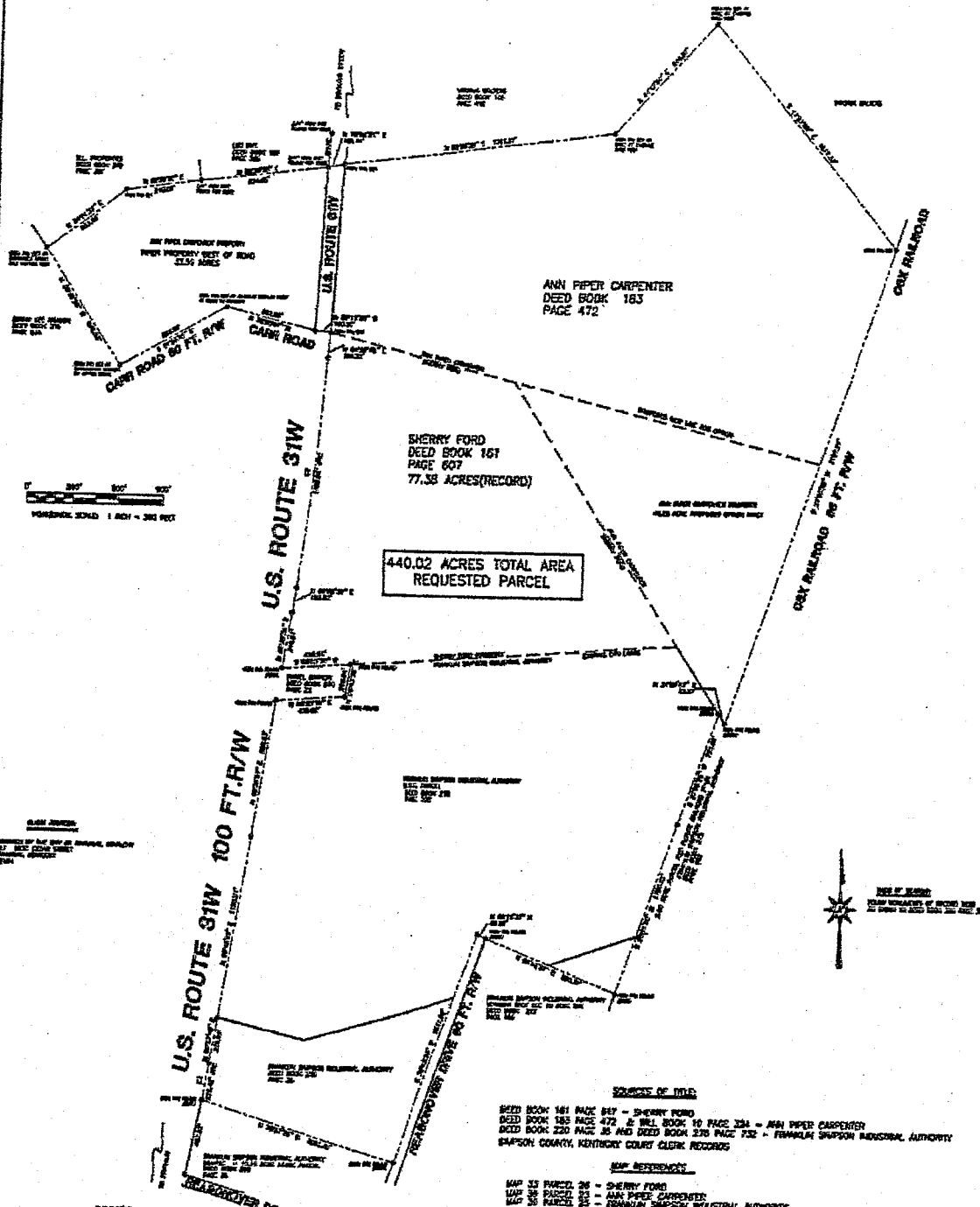


of way of Carr Road the following two calls; North 76 degrees 50 minutes 07 seconds West a distance of 592.96 feet to an iron pin set at the base of a king post at a bend in said road; thence South 61 degrees 53 minutes 45 seconds West a distance of 806.07 feet to an iron pin set at the southwesterly corner of Ann Piper Carpenter; thence leaving said road on the westerly line of Ann Piper Carpenter North 35 degrees 32 minutes 26 seconds West a distance of 866.53 feet to an iron pin set at a rotten corner post, a corner to R.L. Properties (Deed Book 219 Page 367); thence along the line of Ann Piper Carpenter with R.L. Properties the following two calls; North 54 degrees 51 minutes 20 seconds East a distance of 633.60 feet to an iron pin set; thence North 82 degrees 29 minutes 09 seconds East a distance of 510.00 feet to an iron pipe found at the southwest corner of Leo Pitt ( Deed Book 169 Page 505); thence along the southerly line of Leo Pitt North 83 degrees 20 minutes 39 seconds East a distance of 834.68 feet to an iron pipe found in the westerly right of way of U.S. Route 31W; thence crossing said highway, North 78 degrees 08 minutes 21 seconds East a distance of 102.74 feet to an iron pin set at a corner with Virginia Walters (See Deed Book 89 Page 511); thence along the line of Ann Piper Carpenter with Virginia Walters, generally with long established fences the following three calls; North 82 degrees 59 minutes 29 seconds East a distance of 1791.37 feet to an iron pin set at the base of a king post; thence North 44 degrees 13 minutes 54 seconds East a distance of 944.67 feet to an iron pin set at the base of an existing king post; thence South 41 degrees 57 minutes 05 seconds East a distance of 1817.33 feet to an iron pin set in the westerly right of way of the CSX Railroad (33 feet from center of rails); thence along the westerly right of way of said Railroad, South 20 degrees 06 minutes 30 seconds West a distance of 3107.97 feet to an iron pin found #3290 at the southeasterly corner of Ann Piper Carpenter and a corner to the Franklin Simpson Industrial Authority; thence leaving said railroad on the line of the Franklin Simpson Industrial Authority the following three calls; North 34 degrees 09 minutes 43 seconds West a distance of 73.27 feet to an iron pin found #3290; thence South 20 degrees 09 