

**INTERLOCAL AGREEMENT BETWEEN MARSHALL COUNTY AND THE CITY OF
FRANKLIN FOR THE PROCESSING OF RECYCLABLES
COF Contract #2014-0305**

THIS INTERLOCAL AGREEMENT, (“Agreement”), is entered into by and between the CITY OF FRANKLIN, (“City”), a municipal government located at 109 Third Ave. South, Franklin, Tennessee, 37064, and Marshall County, Tennessee (“Marshall County”), a county government, located at 1108 Courthouse Annex, Lewisburg, TN 37091, and whose Recycling Processing Facility is located at 611 Hawkins Drive, Lewisburg, TN 37091, to establish the terms and financial responsibilities for the provision of processing recyclables, collected as a single stream, by the City of Franklin.

RECITALS

WHEREAS, the City of Franklin and Marshall County are public instrumentalities of the State of Tennessee and, as such, are authorized to enter into interlocal agreements pursuant to *Tennessee Code Annotated*, Section 12-9-104; and

WHEREAS, the City of Franklin collects single stream recyclables from customers within the City limits to ensure the availability of an economical and environmentally sound method to reduce waste taken to landfills; and

WHEREAS, the City desires to secure services to process recyclables from City vehicles to a permitted recycling facility for processing; and

WHEREAS, the City agrees to retain Marshall County to process the City’s recyclables in accordance with Federal, State, and local laws, regulations, rules and ordinances; and

WHEREAS, in reliance upon this Agreement, Marshall County will secure the necessary equipment, permits, approvals, services and personnel to fulfill all obligations contained herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. Purpose of Agreement. The purpose of this Interlocal Agreement is to clearly define the contractual responsibilities and financial obligations of the City and Marshall County for the provision of processing recyclables from the City of Franklin, Tennessee at the Marshall County Recycling Processing Facility at 611 Hawkins Drive, Lewisburg, Tennessee.

II. Authority. This Agreement is made and entered into pursuant to the authority granted to the parties under the *Interlocal Cooperation Act*, Tennessee Code Annotated Sections 12-9-101, et seq., and the parties agree that all approvals and filings required by the terms of the Act shall be achieved prior to the execution of this Agreement.

III. Definitions.

1. **“Agreement”** shall mean the entire Interlocal Agreement between City and Marshall County as contained herein and any attachments or exhibits to this Agreement explicitly incorporated into this Agreement by the parties.

2. **“Recyclables” or “Recyclable materials”** shall mean those materials which are capable of being reused or returned to use in the form of raw materials or products, whether or not such materials have been diverted or removed from the solid waste stream.

3. **“Recycling”** means the process by which recovered materials are transformed into new products, including the collection, separation, processing, and reuse of recovered materials either directly or as raw materials for the manufacture of new products.

4. **“Recycling Processing Facility”** shall mean the Marshall County Recycling Processing Facility located at 611 Hawkins Drive, Lewisburg, Tennessee.

5. **“Work”** means all labor, services, equipment, and material necessary to complete the obligations and all other requirements included in this Agreement.

IV. City Obligations.

1. The City shall collect Recyclables from customers.
2. The City shall deliver or cause to be delivered to the Marshall County Recycling Processing Facility any recyclable materials originating in the City.
3. The City shall use City-owned scales, based on tonnage, for weighing trucks, both empty and loaded, into and out of the City-owned facility, as needed.
4. The City shall communicate and share all pertinent data to assist Marshall County in planning and efficient management for the processing of Recyclables originating in the City.
5. The City expects Marshall County to communicate potential operations issues that may adversely affect ability to accept and/or process Recyclables.

V. Marshall County’s Obligations.

1. Marshall County shall be responsible for securing necessary permits and approvals from relevant Federal, State and local governmental agencies having jurisdiction over its recycling operations referenced herein; provided, however, the City shall retain responsibility for obtaining all permits and approvals related to the collection and transfer of Recyclables. During the term hereof, Marshall County shall receive and accept City Recyclables and agree to properly process such in compliance with applicable laws and regulations.

