

COMMONWEALTH OF KENTUCKY
SHELBY COUNTY FISCAL COURT
ORDINANCE NO. 04-7-04, SERIES 2020

AN ORDINANCE RELATING TO THE AMENDMENT OF THE SHELBY COUNTY ORDINANCE NO. 12-17-10, SERIES 2019, AN ORDINANCE ADOPTING A STORM WATER QUALITY MANAGEMENT PROGRAM UNDER THE REQUIREMENTS OF THE KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM (KPDES) MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

WHEREAS, Shelby County, Kentucky, through Shelby Fiscal Court, previously adopted Ordinance Number 12-17-10, Series 2019, adopting a storm water quality management program under the requirements of the Kentucky Pollutant Discharge Elimination System (KPDES) Municipal Separate Storm Water System (MS4), and

WHEREAS, since the adoption of that ordinance on December 17, 2019, Shelby County Fiscal Court has been advised that Section 2. Jurisdiction, and Section 3. Definitions, of that ordinance need various amendments, and

WHEREAS, since the adoption of that ordinance on December 17, 2019, Shelby County Fiscal Court has also been advised that a new Section, entitled Stormwater Quality Management Permit (SWQMP) needs to be added to the original ordinance, and

WHEREAS, the County of Shelby, through the Shelby County Fiscal Court, desires to implement the necessary amendments to Shelby County Ordinance Number 12-17-10, Series 2019, Section 2. Jurisdiction and Section 3. Definitions, and to add a new Section entitled Stormwater Quality Management Permit (SWQMP),

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court, County of Shelby, Commonwealth of Kentucky, that the Shelby County Ordinance Number 12-17-10, Series 2019, An Ordinance Adopting a Storm Water Quality Management Program Under the Requirements of the Kentucky Pollutant Discharge Elimination System (KPDES) Municipal Separate Storm Sewer System (MS4) be amended to read as follows:

SEE "EXHIBIT A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

INTRODUCED, SECONDED AND GIVEN A FIRST READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 17th day of March, 2020.

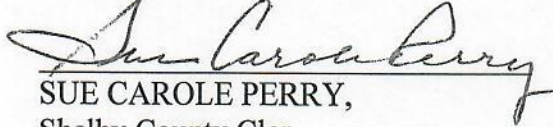
INTRODUCED, SECONDED AND GIVEN A SECOND READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 7th day of April, 2020.

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DAN ISON,
Shelby County Judge/Executive

ATTEST:



SUE CAROLE PERRY,
Shelby County Cler

Section 2. Jurisdiction and Section 3. Definitions of Ordinance Number 12-17-10, Series 2019, adopted December 17, 2019, are amended as follows:

SECTION 2. JURISDICTION

- 1) This Chapter shall govern all unincorporated properties within the jurisdictional boundaries of Shelby County, Kentucky.
- 2) This Chapter shall govern incorporated areas within the boundaries of Shelby County where:
 - a. Said incorporated areas have passed an ordinance or resolution, that support the enforcement of this Chapter by county officials within the incorporated areas.
 - b. Shelby County Fiscal Court has passed a consenting resolution that support the enforcement of this Chapter by county officials within the incorporated areas.
 - c. The ordinances, resolutions and any subordinate agreements or memoranda of understanding shall address jurisdiction, enforcement, communications/coordination, costs and other information the County Fiscal Court and the incorporated area's City Council, or equivalent governing body, deem relevant and appropriate.
- 3) Adherence to this ordinance in no way circumvents or eliminates the requirements of other local or state or federal regulations. Permits may be required by the Kentucky Division of Water and/or the United States Army Corps of Engineers.

SECTION 3. DEFINITIONS

"DESIGN STORM." A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP.

"DEVELOPMENT." shall mean the planning or construction project involving substantial property improvement and, usually, a change of land-use character within the site; the act of using land for building purposes.

"EROSION." The process by which a ground surface is worn away by the action of wind or water.

"EROSION PREVENTION AND SEDIMENT CONTROL (EPSC) BEST MANAGEMENT PRACTICE (BMP)." The construction or implementation of practice, or a combination of practices, to prevent erosion and to abate the resulting off-site sedimentation.