minutes 28 seconds West a distance of 726.20 feet to an iron pin found #3290; thence South 20 degrees 04 minutes 50 seconds West a distance of 1106.99 feet to an iron pin found #3290 at the northeasterly corner of a 10.00 acre parcel (Vermont Gauge); thence along the line of said 10.00 acre parcel North 69 degrees 16 minutes 37 seconds West a distance of 925.37 feet to an iron pin found #3290 at the terminus of the easterly right of way of Reasonover Drive; thence crossing Reasonover Drive, North 69 degrees 16 minutes 37 seconds West a distance of 60.00 feet to an iron pin found #3290 at the terminus of the westerly right of way of Reasonover Drive; thence along the westerly right of way of Reasonover Drive, South 20 degrees 43 minutes 23 seconds West a distance of 1511.06 feet to an iron pin found #3290 at the northeasterly corner of the aforementioned Novitec site; thence along the northerly line of the Novitec parcel, North 73 degrees 57 minutes 36 seconds West a distance of 1286.76 feet to the point of beginning . Containing 440.02 acres more or less and subject to all legal conditions and easements of record. This description based on an actual field survey performed by Gary Lee Dunning, Kentucky State Registered Land Surveyor #3290 in September of 2008. Basis of bearing for this description is the found monuments of the property described in Deed Book 220 Page 35.

MAP

REDUCED COPY

SURVEY OF A 440.02 ACRE PARCEL FOR PROPOSED INDUSTRIAL AREA  
SITUATED ON U.S. ROUTE 31W IN SIMPSON COUNTY, KENTUCKY



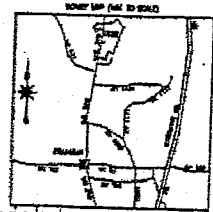
**SOURCES OF TITLE:**  
 DEED BOOK 181 PAGE 817 - SHERRY FORD  
 DEED BOOK 185 PAGE 472 & DEED BOOK 10 PAGE 234 - ANN PIPER CARPENTER  
 DEED BOOK 220 PAGE 35 AND DEED BOOK 235 PAGE 732 - FRANKLIN SIMPSON INDUSTRIAL AUTHORITY  
 SIMPSON COUNTY, KENTUCKY COURT CLERK RECORDS

**MAP REFERENCES:**  
 MAP 25 PARCEL 28 - SHERRY FORD  
 MAP 26 PARCEL 183 - ANN PIPER CARPENTER  
 MAP 26 PARCEL 185 - FRANKLIN SIMPSON INDUSTRIAL AUTHORITY  
 SIMPSON COUNTY, KENTUCKY P.O.A. RECORDS

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WE HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE OFFICE OF THE COUNTY CLERK OF SIMPSON COUNTY, KENTUCKY, ON SEPTEMBER 23, 2004.

DATE: SEPTEMBER 23, 2004



**DUNNING LAND SURVEYING**  
 1212 NEOSHEO ROAD  
 FRANKLIN, KENTUCKY 42154  
 PHONE: (270) 586-8286 \* FAX (270) 586-8287