

ORDINANCE NO. 110.5

**AN ORDINANCE OF THE COUNTY OF SIMPSON, KENTUCKY
APPROVING AN INTERLOCAL AGREEMENT FOR SHARING THE
CONTRIBUTION AND/OR EQUALIZATION OF OCCUPATIONAL FEES
USED FOR INDUCEMENTS FOR THE ACQUISITION AND CONSTRUCTION OF
INDUSTRIAL PROJECTS PURSUANT TO THE KENTUCKY BUSINESS
INVESTMENT PROGRAM (KRS 154.32-010 TO 154.32-100)**

WHEREAS, the City of Franklin and County of Simpson have reached an agreement with regard to sharing the contribution and/or equalization of occupational fees used for inducements, with the powers and duties as set forth in an interlocal agreement entitled "Interlocal Cooperation Agreement for Sharing the Contribution and/or Equalization of Occupational Fees Used for Inducements for the Acquisition and Construction of Industrial Projects Pursuant to the Kentucky Business Investment Program (KRS 154.32-010 to 154.32-100);" and,

WHEREAS, the City of Franklin and County of Simpson require the passage of an Ordinance approving said interlocal agreement and authorizing the County Judge Executive for the County of Simpson to execute said interlocal agreement; and,

WHEREAS, it is in the best interest of the citizens of the County of Simpson that the County adopt this Ordinance.

NOW, THEREFORE, be it ordained by the County of Simpson, Kentucky, acting by and through its Fiscal Court, as follows:

1. The Fiscal Court of the County of Simpson, Kentucky hereby approves the terms and conditions of the Interlocal Cooperation Agreement for Sharing the Contribution and/or Equalization of Occupational Fees Used for Inducements for the Acquisition and Construction of Industrial Projects Pursuant to the Kentucky Business Investment Program (KRS 154.32-010 to 154.32-100) by and between the County of Simpson and the City of Franklin, Kentucky, a copy of which is attached hereto and incorporated herein by reference as Exhibit 1.

2. The County Judge Executive of the County of Simpson is hereby authorized to execute any and all documents necessary and appropriate to effectuate the intent of this Ordinance and the interlocal agreement including, but not limited to the interlocal agreement.

This ordinance shall take effect upon its passage, approval, and publication. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

February 21, 2017

FIRST READING

March 21, 2017

SECOND READING

At a meeting of the Fiscal Court of the County of Simpson, Kentucky, held on March 21, 2017, on motion made by Blake Tarpley and seconded by Larry Randolph the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>Yes</u>	Marty Chandler
<u>Yes</u>	Bobby Bush
<u>Yes</u>	Larry Randolph
<u>Yes</u>	Blake Tarpley
<u>Yes</u>	Jim Henderson

APPROVED BY:



Jim Henderson, County Judge Executive

ATTEST:

Pam Rohrs
Pam Rohrs, Clerk
Simpson County Fiscal Court

**INTERLOCAL COOPERATION AGREEMENT FOR SHARING
THE CONTRIBUTION AND/OR EQUILIZATION OF
OCCUPATIONAL FEES USED FOR INDUCEMENTS FOR THE
ACQUISITION AND CONSTRUCTION OF INDUSTRIAL
PROJECTS PURSUANT TO THE KENTUCKY BUSINESS
INVESTMENT PROGRAM (KRS 154.32-010 TO 154.32-100)**

THIS INTERLOCAL COOPERATION AGREEMENT (The "Agreement") is made and entered into and deemed effective as of the 21st day of March, 2017, by and between the County of Simpson, Kentucky (hereinafter referred to as "County"), P. O. Box 242, Franklin, Kentucky 42135; and the City of Franklin, Kentucky (hereinafter referred to as "City"), P. O. Box 2805, Franklin, Kentucky 42135; (each referred to herein individually as "Party", or collectively as "Parties"), each a "public agency" as defined by KRS 65.230.