"FINAL STABILIZATION." The completion of (1) all soil disturbing activities at the site have been completed; (2) there are no areas of active erosion evident; and (3) a uniform perennial vegetative cover with a density of 70% of the cover for the area has been established or equivalent measures, i.e. mulches or geotextile fabrics, have been employed.

"EXCAVATION." aka "CUT." An act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated, including the conditions resulting from such activities.

"FILL." A deposit of soil, rock, or other non-deteriorating material used to replace or supplement the original soil or sub-soil.

"GRADING." Any stripping, excavating, filling, stockpiling of soil, or any combination thereof, and shall include the land in its excavated or filled condition.

"GREATER COMMON DEVELOPMENT" A property that is subdivided into smaller adjoining / proximate properties for the purposes of development. The land disturbance size of the "greater common development" is used to determine if it is required to comply with SWQMP or ISWQMP provisions. For

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example, if a 10-acre property is divided into 20 residential and commercial tracts that are 0.5 acres of land disturbance in size, then each of the subdivided properties must meet the requirements. Similarly, if a property with 1.0 acres of land disturbance is divided into two properties, both properties must meet the requirements.

“INDIVIDUAL STORMWATER QUALITY MANAGEMENT PERMIT.” aka “ISWQMP.” A legal document issued by Shelby County that allows the permit holder to break ground or disturb soil on a single family or individual lot home construction. The Permit will illustrate and document how sediment and other construction pollutants are managed on the project site including, but not limited to, assumed drainage pattern, perimeter, erosion control and construction waste BMPs.

“LAND-DISTURBING ACTIVITY.” Clearing and grubbing, clear cutting, construction, reconstruction, grading, modification, extension or expansion of structures or parking areas, placement of fill and dumping that change the natural cover or topography, thereby creating the potential for erosion and contribution of sediment.

“NOTICE OF INTENT (NOI).” A formal notice to the Kentucky Division of Water that a construction project is seeking coverage under the KPDES General Permit for Stormwater Point Source Discharges – Construction Activities also known as “KYR10 permit”.

“NOTICE OF TERMINATION (NOT).” A formal notice to the Kentucky Division of Water that the original operator of the site is no longer the operator, or that construction activity on the site has ceased.

“PERMITTEE.” The Person with an ownership interest in the property / project site that is responsible for the compliance with the Stormwater Quality Management Permit.

“PHASING.” aka “SEQUENCING” Clearing a parcel, or portion thereof, of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

“PROJECT SITE.” An area of Land Disturbing Activity.

“SEDIMENT.” Material that is a product of erosion, whether mineral or organic, and that is in suspension, is being transported, or has been moved from its site of origin, whether by air, water, or gravity.

“SLOPE.” aka “GRADE.” An inclined, exposed surface of a fill, excavation, or natural terrain.

“SOIL.” All earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock that can be readily excavated by mechanical equipment.

“STORMWATER MANUAL.” aka “BMP MANUAL.” The Stormwater Manual shall refer to a document adopted by Shelby County through resolution and incorporated into this Chapter by reference to provide standards for the design, review, construction, and inspection of stormwater facilities. From time to time, Shelby County may revise, modify, or amend the Stormwater Manual as provided by law. When referenced in this Chapter, the current edition / latest revision of the Stormwater Manual shall be used. Until such a time that document has been adopted by Shelby County, other existing documents such as the City of Shelbyville Stormwater Manual may be used for guidance and reference.

“STORMWATER QUALITY MANAGEMENT PERMIT.” aka “SWQMP.” A legal document issued by Shelby County that allows the permit holder to break ground or disturb soil on a construction site within the provisions documented on construction drawings that are approved by the County Engineer or their designee. The approved construction plans will illustrate and document how sediment and other

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construction pollutants are managed on the project site including, but not limited to, perimeter, erosion control and long-term treatment BMPs. The applicability and requirements for SWQMP are defined in Section 11.1.a of this Chapter.

