

**Amended Memorandum of Agreement
for the
Consignment, Processing and Marketing of Recovered Materials**

This Amended Memorandum of Agreement is made and entered into this 6th day of Dec, 2016 by and between:

and:

Lexington Fayette Urban County Government ("LFUCG"), an urban county government pursuant to KRS 67A, located at 200 East Main Street, Lexington, KY 40507.

WITNESSETH

That for and in consideration of the mutual promises and covenants herein expressed, the parties hereby agree as follows:

In this agreement, the party receiving, processing, shipping and marketing recovered materials will be known as the **Lexington-Fayette Urban County Materials Recovery Facility (LEX-MRF) Lexington Recycling Center (LEX-MRF)**. The party(s) owning and consigning the recovered materials and thereby granting the right to LEX-MRF to receive, process, market and ship the materials will be known herein, jointly or severally, as "Affiliates"

AFFILIATES SERVICE & BOUNDARY AREA

Affiliate agrees to indentify current municipalities and geographical boundaries served.

County _____

City _____

of Residential Households _____

of Multifamily Households _____

of Commercial Businesses _____

Total Monthly Approximate tonnage _____

Due to facility capacity limitations and material composition requirements, expansion of services affecting Affiliates incoming tonnage must be approved by LFUCG Commissioner of Environmental Quality, LFUCG Director of Waste Management and LFUCG Plant Operations Manager and must meet material characterization requirements set forth the "Approved Materials" and Environmental Education below.

I. CONSIGNMENT

Upon execution of this MOA, Affiliate agrees that to the extent it chooses to utilize LEX-MRF for the disposal of its recovered materials it shall abide by the terms of this MOA. This MOA is in no way exclusive, and Affiliate is under no obligation to dispose of a minimum monthly amount of materials with LEX-MRF. Affiliate agrees to "consign" its recovered materials to LEX-MRF upon delivery to and LEX-MRF's acceptance of the materials at the LEX-MRF scale. "Consign" or "consignment" is defined as the agreement by the Affiliate and LEX-MRF that upon delivery and acceptance of approved comingled recovered materials, LEX-MRF will process, market, and ship such materials, distribute proceeds and provide documentation using Generally Accepted Accounting Principles (GAAP) and as further provided by the terms of this agreement. LEX-MRF is only financially liable to Affiliate for the monthly payment of Affiliates' proportional share of net revenue from the further disposition of the recovered materials as further provided in this agreement. LEX-MRF makes no guarantee regarding perceived quality of materials shipped or values that are dependent upon market conditions.

II. SHARE/SHARE FACTOR METHOD

The total amount of recovered materials received from all affiliates and the additional recovered materials collected by LFUCG each month will be known as the Total Incoming Tonnage (100 %). The incoming tonnage from each affiliate will be known as that affiliate's "share" or "share factor" (expressed as a percentage, e.g., 5 % or .05) for the month. The Affiliate's respective share/share factor will be used to determine its monthly revenues, costs, penalties, material volumes, etc., as further provided in this agreement.

The share factor for each affiliate is subject to change each month based on the actual tonnage received each month as indicated above.

III. ACCEPTABLE MATERIAL LIST

LEX-MRF will accept only the following recovered materials without penalty:

NEWSPAPER - includes phonebooks and magazines

OFFICE PAPER - includes white and colored paper, junk mail, envelope with windows, school paper, calendars, shredded paper, cardstock, etc. (the LEX-MRF does not accept paper with plastic coating or lamination, plastic covers, or plastic wrappers.)

CARDBOARD - includes brown corrugated containers/boxes and brown craft paper. Boxes must be empty and flattened, with no plastic packing or Styrofoam

FIBERBOARD - includes cereal, cracker boxes and other dry food boxes. (The LEX-MRF does not accept frozen food boxes and beverage cartons.)

PLASTIC BOTTLES AND JUGS - clear or white milk jugs, laundry detergent, soft drink, water, juice and beverage bottles, and jugs or containers with small necks. The containers must be empty. The LEX-MRF does not accept plastic bags, plastic tubs, lids and clam shells, bottles or jugs that contain chemicals, fuels or oils.

