

RESOLUTION # 2016-491

**INTERLOCAL AGREEMENT
BETWEEN HAMILTON COUNTY, TENNESSEE AND
THE CITIES OF COLLEGEDALE, EAST RIDGE, LAKESITE, LOOKOUT
MOUNTAIN, RED BANK, RIDGESIDE, SODDY DAISY, AND WALDEN,
TENNESSEE, ALL CHARTERED MUNICIPALITIES OF THE STATE OF
TENNESSEE**

WITNESSETH

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to Tennessee Code Annotated § § § 5-1-113; 5-1-114; and 12-9-101 *et seq.*; and to provide for interlocal agreements and cooperation; and

WHEREAS, the Parties are required to conform to the requirements of the Phase II Stormwater Pollution Control Program ("the Program") as promulgated by the United States Environmental Protection Agency ("US EPA") as authorized under the Clean Water Act of 1977 and the Water Quality Act of 1987; and

WHEREAS, the expertise in this area is limited, it would be costly for each participant to initiate their own program, and in light of the need for conformity among the various participants to encourage uniform development.

WHEREAS, the Parties are co-permittees pursuant to a certain NPDES Permit No. TNS075566 issued by the Tennessee Department of Environment & Conservation (TDEC) on or about April 19, 2011 and set to expire on or about September 1, 2015 or until such time as said department issues new permits.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the Parties agree as follows:

THE PARTIES

This Stormwater Pollution Control Agreement ("the Agreement") is entered into between Hamilton County, Tennessee ("the County"), a county and political subdivision of the State of Tennessee, acting through its chief executive officer ("the County Mayor") and its legislative body ("the County Board of Commissioners"), and the Cities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Soddy Daisy, and Walden, Tennessee ("the City" or "the Cities"), all chartered municipalities of the State of Tennessee, each City acting through their chief executive officer ("the City Mayor") and their legislative body ("the City Council" or "City Board of Commissioners"). Collectively the participants shall be referred to as the "Parties."

THE PROGRAM

This Agreement shall form the operating mechanism for the Cities and the County to address the minimum requirements of the Phase II Stormwater Pollution Control Program ("the Program") as promulgated by the US EPA. The Program was authorized under the Clean Water Act of 1977 and the Water Quality Act of 1987. In Tennessee the Program is regulated by the Tennessee Department of Environment and Conservation ("TDEC") under a primacy agreement between the State of Tennessee and the US EPA.

This Agreement for a Phase II Program is required to address the following six minimum Stormwater pollution controls as defined by US EPA:

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control for New Development and Redevelopment
5. Post-Construction Runoff Control for New Development and Redevelopment

6. Pollution Prevention/Good Housekeeping for Municipal Operations

THE TERM

A permit application, naming all the Parties as co-permittees, has been submitted to TDEC outlining the Parties' coordinated approach to accomplish the requirements of the Program. The present permit application was approved by TDEC and a permit was issued effective February 28, 2003. It is understood and agreed that the present permit expired on **September 1, 2015**, and that an application for subsequent permit renewals is being prepared and submitted on behalf of the Parties to this Agreement as required by TDEC or its successor agencies. All such permit renewals shall be approved by both the Board of County Commissioners and each City's legislative body prior to submission to TDEC or its successor agency. The Parties are continuing to operate under the prior permit in the interim and will continue to operate under the soon to be submitted permit renewal. Should any of the Parties wish to withdraw from this Agreement, they may do so by giving written notice to the other Parties no later than the last day of February of any given year, or one year prior to the expiration of any other future TDEC permit.

THE MANAGEMENT COMMITTEE

A Management Committee shall be established containing one member representing and appointed by each of the participating entities. Each member of the Management Committee shall have one vote and shall be appointed for a fixed term. The Management Committee shall select a Stormwater Manager, who together with the other personnel shall be employees of the County, but who will be dedicated full time to the implementation of the Program. The Management Committee shall be responsible for all aspects of the Program, including the setting of fees and other assessments except for the annual Program fee as described later in this Agreement.