“STORMWATER QUALITY TREATMENT STANDARD.” The requirement intended to provide stormwater quality treatment to the stormwater runoff volume, also known as the “first flush volume”. This is assumed to be the 80th percentile precipitation event, and equivalent to a rainfall of 0.6 inches. The stormwater quality treatment standard requires the stormwater runoff volume for this rainfall event applied to contributing impervious surfaces routed to a stormwater management measure or BMP prior to discharging from a development or re-development site. The “first flush rate” stormwater runoff flow rate standard for manufactured stormwater quality treatment devices that use velocity separation, baffle, filter and related technologies shall treat a 0.5 inches per hour intensity for a 15-minute, 1-year storm event applied to contributing impervious surfaces.

“STRIPPING.” Any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

“SURETY.” is a guarantee given by the owner to insure that they will meet the required obligations. Acceptable sureties are a performance bond in favor of the appropriate authority from a reputable bonding company acceptable to the administrating authority, or a cash security in favor of the appropriate authority may be presented to the administrating authority as an acceptable surety. A performance bond must include an automatic renewal with at least 30-day notice to the County of the cancellation of the surety. For the purposes of these regulations, the term "bonding" shall be understood to also include the posting of cash as surety.

A new section numbered Section 11., is added as follows:

SECTION 11. STORMWATER QUALITY MANAGEMENT PERMIT (SWQMP)

1) SWQMP Requirements

- a) A SWQMP is required prior to any construction activity involving land disturbance of one or more acres, that is whole or part of a greater common development. A SWQMP requires the following:
 - i) County approval of related construction drawings documenting BMPs to address sediment and other pollutants. This applies to properties with “Preliminary Plat”, “Planned Unit Development”, or “Development Plan” approval on or after May 1, 2020; and/or construction on said properties has started on or before May 1, 2022
 - ii) Copy of the Notice of Intent sent to the KY Division of Water before beginning construction.
 - iii) Copy of the Notice of Termination sent to the KY Division of Water when construction has ceased.
 - iv) Copies of permits required by the Kentucky Division of Water and the US Army Corps of Engineers related to construction in or along a stream or wetland.

- b) A SWQMP is not required for the following activities:
 - i) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - ii) Existing nursery and agricultural operations conducted as a permitted main or accessory use. However, permitting through regional, state, and federal agencies may be required.

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- iii) Construction activities for building additions or accessory structures that involve disturbance of less than one acre and do not require Stormwater General Permit from the KY Division of Water. Existing single family structures are exempt.
 - iv) Agricultural and Silviculture (woodland production) operations according to an Agricultural Water Quality Plan approved by the City Conservation District or approved as required in the Kentucky Agricultural Water Quality Plan developed in accordance with the Kentucky Agricultural Water Quality Authority.
 - v) Land reclamation projects regulated by the Kentucky State Department for Surface Mining Reclamation and Enforcement.
- 2) SWQMP Administration
- a) The County Engineer is authorized to develop, revise as needed, checklists, forms, applications and other documents needed to facilitate the review and processing of SWQMP requests.
- 3) SWQMP Application Review
- a) The County shall review construction plans to determine conformance with the provisions of this Chapter. Acceptance indicates that minimum requirements or intent are met and does not imply a guarantee of performance. Based on this review, the County will:
 - i) Accept the BMP Plan, or
 - ii) Accept the BMP Plan subject to such reasonable conditions as may be necessary to meet the requirements/intent of this ordinance, or
 - iii) Reject the BMP Plan, indicating the reason and procedure for submitting a revised Plan
 - b) The County's review of the BMP Plan is for general compliance with this ordinance. The design engineer is ultimately responsible for the details of design of the BMP Plan, and the property owner is responsible for implementation.
- 4) SWQMP Construction Plan Requirements
- a) Construction Plans that document BMPs and other construction practices shall be stamped and signed by a Professional Engineer licensed in Kentucky that develops or sufficiently oversees the development of the Construction Plans.
 - b) Construction Plans shall describe the implementation of BMPs that are to be used to reduce sediment and other stormwater pollutant discharge from the site including:
 - i) Site Description, receiving waters, soils, hydrology and topography
 - ii) BMPs including:
 - (1) Soil stabilization and dust controls
 - (2) Perimeter controls
 - (3) Stabilized construction entrances
 - (4) Concrete and building material controls
 - (5) Steep slope stabilization controls
 - (6) Stockpile controls
 - (7) Settling and sediment traps and basins
 - (8) Stormwater Quality Treatment Standard Best Management Practices
 - (9) Clean water / off-site water diversions
 - (10) Inlet and outlet stabilization controls
 - (11) Stream and channel protection controls
 - (12) Phasing and/or Sequencing Plan
 - (13) Other control measures as determined necessary by the designer
 - iii) Easement and Right of Way information for BMPs and other stormwater/drainage infrastructure