2. Marshall County shall maintain necessary personnel with necessary equipment to process at least Two Hundred Seventy-Five (275) tons from the City per month. City hereby specifically rejects any minimum or maximum limits on the quantities of Recyclables to be delivered to Marshall County.

3. Marshall County shall communicate with City personnel regarding events/issues that may adversely affect daily operations.

VI. Compensation to Marshall County.

1. There shall be no fee paid Marshall County by the City for Marshall County’s receipt of City’s Recyclables. However, Marshall County shall retain any rebate or revenue realized from the sale of the Recyclables.

2. Services rendered shall be all inclusive for all services to be rendered and all costs of doing so. City hereby specifically rejects any fee or other surcharge. Examples of such rejected other fees or other surcharges include, but are not limited to, tip fees, fuel charges, State and/or landfill-host-county and/or landfill-host-municipality fees and/or taxes, equipment and/or maintenance charges, and/or charges for time-of-delivery or day-of-delivery. Any changes to Marshall County’s cost of doing business and/or service delivery, such as any example listed above, shall be absorbed by Marshall County and shall not be subject to pass-through to City.

3. In the event it becomes necessary for Marshall County to send Recyclables to another processing facility, such site must first be agreed to by Marshall County and the City.

VII. Representations and Warranties of City. The City warrants that it shall exercise its best efforts to maintain its collection and transportation of Recyclables to the processing facility in compliance with the terms hereof and in compliance with applicable Federal, State and local laws and regulations throughout the term of this Agreement.

VIII. Health and Safety.

1. In the performance of this Agreement Marshall County will be solely and completely responsible for the health and safety of all persons, including employees and property during performance of the Work and services. Health and safety provisions will conform to the following: U.S. Department of Labor, Occupational Safety and Health Act; all other applicable Federal, State, County, and local laws, ordinances, codes; and all other regulations. When any of these conflict, the more stringent regulation/requirement will be followed. Marshall County's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from its responsibility to comply with the safety provisions.

2. Marshall County shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as City may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the Agreement.

3. It is a condition of this Agreement, and shall be made a condition of each subcontract, which Marshall County enters into pursuant to this contract, that Marshall County and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

4. It is a condition of this contract that any authorized representative for the United States, State of Tennessee or City shall have right of inspection to any site or vehicle used in the performance of this Agreement and to inspect or investigate the matter of compliance with the construction safety and health standards.

IX. Term. The initial term of this Agreement shall be for a period of five (5) years which shall begin November 26, 2014 and end on November 25, 2019. The Agreement may be extended at the City's option for two additional 3-year terms.

X. Default. Except as otherwise provided herein, if either party allegedly defaults in the performance of any of the warranties, covenants, or conditions contained herein for 30 days after the other party has given the defaulting party written notice of such default, unless a longer period of time is required to cure such default, and the party allegedly defaulting shall have commenced to cure such default within said period and pursues diligently to the completion thereof, the other party may: 1) terminate this Agreement as of any date at least 30 days after the last day of the 30-day period; ii) cure the default at the expense of the defaulting party; and iii) have recourse to any other right or remedy to which it may be entitled by law or equity, including, but not limited to, the right for all damage or loss suffered as a result of such default and termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent default. In the event that, in the exercise of due diligence during the aforesaid 30 day period, such cure cannot reasonably be effected or completed, such cure period shall be extended to include such additional time as is reasonably necessary to effect or complete such cure provided the defaulting party exercises continuous diligent efforts to cure such default during such extended period.

XI. Cooperation. The parties agree to cooperate fully in order to successfully execute the terms and conditions of this Agreement including obtaining all regulatory and governmental approvals required by

this Agreement recognizing that the intent of each party to the other is to serve the individual interests of each party while respecting the conditions and obligations of this Agreement.

XII. Limitation on Liability. Each party shall be responsible for its own actions and the actions of their employees, contractors, subcontractors, and agents conducted pursuant to this Agreement. Neither party shall be liable for claims against the other party unless liability is imposed under the Tennessee Governmental Tort Liability Act. Marshall County shall provide a copy of a Certificate of Liability Insurance naming the City as additional insured.