PROGRAM SERVICE AREA

The Program Service Area shall consist of the entire physical area within the corporate limits of the each participating city together with the urbanized unincorporated area of the County. USEPA requirements define an urbanized area as an area with a population of fifty thousand (50,000) or greater and a density of one thousand (1,000) persons per square mile or more. The Chattanooga-Hamilton County Regional Planning Commission ("the RPC"), using this definition, has delineated the Program Service Area described in the initial permit application. It is acknowledged by the Parties that the Program Service Area boundaries may be changed over time by the Management Committee as the result of various circumstances. No change in the Program Service Area shall be made by the Management Committee within any participating entity without the consent of that participating entity. The City of Walden now wishes to participant and join this program as a co permittee on the same basis as any other participant co-permittee.

AUTHORITY TO ACT WITHIN THE CITY'S CORPORATE LIMITS

The City hereby authorizes the County, acting through the Stormwater Manager and Staff, to implement and enforce the Program within the corporate limits of the City including the authority to issue citations to individuals and commercial entities within the City, as authorized by the Program, for civil violations of Program requirements. The City defers its original jurisdiction over any violation of the Program requirements to the General Sessions Court of Hamilton County, Tennessee. This is not in any way to imply that the City does not have jurisdiction, but rather that it has agreed that for this Program to be implemented on a uniform and consistent basis, jurisdiction should be deferred to the General Sessions Court of Hamilton County.

Each municipality and the County shall retain the authority to independently enforce any statutes, laws, rules, or regulations in any court of competent jurisdiction in the event that the Program fails or refuses to do so.

Nothing contained herein shall be construed to prohibit or limit the right, authority, or ability of the County or any municipality to seek civil enforcement of any of its rights, to require remediation or correction of any condition which violates any law, rule, ordinance, or regulation, to require abatement of nuisances and/or to recover restitution or damages for any condition, situation or circumstance which may exist or occur, whether or not covered or addressed by the Program.

ANNUAL PROGRAM FEES

The Program is to be self-sufficient and financed primarily through an annual fee charged to all residential, commercial, and industrial stormwater dischargers located within the Program Service Area. All Program fees collected from any dischargers shall be placed in a dedicated fund, which may not run a deficit and which may not be used for any purpose other than the Program. The annual fee structure shall be based on the following premises. All members of the same class of dischargers should pay a fee calculated using the same rate. The residential fee shall be based on the estimated amount of impervious area of the average property in that class of dischargers. Commercial and industrial annual fees shall be based on the actual impervious area of each discharger's property. The Management Committee shall adopt the initial annual Program fees to appropriately fund the Program based on information provided by the Hamilton County Geographic Information System, the Hamilton County Tax Assessor, the Hamilton County Trustee, and other sources acceptable to the committee. Said initial annual Program fees shall not exceed the following:

- Non-exempt property zoned residential or agricultural and used for residential

purposes shall be charged an initial annual fee not to exceed nine dollars (\$9.00) per residential unit located on said property as designated by the Hamilton County Assessor of Property.

- Non-exempt property zoned or used for any commercial or industrial activity shall be charged an initial fee not to exceed one hundred eight (\$108.00) dollars per impervious acre of development on said property.

The method of collection of the annual Program fee from the dischargers within the jurisdiction of a given participating community shall be in accordance with the Standard Operating Procedures for the Program, as described in a subsequent section of this Agreement and as approved by the legislative body of that participating community.

