

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FRANKLIN AND  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION FOR  
FINANCIAL ASSISTANCE WITH THE TOTAL MAXIMUM DAILY LOAD STUDY  
COF Contract No. 2017-0219**

***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 Tennessee Department of Environment and Conservation, (“TDEC”), a department created pursuant to the laws of the State of Tennessee, located at 312 Rosa L. Parks Avenue, Nashville, Tennessee 37243, to establish the terms and financial responsibilities for the Total Maximum Daily Load Study (“TMDL”).

**RECITALS**

**WHEREAS**, the City entered into a settlement agreement with Harpeth River Watershed Association (now d/b/a Harpeth Conservancy) and, as part of that settlement, agreed to “fund a proportional percentage of any required studies to ensure that the Harpeth River Watershed as a whole undergoes a study of scientifically appropriate level of detail and the City’s load allocation is fairly determined in the context of the entire watershed, but in no case shall the City expend funds on studies outside the City’s Urban Growth Boundary [(“UGB”)]”; and

**WHEREAS**, the City further agreed to “contribute proportionate, meaningful and appropriate funds for [TMDL] studies within the City’s boundaries up to an amount of \$150,000.00”...“and if any studies necessary to establish an accurate and fair pollutant load allocation for the City are in whole or in part outside of the City’s boundaries, the City agrees to endeavor in good faith to contribute to those studies by attempting to enter into any necessary interlocal agreements”; and

**WHEREAS**, the parties believe that entering this interlocal agreement will be most effective to allow the City to conduct or contract for services to aid in the TMDL study; and

**WHEREAS**, EPA and TDEC are developing the TMDL, and therefore TDEC is the state government entity in the best position to determine what studies are most beneficial for the TMDL study.

**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 define, as the TMDL study continues, the ways in which the City can aid in the study and to provide a mechanism for the City to aid when the services are required outside of the City’s boundaries or, when a watershed-wide study is to occur, to create a mechanism for the City to contribute its proportionate share.

**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. TDEC's Obligations.**

1. TDEC, in consultation with the EPA, will advise the City of studies that are needed for the TMDL study.
2. If the requested studies are outside of the UGB, TDEC will communicate with the City the need for the study.

### **IV. City Obligations.**

1. The City will coordinate with TDEC regarding studies that are needed for the TMDL.
2. If the requested studies are outside of the UGB, the City will amend this agreement to document the City either conducting the requested studies on its own or contracting for the services.
3. The City is only obligated to expend money or aid in studies up to a total of \$150,000.00.
4. The City will provide written updates to TDEC regarding the specific studies being conducted pursuant to this agreement.

**V. Term.** The term of this Agreement shall be the entirety of the TMDL study.

**VI. 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.

### **VII. General Terms.**

1. **Choice of Law and Forum.** This Agreement shall be exclusively governed by the laws of the State of Tennessee.
2. **Termination.** The parties may choose to exercise their options to terminate this agreement, with or without cause, upon thirty (30) calendar days' notice to the other party.
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**  
Eric Stuckey, City Administrator  
City Hall  
109 3<sup>rd</sup> Avenue South  
Franklin, TN 37064

*With copy to:* **CITY OF FRANKLIN LAW DEPARTMENT**

Shauna R. Billingsley, City Attorney  
City Hall  
109 3<sup>rd</sup> Avenue South  
Franklin, TN 37064

*State:* **TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

Tisha Calabrese Benton, Director  
Division of Water Resources  
William R. Snodgrass TN Tower, 11th Floor  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

*With copy to:* Stephanie A. Durman, Assistant General Counsel

TDEC Office of the General Counsel  
William R. Snodgrass TN Tower, 2nd Floor  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

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. **Assignment.** The rights and obligations of this Agreement are not assignable.
6. **Waiver.** No waiver of any provision of this Agreement shall be valid unless in writing and signed by the parties against who charged.
7. **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.
8. **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.
9. **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.
10. **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.

11. **Effective Date.** This Agreement shall not be binding upon the parties until it has been properly approved by the parties. When it has been so signed and filed, this contract shall be effective September 12, 2017.

**IN WITNESS WHEREOF**, the City and TDEC 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:

\_\_\_\_\_  
Shauna R. Billingsley  
City Attorney

ATTEST:

TENNESSEE DEPARTMENT OF  
ENVIRONMENT AND CONSERVATION

\_\_\_\_\_  
BY: Robert J. Martineau, Jr.,  
Commissioner

\_\_\_\_\_  
BY: Tisha Calabrese Benton,  
Director, Division of Water Resources

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Stephanie A. Durman  
Assistant General Counsel, TDEC