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- iv) Short- and Long-term operation and maintenance requirements for Stormwater Quality Treatment Standard BMPs.
- c) Stormwater Quality Treatment Standard controls
 - i) Manufactured stormwater quality treatment devices that use velocity separation, baffle, filter and related technologies shall be capable of by-passing (internally or externally) larger events or have diversion structures that direct large events away from the unit.
 - ii) Sedimentation based controls must incorporate a pre-treatment component for collection and removal of trash, grit and large particle sediment, such as fore bays, pre-treatment cells, and/or multi-system treatment trains.
- 5) Construction Plan Modifications
 - a) Modifications to the Construction Plans shall be processed and accepted or denied in writing by the County Engineer, or their designee in the same manner as required by this Chapter.
 - i) Major amendments of the construction plans require an engineer's signature and stamp, and must meet the County Engineer's approval.
 - ii) Minor or field modifications shall be noted and dated on the BMP Plan and available for review by the County.
 - iii) Any changes to long-term / permanent stormwater quality treatment BMPs require an engineer's signature and stamp, and must meet the County Engineer's approval.
- 6) Individual SWQMP (ISWQMP) Requirements for Single Family Lot Home/Residential Construction
 - a) An ISWQMP is required for all individual lots and shall be completed and signed prior to the issuance of a building permit for the site. All storm water management measures necessary to comply with this Ordinance must be implemented in accordance with the permitted plan for the larger project and adhere to the general standard or those of a Greater Common Development.
 - b) The ISWQMP shall be administered along with the County Driveway Permit.
 - c) The ISWQMP Permittee is responsible for the installation and maintenance of all erosion prevention and sediment control measures until the site is stabilized.
- 7) Surety (Bond and Bond Release)
 - a) The intent of this section is to establish the procedures for setting a Stormwater Permit Bond amount and to establish the bond reduction and release requirements. This section shall apply to all land-disturbing activities subject to this ordinance.
 - b) Bonds will include all the erosion and sediment control devices and stormwater facilities. The bond shall include the following provisions:
 - i) A bond in the amount of one hundred twenty five percent (125%) of a Professional Engineer's probable cost opinion for the approved stormwater control devices and measures. This does not include improvements in the public right-of way that are addressed in a separate Bond. The Professional Engineer's probable cost opinion shall be set to meet the County's review and approval. This shall be posted before any land-disturbing activities occur and before a SWQMP is issued.
 - ii) The Permittee shall comply with all the provisions of this chapter that apply to the proposed land-disturbing activities and all other applicable laws and ordinances.
 - iii) The Permittee shall continue inspections and maintenance as described in the Stormwater Permit until the County accepts the post-construction site conditions.
 - iv) An automatic renewal clause shall be included.
 - v) The bond shall remain in full force and effect until the termination activities have been recognized and approved by the County.