STEEL/TIN CANS - includes food cans and empty spray cans. Absolutely no paint cans or cans h containing any chemicals.

ALUMINUM CANS - Cans only. The LEX-MRF does not accept pie or cooking pans, foil wrapping or containers.

GLASS BOTTLES AND JARS - of any color. The LEX-MRF does not accept ceramics, dishes, mirrors, light bulbs or windows.

The Affiliate must sign the attached Non Compliance Penalty Policy (NCP), which is attached hereto as Exhibit A and incorporated herein by reference as well as agree to the Environmental Education component described in Section XII before the LEX-MRF will accept consignment of any of the Affiliate's recovered materials.

IV. SURCHARGE MATERIALS--GLASS AND TRASH

The following monthly surcharge fees will be subtracted from the Affiliate's share each month. The surcharge fees are based upon the current costs incurred by LEX-MRF related to the further disposition of the respective recovered materials and are subject to change. LEX-MRF will provide Affiliate with reasonable advanced written notice upon a change in LEX-MRF's disposition costs

Glass: The current freight cost to ship glass to the nearest sustainable market is \$15.00 per ton. The total amount of glass shipped by the LEX-MRF each month will be multiplied by the Affiliate's share factor to determine the Affiliate's glass liability (the glass surcharge fee) each month.

Trash: The current cost to transfer and dispose of material at the transfer station is \$25.00 per ton. The total amount of trash shipped by the LEX-MRF each month will be multiplied by the Affiliate's share factor to determine the Affiliate's trash liability (the trash surcharge fee) each month.

Affiliate hereby specifically acknowledges and agrees that freight costs, disposal, and surcharges may fluctuate with the vendors' agreements with LEX-MRF and that LEX-MRF is entitled to reduce the Affiliate's share each month to reflect the current costs incurred by LEX-MRF in the further disposition of the recovered materials.

V. LEX-MRF Shipments

When individual commodities/materials are shipped from LEX-MRF to mills/vendors, materials will be weighed and inspected by LEX-MRF and at the receiving mill/vendor. A numerical manifest describing the vendor, material, weight and quantity will be completed for each load shipped. The day of the actual shipment is the determining date of record for LEX-MRF shipments. The date of receipt is

typically the date the mill receives the material and usually this date determines the index prices. Notice: All materials are subject to downgrading by weight and/or quality. LEX-MRF is not responsible for any deduction, downgrades or rejection by the mill/vendor (any and all penalties will be subject to the share factor method). Final receipts issued by the mill/vendor and the terms of this agreement establish the basis of payment to the **Affiliate**. Under this agreement, LEX-MRF will have the authority to accept or decline any such penalty for all materials shipped from LEX-MRF.

VI. MILL /VENDOR PAYMENT AND AFFILIATE DISTRIBUTION

LEX-MRF is normally paid by its vendors net 30 days from date of shipment. All payments from the mill/vendor will be made directly to LEX-MRF. The share factor payment to the **Affiliate** will be issued normally within 30 days of actual payment to LEX-MRF by the mill/vendor.

VII. PROCESSING/PROCESSING FEE:

The fee to process approved comingled materials is \$50.00 per ton (1 ton = 2000 lbs.) and is based upon the incoming tonnage according to the adjusted net weight of the scale ticket. The fee is deducted from the sale of materials after the material is shipped and payment has been received by LEX-MRF from the vendor/mill. The above fee is based upon the current costs incurred by LEX-MRF related to the further disposition of the respective recovered materials and is subject to change. LEX-MRF will provide **Affiliate** with reasonable advanced written notice upon a change in LEX-MRF's disposition costs. The **Affiliate** acknowledges and understands the Scale Procedure Notice which is attached hereto as Exhibit B, and incorporated herein by reference.

