

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

This Memorandum of Agreement is made and entered into this 21st day of August, 2014, by and between:

WINCHESTER MUNICIPAL UTILITIES, 150 NORTH MAIN STREET,
WINCHESTER, KENTUCKY 40391

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

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. LRC 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.

LRC 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 Affiliate's 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 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.

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 Penalty (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 NCP is calculated as : (i) an increased processing fee charged to each noncompliant load, (ii) the forfeiture of any revenue associated with the noncompliant load , and (iii) a disposal cost of \$25.00 per ton based on the LRC scale weight of the noncompliant load. The NCP as calculated above for each noncompliant load received for a given month will be deducted from that month's net revenue due to the Affiliate. The fee components of the NCP are 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 Non Compliant Penalty Policy, which is attached hereto as Exhibit A, and incorporated herein.

X. ACCOUNTING DOCUMENTATION

LRC 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.

LRC agrees to pay Affiliate within thirty calendar days of receipt of payments from mills/vendors.

XI. LRC OPERATIONAL REQUIREMENTS

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.

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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 day of July, 2011. 5

My Commission expires: 11/9/16
Michelle D. Maller
NOTARY PUBLIC ID# 457846

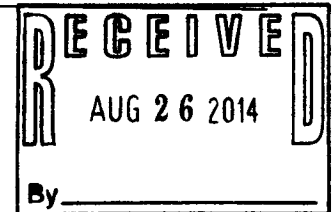


WINCHESTER
MUNICIPAL
UTILITIES

P.O. BOX 4177, 150 N. MAIN STREET
WINCHESTER, KY 40392-4177

PHONE: (859) 744-5434
FAX: (859) 745-4146

August 25, 2014



Mr. Barry Prater
Lexington Recycling Center
360 Thompson Road
Lexington, KY 40508

Dear Mr. Prater:

**Subject: Memorandum of Agreement (MOA)
Winchester Municipal Utilities (WMU)
Lexington Recycling Center**

The Winchester Municipal Utilities Commission (WMUC) approved the enclosed agreement at their regular meeting on Thursday, August 21, 2014. I have signed the document as required on WMU's behalf. Once the document has been fully executed by Lexington-Fayette Urban County Government (LFUCG) I would appreciate a copy being forwarded to me.

Should you have any questions or require additional information you can contact me at (859) 744-5434.

Respectfully,

Michael H. Flynn
General Manager

Enclosure(s)