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- vi) Failure to complete corrective actions within 30 days when a Stop Work Order has been issued may cause the bond to be forfeited to the County and the matter turned over to the Shelby County Attorney.
- c) SWQMP Bond Reduction
 - i) The SWQMP bond may be reduced once when the designed devices and control measures are in place and functioning.
 - ii) The following procedure shall be used when a Permittee requests a bond reduction:
 - (1) The Permittee shall submit a written request to the County for the bond reduction. The written request shall include the project engineer's sealed certification regarding substantial completion of the construction.
 - (2) The County shall make a written report regarding inspections and whether a bond reduction is warranted.
 - (3) When the County's written report includes a recommendation for the bond reduction, the County will send out a bond reduction letter based on that recommendation.
 - (4) The bond may be reduced to an amount that leaves in place at least fifty percent (50%) of the original bond amount.
- d) SWQMP Bond Release
 - i) The bond may be released when all requirements are met:
 - (1) For residential subdivisions - seventy percent (70%) of the houses have passed the rough electric and framing inspections in a specific approved phase of the subdivision or up to three (3) years has elapsed from the date construction started.
 - (2) For commercial or industrial subdivisions - buildings have been constructed on seventy percent (70%) of the lots in a specific approved phase of the subdivision or up to three (3) years has elapsed from the date construction started.
 - (3) For individual sites to include apartments and condominiums - the land disturbing activities are complete and stabilized or three (3) years has elapsed from the date construction started.
 - (4) Once the requirements set forth above have been met, the Permittee can request release of the remaining SWQMP bond.
 - ii) The following procedure shall be used when a Permittee requests a bond release:
 - (1) The Permittee shall submit a written request to the County for bond release. The written request shall include the project engineer's sealed certification regarding substantial completion of construction in accordance with this ordinance and the Stormwater Permit.
 - (2) The County shall inspect the subdivision or project. If deficiencies are noted, the Permittee must make the needed improvements before additional inspections occur.
 - (3) The County shall report in writing regarding the inspections and whether a bond release is warranted. The County's written report shall include a recommended action regarding the bond release.
 - (4) Upon receiving the bond release letter, the Permittee shall be released from all further short-term obligations under this ordinance.
 - (5) The long-term Best Management Practices operation and maintenance shall continue after bond release. An Agreement must be included and approved by the County, for long-term operation and maintenance of Stormwater Quality Treatment Standard BMPs. This must be approved by the County before bond release.
- 8) SWQMP Implementation
 - a) The County may require a pre-construction meeting to review requirements and approved plans with the permittee, the permittee's construction contractor and related stakeholders.

- b) County approved forms must be used for inspection documentation.
 - c) Inspection forms must be completed and signed by a qualified person to include, but not limited to, a Professional Engineer, Professional Landscape Architect, certification or registration from a program that is utilized by other local governments in the Commonwealth of Kentucky.
 - d) The Perimeter and Outfall Protection Inspection must be performed prior to the Permittee's breaking ground or disturbing soil with exception for installation of sediment control practices at the hydrologic perimeter and outfall(s) of a construction site.
 - i) The inspection shall include participation by the County, the Permittee and the Permittee's Contractor.
 - ii) Clearing, except that necessary to establish perimeter sediment control devices, shall not begin until perimeter and outfall sediment control devices have been installed and have been stabilized.
 - iii) Activities necessary to establish the perimeter controls are exempt from initial inspection.
 - e) Inspection Frequency - The SWQMP Permittee shall have qualified personnel inspect BMPs:
 - i) every 7 days, and within 24 hours of rainfall of 0.5 inches or greater.
 - ii) All inspections and corrective actions taken shall be documented.
 - f) Detention Basins, stormwater quality units and other long-term stormwater quality treatment BMPs may be inspected and accepted by the County prior to release of the SWQMP.
 - g) Temporary erosion prevention and sediment control measures may be removed for completion of the finish grade. Permanent stabilization to include either sod or mulched-seeding as appropriate for seasonal conditions shall be completed within fourteen (14) days prior to removal of temporary erosion prevention and sediment control measures.
 - h) The County may inspect a permitted construction site in order to ensure compliance with this Chapter.
 - i) The County may determine and establish inspection schedules necessary to enforce the provisions of this article.
 - ii) Inspections may include, but are not limited to, the following:
 - (1) An initial inspection prior to SWQMP approval.
 - (2) An inspection prior to installation of any underground drainage structure.
 - (3) Inspections to ensure effective perimeter control of sediment prior to other construction, clearing or grubbing on the site.
 - (4) Inspections to determine effective control of sediment prior to discharge to the MS4.
 - (5) Inspections to verify that action plans identified in previous site visits were successfully implemented.
 - (6) A final inspection when work, including installation of stormwater management facilities, has been completed.
 - i) Required Inspections
 - i) The Permittee shall notify the County in writing at least seven (7) working days before the following activities.
 - (1) Request for bond release inspection(s). Shelby County may inspect the stormwater/drainage control measures. If deficiencies are noted, the needed improvements must be made by the Permittee before any additional inspections occur.
 - ii) Termination of permitted activities.
- 9) SWQMP Termination
- a) The Permittee shall submit a Notice of Permit Termination letter to the County.
 - b) Written acceptance of site conditions shall be made by the County based upon an inspection.