XIII. General Terms.

1. **Choice of Law and Forum.** This Agreement shall be exclusively governed by the laws of the State of Tennessee. In the event that any section and/or term of this Agreement, or any exhibits hereto, becomes subject to litigation, the venue for such action will be exclusively maintained in a court of competent jurisdiction sitting in Williamson County, Tennessee.

2. **Termination.** City, in its sole discretion, may choose to exercise an exclusive option to terminate the initial term of service, and any extension thereto, with or without cause, upon ninety (90) calendar days' notice to Marshall County.

3. **Notices.** All notices, demands and requests to be given hereunder by either party shall be in writing and must be sent by certified or registered mail and shall be deemed properly given if tendered at the address below or at such other address as either party shall designate by written notice to the other.

City: **CITY OF FRANKLIN, TENNESSEE**
City Hall
109 3rd Avenue South
Franklin, TN 37064
Attn: City Administrator

With copy to: **CITY OF FRANKLIN SANITATION
AND ENVIRONMENTAL SERVICES DEPARTMENT**
417 Century Court
Franklin, TN 37064
Attn: Solid Waste Director

Marshall Co.: **MARSHALL COUNTY**
1108 Courthouse Annex
Lewisburg, TN 37091

With copy to: **MARSHALL COUNTY SOLID WASTE**
611 Hawkins Drive
Lewisburg, TN 37091
Attn: Solid Waste Director

4. **Entire Agreement and Modifications in Writing.** This Agreement and any exhibits included herewith at the time of execution of this Agreement contain the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified, or altered except in writing and signed by the parties and attached hereto.

5. **Dispute Resolution.** The parties may agree to participate in non-binding mediation in an attempt to resolve any disputes. Notwithstanding the foregoing statement, any claims, disputes or other

matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by a court of law.

6. **Assignment.** The rights and obligations of this Agreement are not assignable.

7. **Waiver.** No waiver of any provision of this Agreement shall be valid unless in writing and signed by the parties against who charged.

8. **Compliance with Laws.** The parties shall comply with all laws of the United States of America, the State of Tennessee, and local laws and shall secure all necessary permits and licenses and keep the same in force during the term of this Agreement.

9. **Employment Practices.** Neither party shall subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex or which is in violation of applicable laws concerning the employment of individuals with disabilities. The parties shall not knowingly hire any unauthorized employees or fail to comply with record keeping requirements set forth in the Federal Immigration Reform and Control Act of 1986, Chapter 878 of the 2006 Tennessee Public Acts and all other applicable laws.

10. **Relationship Between the Parties.** The relationship of the parties shall be that of an independent contractor. No principal-agent or employer-employee relationship is created by this Agreement. The parties hereto shall not hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

11. **Severability.** If any one or more of the covenants, agreements or provisions of this Agreement shall be held contrary to any expressed provisions of law or contrary to any policy of expressed law, although not expressly prohibited, contrary to any express provision of public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Agreement.

12. **Specific Performance.** The parties recognize that the rights afforded to each under this Agreement are unique and, accordingly, City shall, in addition to such other remedies as may be available to them in equity, have the right to enforce their respective rights hereunder by an action for injunctive relief and/or specific performance to the extent permitted by law.

13. **Headings.** The headings in this Agreement are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

14. **Effective Date.** This Agreement shall not be binding upon the parties until it has been properly approved by the governing bodies of the respective parties. When it has been so signed and filed, this contract shall be effective November 26, 2014.

IN WITNESS WHEREOF, the City and Marshall County have executed this Agreement effective as of the date and year provided herein.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: Eric S. Stuckey, City Administrator

BY: Dr. Ken Moore, Mayor

DATE: _____

DATE: _____

APPROVED AS TO FORM AND LEGALITY:

City of Franklin Attorney

ATTEST:

MARSHALL COUNTY

BY:

BY:

DATE: _____

DATE: _____

APPROVED AS TO FORM AND LEGALITY:

Marshall County Attorney