




## MEMORANDUM

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November 13, 2012

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator   
Russ Truell, ACA Finance & Administration  
Becky Caldwell, Solid Waste Director

SUBJECT: Interlocal agreement from Williamson County for Drop-Off Hazardous Waste Facility

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider and interlocal agreement with Williamson County to work in partnership to construct a permanent drop-off household hazardous waste (HHW) facility, at the City-owned Municipal Services Complex.

### **Background**

The City of Franklin is in the process of applying for a \$250,000 no match grant, from the Tennessee Department of Environment and Conservation (TDEC) for the purpose of constructing a permanent HHW facility. This facility would be located at the City of Franklin Municipal Services Complex, operate in conjunction with our existing Batteries, Oil, Paint, Anti-freeze and Electronics (BOPAE) drop-off services and serve the residents of Williamson County.

Research indicates the cost of a new facility to range from \$450,000-\$500,000. The primary purpose of this agreement is to accept financial support, from Williamson County, in the amount of \$100,000, to aid in construction expenses for a facility.

This agreement does not result in a final decision of whether to accept the TDEC grant funds, nor does it negate the need for the Board of Mayor and Aldermen to offer a future vote on the agreement and construction of the facility, based on a final grant funding offer from TDEC.

### **Financial Impact**

This interlocal agreement offers \$100,000 from Williamson County, to the City of Franklin, in support of constructing a permanent drop-off HHW facility for the residents of Williamson County. The City may need to amend its budget to accommodate a contribution beyond the \$250,000 TDEC grant to complete the construction of the facility.

### **Options**

1. Accept the terms of the interlocal agreement and the funds associated with this agreement.
2. Decline the terms of the interlocal agreement and the funds associated with this agreement.
3. Modify the terms of the interlocal agreement.

### **Recommendation**

Approval of the interlocal agreement and this partnership with Williamson County is recommended.

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FRANKLIN, TENNESSEE AND  
WILLIAMSON COUNTY, TENNESSEE FOR CONSTRUCTION OF  
A HOUSEHOLD HAZARDOUS WASTE FACILITY  
COF Contract #2012-0176**

**THIS INTERLOCAL AGREEMENT**, (“Agreement”), is entered into by and between WILLIAMSON COUNTY, TENNESSEE, (“County”), a political subdivision of the State of Tennessee, located at 1320 West Main Street, Franklin, Tennessee, 37064, and the CITY OF FRANKLIN, TENNESSEE, (“City”), a municipal government located at 109 3rd Avenue South, Franklin, Tennessee, 37064.

**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 set forth the obligations of the City and County to be responsible for the funding, planning, and satisfactory completion of a household hazardous waste facility (“Facility”). The City of Franklin has received a grant for \$250,000.00 to construct the Facility. The parties understand that cost for construction of the Facility may exceed the \$250,000.00 grant funds. The County has agreed to fund one-half the cost that exceeds the grant funds up to and not to exceed \$100,000.00.

**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 as soon as possible from and after the execution of this Agreement.

**III. City’s Responsibilities.**

- A. The City shall be solely responsible for obtaining the grant funds and fulfillment of all obligations and responsibilities contained in the grant agreement including, but not limited to, compiling and submitting required reports, maintaining all required supporting documentation, and accounting of the funds received through the grant.
- B. The City shall be responsible for one-half of the cost for construction of the Facility that exceeds the grant funds and one-hundred percent of the cost that exceeds the County’s \$100,000.00 pledge.
- C. The City shall be responsible for contracting with licensed and qualified architects and engineers required to construct the Facility. The City shall provide copies of all architectural drawings and construction plans for comment by the County.
- D. The City shall oversee all aspects of the construction of the Facility, including, but not limited to, contracting with qualified contractors, obtaining permits, licenses, approvals and inspections necessary for the construction and completion of the Facility.
- E. Upon completion of the Facility, the City shall be responsible for all aspects and costs of operation of the Facility for the provision of waste collection services.

**IV. County’s Responsibilities.**

- A. The County shall fund one-half the cost of constructing the Facility that exceeds the grant funds up to and not to exceed \$100,000.00. Under no circumstances will the County be responsible for any other costs in excess of the \$100,000.00 unless otherwise agreed in writing by the County prior to such expense being accrued. County will pay the costs within 30 days of receiving a detailed accounting of the construction costs and calculation of the County’s financial obligation concerning the construction of the Facility.
- B. The County shall cooperate with the City in reviewing the architectural drawings and construction plans and to provide comments to the City.

**V. Term.** The initial term of this Agreement shall be effective on the date this agreement is fully executed by the parties and shall continue until all obligations and responsibilities of the parties regarding funding and construction of Facility. The parties may agree to extend the Agreement by written agreement for three (3) additional terms of five (5) years each.

**VI. Termination.**

- a. **Breach.** Should any party fail to fulfill in a timely and proper manner a material obligation under this Agreement or if any party should violate a material term of this Agreement, the non-breaching party shall provide the breaching party with notice of the breach. The breaching party will then have seven calendar days from the receipt of the notice to cure the breach. Upon breach or default of any of the

provisions set forth herein, the non-breaching party shall be entitled to any and all damages and other equitable relief permitted under the laws of the State of Tennessee.

- b. **Termination for Convenience.** City or County may terminate this Agreement at any time upon 30 days' written notice to the other party. Such termination shall not affect in any manner any prior existing obligations between the parties.

**VII. Cost.** Each party shall be responsible for its own cost for the satisfaction of the obligations set forth herein.

**VIII. 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.

**IX. Limitation on Liability.** Each party shall be responsible for its own actions, and the actions of its 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.

**X. General Terms.**

a. **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.

b. **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.

County:           **WILLIAMSON COUNTY, TENNESSEE**  
County Administrative Complex  
1320 West Main Street, Suite 125  
Franklin, TN 37064  
Attn: County Mayor

City:               **CITY OF FRANKLIN**  
Franklin City Hall  
109 Third Ave. South  
Franklin, TN 37064  
Attn: City Mayor

c. **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 statement, 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.

d. **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.

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

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

g. **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.

h. **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.

i. **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 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.

j. **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, or 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.

k. **Specific Performance.** The parties recognize that the rights afforded to each under this Agreement are unique and, accordingly, County 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.

l. **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.

m. **Effective Date.** This Agreement shall not be binding upon the parties until it has been properly approved by the legislative bodies of the respective parties, it has then been signed first by the authorized representatives for the City and then by the authorized representatives of Williamson County and has been filed in the office of the County Mayor. When it has been so signed and filed, this contract shall be effective as of the date written below.

**IN WITNESS WHEREOF**, the County and the City have executed this Agreement effective as of the date and year written below.

ATTEST:

WILLIAMSON COUNTY, TENNESSEE

BY: \_\_\_\_\_

BY: \_\_\_\_\_

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

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

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Williamson County Attorney

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