VIII. MARKETING FEE

Recovered materials are commodities and are sold based upon the values established by local, regional domestic and global markets and are subject to change without notice. LEX-MRF will make every reasonable effort to sell recovered materials primarily to established mills and reputable vendors using various indexes and parameters including, but not limited to, price, proximity, specifications, ability to pay, and environmental initiatives.

LEX-MRF shall charge a fee to market the materials in the amount of \$7.00 per ton based upon the outbound tons shipped multiplied by the **Affiliates** share factor each month. This fee is deducted from the sale amount of materials after the material is shipped and payment has been received from the vendor/mill. There will be no marketing fee collected for Glass or Trash materials until the material is sold for a value. At that time the same fee as the above shall apply and it shall be calculated in the same manner. The above fee is based upon the current costs incurred by LEX-MRF related to the further disposition of the respective recovered materials and is subject to change. LEX-MRF will provide **Affiliate** with reasonable advanced written notice upon a change in LEX-MRF's disposition costs.

IX. NON COMPLIANT PENALTIES

In addition to the trash surcharge fee assessed pursuant to paragraph IV., above, an additional charge for unacceptable materials may apply as further provided herein. The Non Compliant Penalties (NCP) is

an additional charge which is assessed only when a breach or disregard of the standard for acceptable materials list in paragraph III. above, has occurred.

The total cost for non compliant material is an increased processing fee charged to each noncompliant load, the forfeiture of any revenue associated with the noncompliant load and a disposal cost of \$25.00 per ton based on the LEX-MRF scale weight of the noncompliant load. The total cost of each noncompliant load received for a given month will be deducted from that month's net revenue due to the **Affiliate**. The above fee is based upon the current costs incurred by LEX-MRF related to the further disposition of the respective recovered materials and is subject to change. LEX-MRF will provide **Affiliate** with reasonable advanced written notice upon a change in LEX-MRF's disposition costs. The **Affiliate** acknowledges and understands the Non Compliant Penalty Policy, which is attached hereto as Exhibit A, and incorporated herein.

In the event of a major contamination requiring Plant Shut Down, evacuation or other emergency of materials, the contributing Affiliate will be held responsible for cost incurred including but not limited to clean up, processing fees, transportation and disposal.

X. ACCOUNTING DOCUMENTATION

LEX-MRF agrees to provide documentation that is reflective for all Affiliates detailing each Affiliate's incoming tonnage, share factor, surcharges, non-compliance penalties (if any), adjustments or other information required to comply with GAAP. This information will be provided with monthly payments and will otherwise be available to **Affiliate** upon request at any reasonable time.

LEX-MRF agrees to pay **Affiliate** within thirty calendar days of receipt of payments from mills/vendors.

XI. LEX-MRF OPERATIONAL REQUIREMENTS

Affiliate voluntarily agrees to follow all current LEX-MRF rules / regulations as amended when necessary. Said rules and regulations are designed to ensure the efficient processing of materials in a safe and compliant manner. LEX-MRF rules / regulations will apply to LFUCG and **Affiliates** equally and without prejudice. Failure to follow written or posted LEX-MRF rules/regulations may result in the immediate termination of this MOA.

*LEX-MRF's normal scale hours of operation are Monday through Friday 8 AM until 4PM except posted Holidays (available on request). LEX-MRF follows Division of Waste Management's Collection's schedule. In the event of inclement weather, mechanical issues or other unforeseen circumstances requiring plant closure, LEX-MRF will make every effort to notify **Affiliates** in a timely basis but will not be responsible for losses incurred or materials diverted.*

XII. ENVIRONMENTAL EDUCATION

Contamination increases the costs associated with operating the LEX-MRF which in turn increases the costs for LFUCG and affiliates. The best way to decrease contamination is to uniformly educate all participants of the recycling program about what is and is not acceptable. LFUCG invests significant time and resources in recycling education, and expects affiliates to do the same. In order to ensure an accurate and consistent message for all users of the LEX-MRF, affiliates are encouraged to use LFUCG outreach material and templates, which can be modified to include affiliate logos. When feasible, any affiliate-produced outreach materials should be submitted and reviewed by the Department for Environmental Quality and Public Works before distribution. Affiliates agree to distribute outreach materials listing acceptable items to all residential and business participants in the recycling program at least one time per year and whenever major changes are made to the acceptable materials list.