For the Cities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Ridgeside, Soddy Daisy and the unincorporated areas of Hamilton County within the service area the normal method of collection of the stormwater management fee shall be as a billing line item on the ad valorem property tax bill issued by the Hamilton County Trustee. Cities of Red Bank and Walden currently have in place their own Stormwater Management Utilities and corresponding fee structures and billing and collection procedures. Red Bank and Walden collect and shall be entitled to continue to collect their own stormwater management fees by whatever means they deem appropriate including, but not limited to an incremental billing line item on ad valorem property tax bills issued by the Hamilton County Trustee's Office. The Red Bank and Walden Storm Water Utility Management Programs other functions that are not addressed, contemplated and undertaken by this program. Accordingly, the Program shall bill the City of Red Bank and the City of Walden directly for the parcels (excepting exempt parcels as determined by the Management Committee) within the Red Bank and Walden Program Service Areas corresponding to and in accordance with the criteria hereinabove set forth, and the City of Red

Bank and the City of Walden shall pay same.

Red Bank and Walden shall be, are authorized to, and shall set, charge and collect their own Stormwater Utility rates and fees for non-exempt parcels within each city's own Program Service Area and no special or additional rate or fee shall be set or charged for parcels within Red Bank's and Walden's Program Service Areas. Payment of the total amount due to the Program for stormwater facilities users within Red Bank's and Walden's Program Service Areas as calculated using the Annual Program fees as described hereinbefore shall be billed to the City of Red bank and the City of Walden as calculated by the Program no later than January 1 of each year. The payment is due to the Program not later than April 1st of each year.

With respect to the collection of service fees for parcels within the Red Bank and Walden Program Service Areas, no separate bill or statement shall be sent by the Program to Red Bank and Walden property owners and no line item entry for such fees shall appear on any tax bill or invoice issued by the Hamilton County Trustee except as may be directly and specifically authorized by the Cities of Red Bank and Walden.

Any other participating entity may, if it hereafter elects to authorize its own stormwater utility and to enact its own stormwater management fee structure, upon written notice to the Management Committee and to the other participating entities in this Agreement, utilize the same procedures reserved unto Red Bank and Walden hereinabove, provided that such notice shall be given on or before June 1st of the calendar year preceding the year of implementation of any such Stormwater Management Program for such other entities.

ANNUAL FEE REVISION PROCEDURES:

The Program fee shall be reviewed annually. During the first quarter of each calendar year, the Stormwater Manager shall cause to have performed a financial review to determine the estimated income and expenses for the upcoming year. Should the review project that the

Program will experience a budget imbalance in the coming year, the Stormwater Manager shall present to the Management Committee a request to revise the annual fee structure to correct the imbalance. The Management Committee shall consider the proposed annual Program fee revision at its next meeting. Should three-fourths of the total number of members of the Management Committee endorse a revision in the annual Program fee, the Chair of the Management Committee shall transmit the committee-endorsed revision to the Chair of the County Commission, who shall have the revision placed on the agenda for consideration by the County Commission at its next scheduled meeting. The Chair of the Management Committee shall also place a public notice in a newspaper of general circulation within the community describing the endorsed annual Program fee revision and advising that the revision will be considered by the County Commission at its next meeting. The County Commission shall either endorse or reject the increase request. Revision of the annual Program fee shall be limited as follows:

- a. The annual Program fee shall not be revised more frequently than once per calendar year unless the TDEC, or its successor agency, or a court of competent jurisdiction issues an order, which is upheld on appeal if challenged by the Program, requiring the Program to revise the annual Program fee without consideration of the normal frequency limitation.
- b. The amount of any individual increase to the annual Program fee shall not exceed five (5) percent unless the Consumer Price Index (CPI), as published by the United States Bureau of Labor Statistics, has increased by more than three and five tenths (3.5) percent in the twelve months preceding the date when a fee revision is being considered by the Management Committee. If the CPI has increased by more than three and five tenths (3.5) percent in the previous twelve

months, the maximum annual Program fee increase shall be limited to one hundred and fifty (150) percent of the increase of the CPI. The above limitations shall not apply if the TDEC, or its successor agency, or a court of competent jurisdiction issues an order, which is upheld on appeal if challenged by the Program, which requires the Program to increase the annual Program fee by a greater amount.