- c) The County shall consider whether conditions are sufficient, appropriate and consistent with the Stormwater Plan.
 - d) A Permit shall be considered open and active until the County accepts the site conditions and after the following Record Drawing requirements have been completed:
 - i) All temporary erosion and sediment control measures have been removed.
 - ii) The designed public utilities are installed and have been inspected by the appropriate agencies.
 - iii) The street(s) have been constructed and the binder course of pavement has been placed in accordance with Shelby County standards.
 - iv) The remaining undeveloped acreage that was subject to the SWQMP does not pose a significant threat to the integrity of the infrastructure, adjacent properties or Stormwater quality.
 - v) Permanent stormwater quality measures have been implemented and are operational at the designed levels.
 - vi) Pipes, channels, catch basins, stormwater quality treatment devices and other drainage features are clear of sediment, obstructions and debris, and are operating as designed and appropriate for final site conditions.
 - vii) Disturbed slopes are stabilized.
 - viii) Detention and retention basins are stabilized at designed volumes and conditions.
- 10) Record Drawing Requirements
- a) Prior to the bond release the Permittee shall furnish to the County appropriately modified construction plans or Record Drawings prepared by a Professional Engineer certifying that final conditions are consistent with the SWQMP provisions. This shall include locations of long-term treatment BMPs and detention basins.

EXHIBIT A

INTERLOCAL AGREEMENT BY AND BETWEEN SHELBY COUNTY FISCAL COURT, KENTUCKY AND THE LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT PERTAINING TO THE ACQUISITION OF SEWER AND WASTEWATER COLLECTION SYSTEM AND FACILITES

This Agreement is made and entered into as of this ____ day of _____, 2020, by and between (1) the Shelby County, a political subdivision of the Commonwealth of Kentucky, acting by and through the Shelby County Fiscal Court (hereinafter the "County"), and (2) the Louisville and Jefferson County Metropolitan Sewer District, a public body corporate and municipal corporation, duly created and existing pursuant to the provisions of the Kentucky Revised Statutes, Chapter 76, et. seq., acting by and through its duly appointed Board, its statutory governing body (hereinafter referred to as "MSD").

WHEREAS, in the interest of the public health and for the purpose of providing adequate sewer facilities for the City of Louisville and the County of Jefferson, MSD was created pursuant to KRS Chapter 76; and

WHEREAS, MSD is empowered by KRS Chapter 76 to construct, acquire, operate and maintain sewers, drains, sewer and drainage service and appurtenances in Kentucky; and

WHEREAS, in 2018, the Kentucky General Assembly amended KRS 76.080 (13) to allow MSD to enter into agreements with another entity or entities to acquire by purchase, any real or personal property; or any interest, right, easement, or privilege therein, outside of its Jefferson County boundaries, in connection with the acquisition, construction, operation, repair or maintenance of any sewage, wastewater or stormwater facilities; and

WHEREAS, KRS 65 encourages local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental

organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, the Kentucky Correctional Institute for Women (hereinafter "KCIW") currently owns and operates a waste water treatment plant located at 3000 Ash Avenue, Pewee Valley 40056. Pursuant to Agreed Order (DOW-160014), KCIW will decommission the plant; and

WHEREAS, MSD committed to receive the flow from the decommissioned plant and build the necessary line up to the Jefferson County line to direct the effluent to MSD's Floyds Fork Waste Water Treatment Plant located at 1100 Blue Heron Road, Louisville, Jefferson County Kentucky; and

WHEREAS, the Oldham County Environmental Authority (hereinafter "OCEA") is required to decommission its Ash Avenue Waste Water Treatment Plant pursuant to an Agreed Order (DOW-080322) with the Kentucky Energy and Environment Cabinet. The Ash Avenue Waste Water Treatment Plant is located at Highway 362, Crestwood, Oldham County, Kentucky; and