WHEREAS, under the Interlocal Cooperation Act (the "Act"), Sections 65.210 to 65.300, inclusive, of the Kentucky Revised Statutes ("KRS"), as amended, any power or powers, privileges or authority exercised or capable of exercise by a public agency (including a city, county, or any other political subdivision of the Commonwealth) may be exercised jointly with another public agency under an agreement (an "interlocal cooperation agreement") for joint or cooperative action pursuant to the provisions of the Act; and,

WHEREAS, it is the public policy of the Board of City Commissioners (hereinafter "Commission") of the City of Franklin, Kentucky (hereinafter "City"), a home rule city validly existing under the laws of the Commonwealth of Kentucky, and the County of Simpson, a county and political subdivision validly existing under the constitution, statutes, and laws of the Commonwealth of Kentucky (hereinafter called "County"), to encourage, promote, and support economic development, new job formation, and the development and growth of industry and commerce, and to preserve existing jobs in Franklin, Simpson County, Kentucky for the public purposes of providing employment opportunities for its citizens and residents, alleviating conditions of unemployment, stabilizing and promoting the economy of Kentucky, and creating new tax bases and sources of revenue for the Commonwealth;

WHEREAS, the Kentucky Business Investment Program (hereinafter "Program"), Sections 154.32-010 through 154.32-100 of the Kentucky Revised Statutes ("KRS"), authorizes and empowers the Commonwealth and certain local jurisdictions to promote economic development in Kentucky by inducing the creation of economic development projects by eligible companies by allowing the companies to recover three percent (3%) from the Commonwealth's taxes and one percent (1%) of the occupational license fees from one or more local taxing authorities, as more particularly described in the KRS;

WHEREAS, KRS 154.32-090 authorizes eligible companies to deduct certain wage assessments from payments of wages to economic development project employees and each employee paying the assessment, in turn, to credit the assessment against their Kentucky individual income tax and, subject to the approval of the local levying authority or authorities, the local occupational license fee or fees otherwise due;

WHEREAS, multiple companies have filed applications with the Kentucky Economic Development Finance Authority (hereinafter "Authority") for approval of projects for the Program as authorized in KRS 154.32-030;

WHEREAS, it is appropriate and in the public interest that the City and County make a formal, binding commitment of financial resources in order to encourage and support economic development endeavors generally and the projects that locate in Franklin and Simpson County, Kentucky specifically if and when approved by the Authority pursuant to KRS 154.32-030;

WHEREAS, the Commission has previously approved the granting of inducements to companies, pursuant to the Program, whereby it would forego the collection of the one percent (1%) occupational license fee on wages that otherwise would be due and payable to the City, which fee was and is retained by the companies, with respect to these project employees whose jobs meet the criteria and requirements established by the Program and are employed as a result of approved Projects ("Qualifying Employees") for a term not to exceed ten (10) years from the date each respective company properly activates the Program's incentives pursuant to KRS 154.32-030 and any agreement relating to the Project that the companies have with the Authority and/or City (the "Activation Date");

WHEREAS, the County hereby agrees to participate in the local Program contribution by pledging its three-fourths percent (0.75%) occupational license fee toward all future projects until such time as the City and County have equalized the total contributions toward economic development through the Program and, once equalization of contributions is achieved, the City and County agree to divide participation in the program on an equitable basis; and

WHEREAS, for future projects, the City has agreed to continue to administer the Program and assure all reporting requirements, remit to the approved companies the entire one percent (1%) occupational license fee required by the KRS on wages that would otherwise be payable to the City back to the companies as inducements, and recoup the three-fourths percent (3/4%) from the County on a quarterly basis until equalization is achieved, and upon the terms set forth hereinbelow thereafter.

NOW, THEREFORE, IT IS MUTUALLY ACKNOWLEDGED AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Official Action. It is hereby found, determined and declared that the recitals set forth in the preambles to this Ordinance, which are incorporated in this Section by reference, are true and correct.
2. Current Program Participation Amounts. The Parties acknowledge and agree that, as of September 30, 2016, City has reimbursed to companies participating in the Program a total of \$254,141.96, and that this amount will continue to increase until such time as County begins to participate in the Program as set forth herein.
3. Future Program Participation by City. For future projects eligible for the Program, the City agrees to administer the program with future qualifying companies and with the

Authority, and City agrees to forego collection of its one percent (1%) occupational license fee and/or remit it to qualifying companies participating in the Program for a term not to exceed ten (10) years from the date an approved company properly activates the Program's incentives pursuant to KRS 154.32-030 and any agreement relating to the Project that the companies have with the Authority and the City.

