

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

This Memorandum of Agreement is made and entered into this 16<sup>th</sup> day of September 2014, by and between:

City of Versailles, Kentucky

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 **Lexington Recycling Center (LRC)**. The party(s) owning and consigning the recovered materials and thereby granting the right to LRC to receive, process, market and ship the materials will be known herein, jointly or severally, as "**Affiliate**".

**I. CONSIGNMENT**

Upon execution of this MOA, Affiliate agrees that to the extent it chooses to utilize LRC 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 **LRC**. **Affiliate** agrees to "consign" its recovered materials to LRC upon delivery to and LRC's acceptance of the materials at the **LRC** scale. "Consign" or "consignment" is defined as the agreement by the **Affiliate** and **LRC** that upon delivery and acceptance of approved comingled recovered materials, **LRC** 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. **LRC** 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. **LRC** 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

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 dispose of material at the transfer station is \$ 25.00 per ton. The total amount of trash shipped by the **LRC** 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 **LRC** and that **LRC** is entitled to reduce the **Affiliate's** share each month to reflect the current costs incurred by **LRC** in the further disposition of the recovered materials.

#### **V. LRC Shipments**

When individual commodities/materials are shipped from **LRC** to mills/vendors, materials will be weighed and inspected by **LRC** 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 **LRC** 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. **LRC 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, **LRC** will have the authority to accept or decline any such penalty for all materials shipped from **LRC**.

#### **VI. MILL /VENDOR PAYMENT AND AFFILIATE DISTRIBUTION**

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

#### **VII. PROCESSING/PROCESSING FEE:**

The fee to process approved comingled materials is \$ 35.00 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 **LRC** from the vendor/mill. The above fee is based upon the current costs incurred by **LRC** related to the further disposition of the respective recovered materials and is subject to change. **LRC** will provide **Affiliate** with reasonable advanced written notice upon a change in **LRC'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**

**Affiliate** voluntarily agrees to follow all current **LRC** 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. **LRC** rules / regulations will apply to LFUCG and **Affiliates** equally and without prejudice. Failure to follow written or posted **LRC** rules/regulations may result in the immediate termination of this MOA.

#### **XII. ENVIRONMENTAL EDUCATION**

In order to best ensure that the delivery of unacceptable materials is minimized, the **Affiliate** agrees to submit all recycling education materials to **LRC** 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**.

#### **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.

The foregoing instrument was acknowledged before me by Jim Gray, as Mayor of the City of Lexington, an Urban county government, on behalf of said urban county government, on this 15<sup>th</sup> day of July, 2014~~5~~

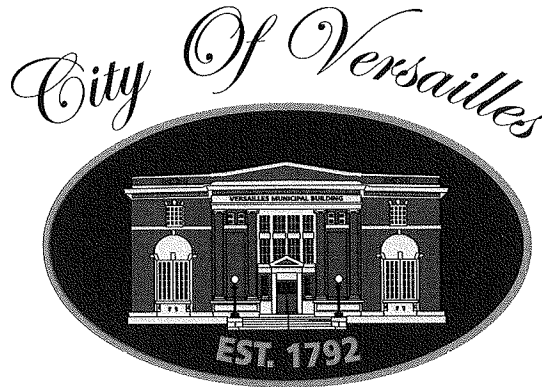
My Commission expires:

11/9/16  
Matt Maller  
NOTARY PUBLIC ID# 457846

**Brian Traugott**  
Mayor  
(859) 873-4581

**Allison B. White**  
Clerk/Treasurer  
(859) 873-5436

**Bart Miller**  
Public Works Director  
(859) 873-2245



**William K. Moore**  
City Attorney  
(859) 873-6207

**John F. Wilhoit**  
Police Chief  
(859) 873-3126

September 19, 2014

Mr. Barry Prater, Acting Program Manager  
Department of Environmental Quality  
And Public Works  
200 East Main Street  
Lexington, Kentucky 40507

Dear Mr. Prater:

RE: Memorandum of Agreement for Consignment  
Processing and Marketing of Recovered Materials

On behalf of the City of Versailles, please find enclosed the above-referenced MOA as executed by the City at their regular meeting held on September 16<sup>th</sup>. The City of Versailles would like to request a fully executed copy of the MOA once all signatures are obtained. Your assistance with our request would be greatly appreciated.

Should you have any further questions or require additional information, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'B Traugott', is written over a faint, larger version of the signature.

Brian Traugott  
Mayor



196 South Main Street, P.O. Box 625, Versailles, Kentucky 40383  
(859) 873-5969 Facsimile