

ORDINANCE NO. BG2020 - 44

ORDINANCE APPROVING AMENDMENT TO AMENDED AND RESTATED INTERLOCAL COOPERATION AGREEMENT RELATED TO THE INTER-MODAL COMMERCE AND DISTRIBUTION CENTER AND INDUSTRIAL PARK (KENTUCKY TRANSPARK)

ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED INTERLOCAL COOPERATION AGREEMENT AMONG THE CITY OF BOWLING GREEN, WARREN COUNTY, THE INTER-MODAL TRANSPORTATION AUTHORITY, INC. AND THE SOUTHERN KENTUCKY REGIONAL DEVELOPMENT AUTHORITY RELATED TO THE DEVELOPMENT, PROMOTION, ACQUISITION, DESIGN, CONSTRUCTION, OPERATION, MANAGEMENT AND/OR FINANCING OF AN EXPANSION TO THE KENTUCKY TRANSPARK

WHEREAS, in Resolution Nos. 99-01 and 2001-1, the City of Bowling Green (the "City") expressed its support for and intention to participate in and pledged to cooperate with the County of Warren, Kentucky (the "County") in the development of an inter-modal commerce and distribution center and industrial park, the Kentucky Transpark (hereinafter "Project") to benefit the residents of Bowling Green and Warren County; and,

WHEREAS, the County created the Inter-Modal Transportation Authority, Inc. (ITA) to act as the agency and instrumentality and as the constituted authority of the County in the acquisition and financing of the Project; and,

WHEREAS, the Southern Kentucky Regional Development Authority (RDA) acquired a portion of the Project from the ITA from the proceeds of a lease agreement with the Kentucky Area Development District Funding Trust; and,

WHEREAS, the Interlocal Cooperation Act, KRS 65.210 to 65.300, inclusive, as amended, authorizes public agencies to enter into agreements with each other in order to exercise any powers, privileges or authority exercised or capable of being exercised by a public agency, including acquiring, real property and improving and maintaining real property for public purposes, including for industrial

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and economic development purposes; and,

WHEREAS, in Ordinance No. BG2001-31, the City approved an Interlocal Cooperation Agreement with the County related to the construction, acquisition, installation, maintenance, operation and/or financing of an inter-modal commerce and distribution center; and,

WHEREAS, in Ordinance No. BG2007-43, the City acquired a leasehold interest in the Project and the Project Site through the issuance of City General Obligation Bonds and in Ordinance No. BG2007-43, the Interlocal Cooperation Agreement was amended and restated to reflect that action and to add the Southern Kentucky Regional Development Authority (RDA) and the ITA as parties to that agreement; and,

WHEREAS, in 2015, the City and County determined that the ITA would act as the agency and instrumentality and constituted authority of the City and County jointly and that 50% of the Board of Directors of the ITA would be appointed by the City and County, respectively; and,

WHEREAS, the Interlocal Cooperation Agreement was amended in 2015 to reflect such arrangement; and,

WHEREAS, the City has determined to issue its General Obligation Bonds, Series 2021A in the approximate amount of \$40,000,000 and Taxable General Obligation Bonds, Series 2021B in the approximate amount of \$6,500,000 (collectively, the "Bonds") to make certain infrastructure improvements to the Project; and,

WHEREAS, the parties to the Amended and Restated Interlocal Cooperation Agreement agree to further amend and restate such agreement to reflect the imposition of job and wage assessments in certain Development Areas of the Project, update the division of assessments in other Development Areas of the Project, to remove the RDA as a party to the Interlocal upon the retirement and payment in full of the 2016 Bonds as the RDA no longer maintains real property or administers funds or proceeds of Bonds related to the Development Areas and make certain other arrangements necessary

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for the issuance of the Bonds; and,

WHEREAS, in order to establish the respective rights and duties of each party, it is necessary to amend and restate the Amended and Restated Interlocal Cooperation Agreement approved in 2007, as amended in 2015; and,

WHEREAS, the Amended and Restated Interlocal Cooperation Agreement is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky, as follows:

1. The Amended and Restated Interlocal Cooperation Agreement among the City, the County, the ITA and the RDA, in substantially the form as attached to this Ordinance, is hereby approved.

2. The Mayor, City Clerk, City Attorney and all other appropriate City officials and agents of the City are hereby authorized and directed to execute and deliver on behalf of the City the Amended and Restated Interlocal Cooperation Agreement.

3. This Agreement shall be effective from and after its execution and upon the approval of the Agreement by the Kentucky Department for Local Government and the filing of a certified copy of the Agreement with the Kentucky Secretary of State.

4. The Mayor, City Clerk and all other appropriate City officials and agents of the City are hereby authorized and directed to execute on behalf of the City all other documents and to do all other acts and things necessary or proper for entering into and effecting this Ordinance and Agreement.

5. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

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6. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

7. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on December 1, 2020, and given final reading on December 15, 2020, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: December 15, 2020

APPROVED: Bruce Wilkinson  
Mayor, Chairman of Board of Commissioners

ATTEST: Ashley Jackson  
City Clerk

SPONSORED BY: Jeffery B. Meisel, City Manager