In order to best ensure that the delivery of unacceptable materials is minimized, the Affiliate agrees to submit all recycling education materials to LEX-MRF for advance approval.

XIII. TERM

The term of this Memorandum of Agreement shall be for an initial period of one year (1), and shall automatically renew for up to four additional terms of one year each unless otherwise terminated or cancelled as provided herein. LFUCG reserves the right to alter or amend any part of this MOA upon at least thirty (30) days advance written notice to Affiliate. LFUCG may cancel this MOA completely upon ninety (90) days written notice to Affiliate.

XIV. LIABILITY

.Each party agrees that it shall be responsible for any claims or damages that are based upon its respective performance of this MOA, or that are based upon the actions or inactions of its respective employees or agents.

XV. NON-EMPLOYEES

In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

XVI. THIRD PARTIES

This MOA does not create a contractual relationship with or right of action in favor of a third party against either LFUCG or Affiliate. It should be understood the Affiliate signing this agreement is responsible for the materials, actions, rewards and circumstances regardless of hauler agreement.

XVII. SEVERABILITY

If any term or provision of this MOA shall be found to be illegal or unenforceable, this MOA shall remain in full force and such term or provision shall be deemed stricken.

XVIII. APPLICABLE LAW

This MOA shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in Fayette County, Kentucky.

XIX. ENTIRE AGREEMENT.

This MOA shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This MOA shall replace any previous agreement between the parties on the same subject matter.

XX. WAIVER

The waiver by either party of any breach of any provision of this MOA shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision of this MOA

IN WITNESS WHEREOF, the parties certify that they have been duly authorized to execute, deliver and perform this Memorandum of Agreement, and have executed it as of the date first herein written.

RUMPKE OF KENTUCKY, INC.
(AFFILIATE NAME) 10795 Hughes Road
(AFFILIATE ADDRESS) Cincinnati, Ohio 45251
BY: William J. Rumpke, Jr.
(name)
TITLE: William J. Rumpke, Jr., President

STATE OF ~~KENTUCKY~~ OHIO

COUNTY OF ~~FAYETTE~~ HAMILTON

The foregoing instrument was acknowledged before me by (name) William J. Rumpke, Jr. as President (title) of Affiliate Rumpke of Kentucky, Inc. on its behalf, on this 25 day of May, ~~2016~~ 2017



Commission expires:
Terry A. Rosen
Notary Public, State of Ohio
My Commission Expires 12-12-2018

Terry A. Rosen

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY:



Jim Gray, Mayor

STATE OF KENTUCKY

COUNTY OF FAYETTE

The foregoing instrument was acknowledged before me by Jim Gray, as Mayor of the City of Lexington, a _____, on this 6th day of June, 2016.

My Commission expires:

28 Dec - 2019



NOTARY PUBLIC

#547793



Lexington-Fayette Urban County Government

DEPARTMENT OF ENVIRONMENTAL QUALITY AND PUBLIC WORKS

Jim Gray
Mayor

David Holmes
Commissioner

EXHIBIT A

To: Affiliates Bringing Material to the LFUCG Recycling Center

From: Tracey Thurman, Director, LFUCG Division of Waste Management

RE: Policy for handling non compliant material

The LFUCG Recycling Center (LRC) processes over 33,000 tons in 2012 (CY), and 9.1% of that material is considered trash (landfill bound waste), resulting in a landfill disposal cost of over \$62,000. That contamination also has resulted in an increase in operational cost of \$237,600.

The LRC is putting steps in place to reach the goal of reducing that contamination level of 9.1% to a level closer to the national average of less than 5% residual trash during the fiscal year 2014. One of the main steps involves implementing a non-compliant material policy. This policy has been in place since the LFUCG Recycling Center affiliates meeting, on March 13, 2013.