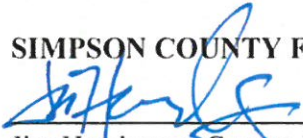
4. Participation by County. Upon approval of this Interlocal Agreement, County agrees to contribute its three-fourths percent (0.75%) occupational license fee for each project/company that receives final approval from the Authority and City to the City until such time as the County has contributed in Program contributions an amount equal to the amount the City has contributed (as set forth in Paragraph 2 herein and adjusted quarterly based upon the respective contributions of the City and County). The Parties understand, acknowledge, and agree that the City shall continue to contribute one quarter percent (0.25%) to the companies in the future since the Program requires a local "match" of one percent (1%) of occupational fees generated or projected by the Company. At the time that the County and City Program contributions are equal, the parties agree to divide the Program contributions in accordance with Paragraph 5 hereinbelow. County agrees to adopt an ordinance approving the participation in the KBI Program for each project for which City issues a letter of commitment.
5. Program Contributions Post City/County Equalization. At the beginning of the next quarter of the year (i.e. January, April, July, October) whereupon equalization of contributions by the parties occurs, City and County agree to continue Program contributions as follows: (a) City shall contribute three-fifths (six-tenths) of a percent (0.6%) and, (b) County shall contribute two-fifths (four-tenths) of a percent (0.4%) of each entity's respective occupational license fees so long as the tax rates in effect at the time of this Interlocal Agreement remain in effect (i.e. 1% City and .75% County). In this regard, the City will retain 0.4% of its occupational license fee and the County will retain 0.35% of its fee. City shall retain the higher amount to account for administration costs for the Program. In the event that either the City or County amend their respective occupational fee rate, the parties shall, by addendum to this Agreement, equalize the parties' contribution rates in an equitable manner.
6. Invoicing and Billing. The City shall invoice the County on a quarterly basis with a payment term of net thirty (30) days from the date of invoice for the County's portion of Program contributions in accordance with this Interlocal Agreement. City shall provide copies of all payroll records and occupational tax returns submitted by the participating companies (to the extent requested by the County) with each invoice for audit and review by the County.
7. General Terms and Conditions.
 - (a) This Agreement shall be effective on the date written hereinabove, and shall continue for ten (10) years. During the initial term, this Agreement shall not be terminable by either party. Provided, however, that this Agreement may be amended by the parties by mutual agreement, in writing. This Agreement shall automatically renew year-to-

year thereafter unless terminated earlier by any party upon six (6) months' written notice. Provided, further, that City and County agree that this Agreement shall not be terminated unless or until all existing or pending KBI Projects to which the City has issued its letter of commitment have been approved by the County for financial participation and until the term of or financial obligations contained in the Agreement between all then existing company participants and the Authority have been fulfilled or expired.

- (b) The parties to this Agreement hereby designate the City Manager and County Judge Executive to be "co-administrators" of this Agreement, and charge same with the responsibilities to assure compliance with the terms and conditions set forth herein.
- (c) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. If any provision of this Agreement is held to be in conflict with any applicable statute or rule of law, or is otherwise held to be unenforceable, the invalidity of such portion shall not affect any or all of the remaining portions of this Agreement.

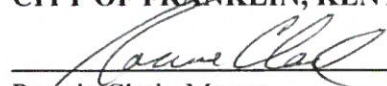
IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and acknowledged by officers or officials as duly authorized by the respective managing bodies of the Parties hereto, effective as of the date first written above.

SIMPSON COUNTY FISCAL COURT



Jim Henderson, County Judge Executive

CITY OF FRANKLIN, KENTUCKY



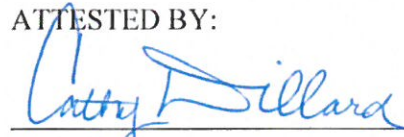
Ronnie Clark, Mayor

ATTESTED BY:



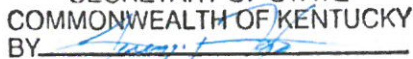
Pam Rohrs, County Clerk

ATTESTED BY:



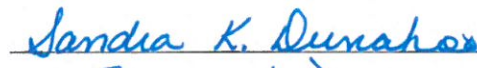
Cathy Dillard, City Clerk

RECEIVED AND FILED
DATE 5/15/17

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY: 

