

ORDINANCE 2016 – 01

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FORT MITCHELL, OTHER LOCAL CITIES AND THE COUNTY OF KENTON, AND THE SANITATION DISTRICT NO. 1 OF NORTHERN KENTUCKY.

WHEREAS, pursuant to KRS 65.210 to 65.300 the City of Fort Mitchell, Kentucky, other local cities and counties in Northern Kentucky and the Sanitation District No. 1 of Northern Kentucky, have determined that as a matter of good public policy a collaborative effort between the foregoing entities is the best and most efficient method to provide for the installation, relocation, extension and maintenance of the sanitary and storm water utility improvements in their respective jurisdictions; and,

WHEREAS, an Interlocal Agreement has been drafted, the purpose of which is to provide a mechanism for the participating local governments to work jointly and cooperatively to efficiently and effectively enact, implement and accomplish certain sanitary and storm water utility improvement projects, policies and/or programs.

NOW, THEREFOR, BE IT ORDAINED by the City of Fort Mitchell as follows:

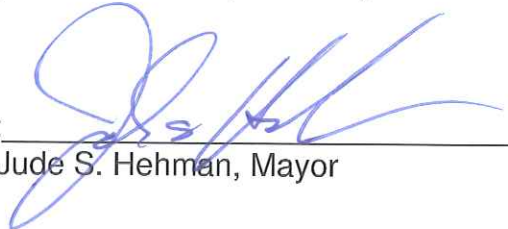
SECTION I

The City of Fort Mitchell, Kentucky does hereby adopt and approve the Master Interlocal Cooperative Agreement for Infrastructure Projects, Programs or Policies, Between the City of Fort Mitchell Kentucky, other local cities and counties in Northern Kentucky and the Sanitation District No. 1 of Northern Kentucky, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

SECTION II

The Mayor of the City of Fort Mitchell, Kentucky, is authorized and directed to sign the attached Interlocal Agreement for and on behalf of the City.

City of Fort Mitchell, Kentucky

BY: 

Jude S. Hehman, Mayor

Attest:



Linda Bartels, City Clerk

Date of First Reading: 02-01-16
Date of Second Reading and Enactment: 3-7-2016
Date of Publication: 3-14-2016

MASTER INTERLOCAL COOPERATION AGREEMENT FOR
INFRASTRUCTURE PROJECTS, PROGRAMS OR POLICIES

THIS MASTER INTERLOCAL COOPERATION AGREEMENT FOR INFRASTRUCTURE PROJECTS, PROGRAMS OR POLICIES (the "Agreement") is made and entered into on this 7th day of March, 2016 by and between the [City or County] of Fort Mitchell, Kentucky, (the "Local Government"), and Sanitation District No. 1 of Northern Kentucky, a sanitation district organized pursuant to KRS Chapter 220 ("SD1"). The Local Government and SD1 are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, under the Interlocal Cooperation Act set forth in KRS 65.210 to 65.300, inclusive (the "Act"), any powers, privileges or authority exercised or capable of exercise by a public agency may be exercised jointly with another public agency under an agreement with one another for joint or cooperative action; and

WHEREAS, the Act permits local governmental units to cooperate with other local governmental units and public agencies to make more efficient use of their powers and to provide services and facilities in a manner that is in their best interest and the best interest of the local communities they serve; and

WHEREAS, SD1 was created under the authority and provisions of KRS Chapter 220, and is a public agency as defined in KRS 65.230, with the authority to acquire, retain, and develop real property for the purpose of constructing, installing, extending, operating, maintaining and repairing sanitary and storm water sewer utility lines and related facilities thereto; and

WHEREAS, in accordance with KRS 45A.300 and/or KRS 45A.420, the Parties desire to work jointly and cooperatively, from time to time, to implement efficient and effective cooperative projects, policies or programs, as further provided for herein.

NOW, THEREFORE, in consideration of the above recitals and the mutual benefits to be derived by each of the Parties, the Parties hereby agree as follows:

1. **No New Entity.** This Agreement does not establish a separate legal or administrative entity, but rather serves as a mechanism for the Parties to engage cooperatively for the Purpose set forth and stated in Section 3 of this Agreement.

SD1 will
return a
signed
copy.

2. **Effective Date.** Upon execution by the Parties and compliance with the provisions of KRS 65.260 and KRS 65.290, this Agreement shall be in full force and effect.

3. **Purpose.** The purpose and intent of this Agreement is to set forth a mechanism for the Local Government and SD1, pursuant to their respective powers, privileges, and authority, to work jointly and cooperatively, from time to time, to efficiently and effectively consummate, enact, implement, and/or accomplish certain projects, policies or programs, with regard to use, design, engineering, construction, installation, relocation, extension or modification, or service and maintenance of any improvements or related facilities thereto owned, to be owned, or otherwise under the jurisdiction of the Local Government, and any sanitary and storm water utility improvements or related facilities thereto owned, to be owned, or otherwise under the jurisdiction of SD1.

4. **Duration.** This Agreement shall remain in effect until terminated pursuant to Sections 8 or 9 of this Agreement.