The policy will be:

LRC operates a single stream recovery system, and accepts comingled recyclable material, that consists of only accepted materials (see provided list). Each load of comingled material that arrives to the Center will be subject to inspection by LRC staff, for quality and amount of contamination (non-compliant, not accepted materials). If the load is deemed to consist of 95% of approved material, with 5% or less contamination, it will be considered a compliant load and processed.

If the load is found to have more than 5% contamination, have certain items that could cause LRC staff injury or machinery break downs (such as hangers, ropes, or electric cords), and/or have instances of materials that can contaminate the whole load or cause harm to our staff (such as paint, or hazardous waste), the load will be subject to penalties or rejection.

200 East Main Street • Lexington, KY 40507 • (859) 425-2255 •

www.lexingtonky.gov

HORSE CAPITAL OF THE WORLD

SPOT COMPLIANCE AUDIT

All recovered materials entering LFUCG property are consigned to LFUCG and subject to inspection, downgrading, and/or rejection.

Process: When a spot audit is performed, the driver may be asked to isolate the dump. This is for safety purposes and to allow other trucks to proceed without delay while the inspection is being performed.

At the time non-compliance is suspected, a member of LRC management will be requested to inspect the load. Photos will be taken to document the problems.

When feasible, the load will be segregated into a bulk pile.

Images, weight ticket and Non Compliance Notice will be forwarded to Affiliate Member on record, hauler (where applicable) and accounting department for processing.

Please note: There are 3 levels of non compliance.

25% Contamination

50% Contamination

100% Total Rejection

Note: These levels are not based on weight or volume, but rather on a visual determination of non compliant materials and potential for production disruption as described below.

COMPLIANT /ACCEPTABLE LOAD

A **compliant** load will consist of 95% of APPROVED materials with less than visual 5% contamination. Several items that cannot be accepted by LEX-MRF and will be rejected, may be recycled by other facilities, including yogurt cups, plastic drink containers, aseptic containers, rigid plastics, and clear bags.

LRC strongly discourages the use of any "film" bag for collection of recyclables. When bags are used, the bag must be transparent/clear to allow contents to be visible. A load with a large quantity of non transparent/clear bags runs the risk of being rejected.

25% NON-COMPLIANCE PENALTY

BLACK BAGS are NOT ACCEPTABLE at LRC. A 25% First Time Non-Compliance Penalty will be assessed when a load has multiple black bags, or, if any plastic bags contain trash or any other non-conforming material. Any load of contaminated material dropped at the MRF that is determined to have been sent intentionally or maliciously, so as to hide or conceal contaminants, is unacceptable. The 25% First time-non-compliance penalty will be assessed.

Other non-compliant materials may include: Excessive Moisture, artificial decorations, toys, vinyl siding or other construction debris, clothing, and bedding or small furniture items, wood waste (pallets, furniture), shade/blinds, abundance of plastic film bags, abundance of food waste, abundance or abnormal amount of Styrofoam packaging, 1 or more item which normally would not fit in a 95 gallon recycling cart "Rosie" (i.e. Tonka truck or chain saw) or similar items or a combination of any of the above occurrences.

PENALTY PROCEDURE - All three penalties listed below will be assessed:

The full processing fee will be charged on the full adjusted weight as recorded on the weight ticket before the non compliance penalty is assessed.

A 25% non compliance penalty will be deducted from the recorded adjusted weight ticket resulting in 25% of the load's value being forfeited.

25% of the full adjusted weight will be charged a current disposal fee of \$25.00 per ton, subject to change at LRC's discretion.

50% NON COMPLIANCE

In combination with the above violations, a 50% Non Compliance Penalty will be assessed upon the discovery of items that are long, flexible or linear that could wrap around or entangle machinery or personnel, such as electric cord, holiday lights, rope, twine, ribbon, shipping banding, yard waste, small machinery parts or tools, computer and electronics, brake drum, rotor or other automotive type parts, kitchen appliance, vacuum cleaner, agriculture film in strips, or chains.