WHEREAS, MSD committed to receive the flow from the decommissioned plant and build the necessary line up to the Jefferson County line to direct the effluent to MSD's Floyds Fork Waste Water Treatment Plant located at 1100 Blue Heron Road, Louisville, Jefferson County, Kentucky; and

WHEREAS, it is most efficient use of powers of the County and MSD for said agencies to cooperate on the basis of mutual advantage to both in order to complete this project described in this agreement,

NOW THEREFORE, in consideration of these promises and mutual covenants contained herein, the parties agree as follows:

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1. **PARTIES:** The parties to this agreement are MSD and the Shelby County Fiscal Court.
2. **INCORPORATION OF RECITALS:** The recitals are incorporated herein by reference as if fully set forth herein and adopted as true and correct findings of fact by the parties.
3. **CONSTRUCTION:** It is the parties understanding that the Kentucky Department of Corrections (hereinafter "DOC") intends to construct sewer and wastewater facilities from KCIW to the Shelby County and Jefferson County boundary. Shelby County will allow MSD to construct sewer and wastewater facilities from the decommissioned Ash Ave Waste Water Treatment plant to the Shelby County and Jefferson County boundary.
4. **PERMISSION TO OWN FACILITIES:** Upon execution of a lateral extension agreement (or similar agreement) between MSD and DOC, the County authorizes MSD to own, maintain and operate the relevant facilities in the prescribed service area located in Shelby County. Additionally, upon completion of the sewer and wastewater facilities from Ash Avenue Waste Water Treatment Plant, the County authorizes MSD to own, maintain and operate the relevant facilities located in Shelby County. The facilities and service areas are depicted on Exhibit A.
5. **PUBLIC FACILITIES:** MSD shall at all times have the authority to construct, erect, operate, modify, maintain, repair and replace any infrastructure deemed necessary for the continued operation of the collection system that is located in public right of ways, streets, alleys, public places and easements of Shelby County.
6. **NO SEPARATE ENTITY:** The Parties agree that no separate legal or administrative entity shall be created or organized in connection with this Agreement.
7. **FINANCING:** Each Party shall be responsible for its own costs and expenses, if any, financial or otherwise, and at no time shall either Party be obligated to provide any compensation of any kind to the other.

8. ADMINISTRATOR: Pursuant to KRS 65.250(2), the Chief of Operations of MSD shall act as the administrator responsible for administering the undertaking outlined in this Agreement.

9. ENTIRE AGREEMENT: This Agreement represents all agreements between the parties. This Agreement may not be altered, modified or amended, except in writing properly executed by any authorized representative of the County and MSD.

10. GOVERNING LAW: This agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.

11. DURATION: This Agreement shall continue in full force and effect for fifty (50) years from the effective date. Upon expiration of the initial fifty (50) years, this Agreement shall automatically renew for fifty (50) years.

12. TERMINATION: This agreement can only be terminated upon written consent of both parties.

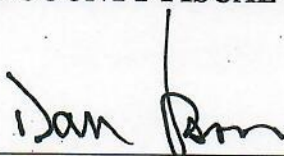
13. PROPERTY: The manner of acquiring, holding, and disposing of real and personal property used in the Agreement shall continue in the same manner as each Party acquires, holds, and disposes of its separate real and personal property.

14. APPROVAL: Subject to the approval of the Kentucky Attorney General, this Agreement shall become effective on the date first written above.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

SHELBY COUNTY FISCAL COURT, KENTUCKY

By: _____



As: _____

Authorized by Resolution No. _____

**LOUISVILLE AND JEFFERSON COUNTY
METROPOLITAN SEWER DISTRICT**

By: _____

As: _____

Authorized by Resolution Adopted: _____

Approved As To Form And Legality:

Board Counsel
Louisville and Jefferson County
Metropolitan Sewer District

APPROVED AS TO

KRS 65.210 - 65.300

**THE ATTORNEY GENERAL
KENTUCKY**

COMPLIANCE WITH

COMMONWEALTH OF

By: _____

Date: _____

Date: _____

This Instrument Prepared By:

Paula M. Purifoy
Board Counsel
Louisville and Jefferson County
Metropolitan Sewer District
700 West Liberty Street
Louisville, Kentucky 40203-1911