5. **Local Government/SD1 Projects/Policies/Programs.** For purposes of this Agreement, a "Local Government/SD1 Project, Policy or Program" shall mean a project, policy or program proposed by either Party involving participation in cooperative efforts to achieve the Purpose set forth and stated in Section 3 of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, it is hereby expressly understood and agreed between the Parties that neither Party shall be obligated to enter into a proposed Local Government/SD1 Project, Policy, or Program, and that either Party may disapprove of a proposed Local Government/SD1 Project, Policy, or Program in their sole and absolute discretion, for any reason or no reason at all. If the Parties reach mutual consent and approval of a proposed Local Government/SD1 Project, Policy, or Program, then the Parties may proceed to engage in any necessary joint and cooperative action permitted under the terms of this Agreement to accomplish the Local Government/SD1 Project, Policy, or Program.

6. **Project, Policy or Program Agreements.** If the Local Government and SD1 mutually agree to enter an agreement for a specific Project, Policy or Program, then Local Government and SD1 shall execute and enter into a Project Agreement, Policy Agreement or Program Agreement with mutually agreeable terms.

7. **Further Acts and Deeds.** The Local Government and SD1, respectively, hereby represent and warrant to the other that they are authorized to and will execute, acknowledge, and deliver any and all easements, deeds, documents, certificates, or instruments necessary or required to effectuate this Agreement and the purposes contemplated herein.

8. Termination. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

9. Administration/Financing. The Local Government and SD1 shall each be responsible for its own administration of responsibilities set forth in this Agreement and any Project Agreement, Policy Agreement or Program Agreement as well as any administrative expenses that each incurs in undertaking this Agreement or any Project Agreement, Policy Agreement or Program Agreement as hereby agreed or mutually agreed hereafter.

10. Real and Personal Property. All real or personal property acquired during the course of this Agreement or Project Agreement, Policy Agreement or Program Agreement by either party to the contract shall belong to the Party that acquired the property unless the Parties otherwise mutually agree, in writing, at which time one Party may assign any acquired real or personal property to other Party.

11. Assignment. Neither Local Government nor SD1 shall be permitted to assign their rights or interests under this Agreement.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

13. Default. If either Party defaults under this Agreement, and should such default continue for more than thirty (30) days after written notice is given to the defaulting Party from the non-defaulting Party, the non-defaulting Party may terminate this Agreement by delivering written notice of termination to the defaulting Party.

14. Waiver. No delay or omission by either Party to exercise any right shall impair any such right or be a waiver thereof, but any such right may be exercised from time to time and as often as may be deemed expedient by such Party. Any waiver must be in writing and executed by such Party to be effective, and a waiver on one occasion shall be limited to only that particular occasion.

15. Notices. All notices, demands and requests given or required to be given by either Party hereto to the other Party shall be in writing and shall be deemed to have been properly given if sent by U.S. registered or certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

To Local Government: City of Fort Mitchell
2355 Dixie Highway
Fort Mitchell Ky 41017

With a copy to:

To SDI:

SANITATION DISTRICT NO. 1
ATTN: LEGAL DEPARTMENT
1045 EATON DRIVE
FT. WRIGHT, KENTUCKY 41017

Either Party may designate a new address by written notice to the other Party.

16. Interpretation. The titles to the Sections and Paragraphs hereof are for reference only and do not limit in any way the content thereof. Any words herein which are used in one gender shall be read and construed to mean or include the other gender wherever they would so apply. Any words herein which are used in the singular shall be read and construed to mean and to include the plural wherever they would so apply, and vice versa.

17. Entirety of Agreement. This Agreement is the complete agreement of the parties hereto and supersede all previous understandings relating to the subject matter hereof. The parties hereby acknowledge and represent, by affixing their signatures hereto, that said parties have not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set out in this Agreement made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Agreement.

18. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which together shall constitute one and the same agreement.

19. Amendments. This Agreement may be amended only by an instrument in writing which explicitly states that it amends this Agreement, and is signed by each Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

ON BEHALF OF LOCAL GOVERNMENT:

[Signature]
BY: Jude Nehman
ITS: Mayor

COMMONWEALTH OF KENTUCKY)
COUNTY OF Kenton)

The foregoing instrument was subscribed, sworn to and acknowledged before me on this the 10th day of October, 2016, by Jude Nehman on behalf of the [City or County] of Fort Mitchell.

Approved by Ord 2016-01

[Signature]
Notary Public
My Commission expires: 4-24-17
Notary Number: 481363

ON BEHALF OF SD1:

RECOMMENDED BY _____
BY: _____
ITS: DEPUTY EXECUTIVE DIRECTOR, _____

COMMONWEALTH OF KENTUCKY)
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me on this the _____ day of _____, 20____, by _____, Deputy Executive Director, _____, of Sanitation District No. 1, for and on behalf of Sanitation District No. 1.

Notary Public
My Commission expires: _____
Notary Number: _____

BY: DAVID E. RAGER
ITS: EXECUTIVE DIRECTOR

COMMONWEALTH OF KENTUCKY)
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me on this the ____ day of _____, 20 __, by David E. Rager, Executive Director, of Sanitation District No. 1, for and on behalf of Sanitation District No. 1.

Notary Public
My Commission expires: _____
Notary Number: _____

IN ACCORDANCE WITH KRS 65.260, the Attorney General of the Commonwealth of Kentucky has determined that the above Agreement is in proper form and compatible with the laws of the Commonwealth of Kentucky.

ATTORNEY GENERAL
COMMONWEALTH OF KENTUCKY

DATE

This Instrument Prepared By:

Brian M. Ellerman
General Counsel
Sanitation District No. 1
1045 Eaton Drive
Ft. Wright, KY 41017