PENALTY PROCEDURE - All three penalties listed below will be assessed:

The full processing fee will be charged on the full adjusted weight as recorded on the weight ticket before the non compliance penalty is assessed.

A 50% non compliance penalty will be deducted from the recorded adjusted weight ticket resulting in 50% of the load's value being forfeited.

50% of the full adjusted weight will be charged a current disposal fee of \$25.00 per ton, subject to change at LRC's discretion.

FULL REJECTION DUE TO NON COMPLIANCE

Any instance of the following items will result in an immediate rejection of the entire load: paint, hazardous chemical, liquid perceived as hazardous waste, carbon black, soap or emulsifying agent, animal or human waste, medical waste, explosive device, dead animal or other similar type of material including but not limited to any items that are not post-consumer packaging or larger item (larger than a basketball).

PENALTY PROCEDURE - All three penalties listed below will be assessed:

The full processing fee will be charged on the full adjusted weight as recorded on the Weight ticket before the non compliance penalty is assessed.

100% non compliance penalties will be deducted from the recorded adjusted weight ticket resulting in 100% of the load's value being forfeited.

100% of the full adjusted weight will be charged a current disposal fee of \$25.00 per ton, subject to change at LFUCG Recycling Center discretion.

Please Note:

The limit of non-compliance penalties is 7 violations in any 30-day period. Four 25% deduction or two 50% deductions, or any combination equaling 100 will result as one full load rejection.

At the discretion of LRC management, an occurrence of 2 rejections in a 30-day time period will lead to a suspension of service for truck and route for 1 week to allow for proper corrections to occur. Also, an occurrence of 2 suspensions within 60 days, truck and route will be barred from LRC until further notice.

LFUCG reserves the right to update this policy as market conditions change.

The best way to decrease contamination is to educate staff and residents. LFUCG Waste Management requires that you submit copies of literature, media, website and any other educational materials to be reviewed for accuracy, on the content concerning material that will be delivered to the Recycling Center. We need all educational material about recycling to be consistent with our list of acceptable recyclable items. LFUCG Waste Management also has electronic copies of our educational fliers, without our logos, available for your use, if interested.

Attached you will find more details on this policy, and a list of accepted materials. Please read these carefully. If you have any questions or concerns, please feel free to contact Barry Prater, LFUCG Waste Management's Commodity Marketing Manager, at 859-425-2297 (bprater@lexingtonky.gov).

APPROVED MATERIALS

Lexington Recycling Center **only** accepts the materials listed below. **Only** these items should be placed into recycling container. ANY item or material other than what is listed below is considered contamination.

- **NEWSPAPER** - includes phonebooks and magazines
- **OFFICE PAPER** - includes white and colored paper, junk mail, envelope with windows, school paper, calendars, shredded paper, cardstock, etc. (We don't accept paper with plastic coating or lamination, plastic covers, or plastic wrappers.)
- **CARDBOARD** - includes brown corrugated containers/boxes and brown craft paper. Boxes must be empty and flattened, with no plastic packing or Styrofoam
- **FIBERBOARD** - includes cereal, cracker boxes and other dry food boxes. (We don't accept frozen food boxes and beverage cartons.)
- **PLASTIC BOTTLES AND JUGS** - clear or white milk jugs, laundry detergent, soft drink, water, juice and beverage bottles, and jugs or containers with small necks. The containers must be empty. We don't accept plastic bags, plastic tubs, lids and clam shells, bottles or jugs that have contained chemical, fuels or oils.
- **STEEL/TIN CANS** - includes food cans and empty spray cans. Absolutely no paint cans or cans having held chemicals.
- **ALUMINUM CANS** - Cans only. We don't accept pie or cooking pans, foil wrapping or containers.
- **GLASS BOTTLES AND JARS** - of any color. We don't accept ceramics, dishes, mirrors, light bulbs or windows.

If a material is not listed above as APPROVED, it should NOT be placed into any recycling container or placed on any truck that will come to the Lexington Recycling Facility.