**APPROVED AS TO FORM AND COMPLIANCE
WITH APPROPRIATE KENTUCKY STATUTES**

Kentucky Department for Local Government

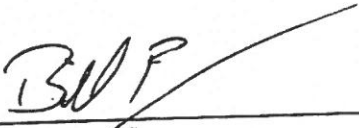

By: Sandra K. Dunahoo
Its: Commissioner

INTERLOCAL COOPERATION AGREEMENT

SIMPSON COUNTY
D328 PG668

ICA 17-013: The County of Simpson, and the City of Franklin, Kentucky; *Occupational fees for Kentucky Business Investment Program*

Reviewed as to compliance with KRS 65.210 to 65.300
and recommended for approval:



Bill Pauley
Staff Attorney
Department for Local Government

4/21/17
Date

Sponsors: Commissioner Jamie Powell
Commissioner Mason Barnes
Second Reading: December 12, 2016
Publication Date: December 15, 2016

ORDINANCE NO. 2016 - 015

**AN ORDINANCE OF THE CITY OF FRANKLIN, KENTUCKY
APPROVING AN INTERLOCAL AGREEMENT FOR SHARING THE CONTRIBUTION
AND/OR EQUALIZATION OF OCCUPATIONAL FEES USED FOR INDUCEMENTS
FOR THE ACQUISITION AND CONSTRUCTION OF INDUSTRIAL PROJECTS
PURSUANT TO THE KENTUCKY BUSINESS INVESTMENT PROGRAM
(KRS 154.32-010 TO 154.32-100)**

WHEREAS, the City of Franklin and County of Simpson have reached an agreement with regard to sharing the contribution and/or equalization of occupational fees used for inducements, with the powers and duties as set forth in an interlocal agreement entitled "Interlocal Cooperation Agreement for Sharing the Contribution and/or Equalization of Occupational Fees Used for Inducements for the Acquisition and Construction of Industrial Projects Pursuant to the Kentucky Business Investment Program (KRS 154.32-010 to 154.32-100);" and,

WHEREAS, the City of Franklin and County of Simpson require the passage of an Ordinance approving said interlocal agreement and authorizing the Mayor for the City of Franklin to execute said interlocal agreement; and,

WHEREAS, it is in the best interest of the citizens of the City of Franklin that the City adopt this Ordinance.

NOW, THEREFORE, be it ordained by the City of Franklin, Kentucky, acting by and through its Board of Commissioners, as follows:

1. The Board of Commissioners of the City of Franklin, Kentucky hereby approves the terms and conditions of the Interlocal Cooperation Agreement for Sharing the Contribution and/or Equalization of Occupational Fees Used for Inducements for the Acquisition and Construction of Industrial Projects Pursuant to the Kentucky Business Investment Program (KRS 154.32-010 to 154.32-100) by and between the County of Simpson and the City of Franklin, Kentucky, a copy of which is attached hereto and incorporated herein by reference as Exhibit 1.

2. The Mayor of the City of Franklin is hereby authorized to execute any and all documents necessary and appropriate to effectuate the intent of this Ordinance and the interlocal agreement including, but not limited to the interlocal agreement.

This ordinance shall take effect upon its passage, approval, and publication. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

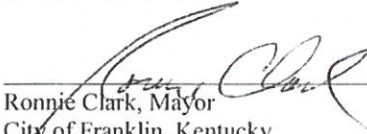
All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

<u>November 28, 2016</u>	FIRST READING
<u>December 12, 2016</u>	SECOND READING

At a meeting of the Board of Commissioners of the City of Franklin, Kentucky, held on December 12, 2016, on motion made by Commissioner Mason Barnes and seconded by Commissioner Wendell Stewart the foregoing ordinance was adopted, after full discussion, by the following vote:


AYE JAMIE POWELL
AYE MASON BARNES
AYE LARRY DIXON
AYE WENDELL STEWART
AYE MAYOR RONNIE CLARK

APPROVED BY:



Ronnie Clark, Mayor
City of Franklin, Kentucky

ATTEST:



Cathy Dillard, City Clerk
City of Franklin, Kentucky

DOCUMENT NO: 1181405
RECORDED ON: 7/3/2017 9:32:00 AM
COUNTY CLERK: JOLENE S THURMAN
COUNTY: SIMPSON COUNTY
BOOK: D328 PAGE: 664 - 672 AGREE
Signed: MH