OBLIGATION FOR FINES AND PENALTIES

Should the TDEC or its successor agency, the US EPA or its successor agency, another governmental agency with proper jurisdiction, or a court of competent jurisdiction issue a monetary fine or other penalty to the Program, which is upheld on appeal, if challenged by the Program, Hamilton County shall immediately pay or otherwise satisfy such fine or penalty from its own financial resources. No part of such fine or penalty shall be apportioned directly to any other participating community. The Hamilton County Commission may increase the annual Program fee to recoup all or a portion of the amount of such fine or penalty in successive years, but such increases shall not be made more frequently than once per calendar year and the amount of any individual increase shall not exceed twenty (20) percent of the annual Program fee in place at the time of the increase.

ENABLING LEGISLATION

It is understood and agreed that each participating entity shall enact an ordinance or other enabling legislation, which shall give the Program full legal status within the jurisdiction of the community. Such enabling legislation shall incorporate the requirements of this Agreement, the permit, and the regulations and operating procedures established for the Program and the Management Committee. The terms and conditions of the enabling legislation shall, to the maximum extent possible, be uniform for all participating communities.

STANDARD OPERATING PROCEDURES

It is further understood and agreed that detailed standard operating procedures for the Program shall be adopted by all participating communities. Said standard operating procedures shall clarify and further define the provisions of this Agreement, including the form and function of the Management Committee, the qualifications and responsibilities of the Program Staff, and other attributes of the Program. Said standard operating procedures shall not be binding until adopted by the governing bodies of all of the participating communities.

SEVERABILITY

Should any phrase, clause, sentence, or paragraph of this contract be held invalid or unconstitutional by any Court of competent jurisdiction in any manner or respect whatsoever, it shall in no way affect any or all of the remaining provisions, all of which shall remain in full force and effect. Provided that if such invalidity or unconstitutionality shall destroy the essence or effectiveness of this Agreement and the Parties are unable to reach a new agreement which rectifies the invalidity or unconstitutionality, then the Parties shall continue the physical arrangements, subject to applicable state laws and regulations for a reasonable period of time until other suitable arrangements can be made.

CONTROLLING LAW

The Parties hereto agree that this Agreement will be enforced and interpreted according to the laws of the State of Tennessee.

ASSIGNMENT

The Parties agree that the rights, liabilities, and obligations of any participant may be assigned to a successor governmental entity or authority, provided that the assignee shall agree to assume the liability and duty of the assignor to perform all of the terms and conditions of this Agreement.

CHANGE IN LAW

The Parties recognize that changes in federal or state law and regulations relating to the

environment and to the operation of stormwater control may require the modification from time to time of this Agreement. The Parties therefore agree to fully cooperate to modify this Agreement as shall be required under such circumstances.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Interlocal Agreement is executed by, and on behalf of, each participating community by its Mayor, being duly authorized by the legislative body of the community. This Agreement shall be effective as of the date of the witness certification of the signature of the last Mayor to sign the Agreement.

HAMILTON COUNTY, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **JIM COPPINGER**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the MAYOR of **HAMILTON COUNTY, TENNESSEE**, and that he as such being authorized so to do on behalf of said corporation, upon oath acknowledged that he executed the foregoing instrument for the purpose therein contained by signing his name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF COLLEGEDALE, TENNESSEE

BY: _____

MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **KATIE LAMB**, with whom I am personally acquainted, and who upon oath acknowledged herself to be, the Mayor of the **CITY OF COLLEGEDALE, TENNESSEE**, and that she as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that she executed the foregoing instrument for the purpose therein contained by signing her name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF EAST RIDGE, TENNESSEE

BY: _____

MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **BRENT LAMBERT**, with whom I am personally acquainted, and who upon oath acknowledged himself to be, the Mayor of the **CITY OF EAST RIDGE, TENNESSEE**, and that he as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that he executed the foregoing instrument for the purpose therein contained by signing his name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF LAKESITE, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **KEN WILKERSON**, with whom I am personally acquainted, and who upon oath acknowledged himself to be, the Mayor of the **CITY OF LAKESITE, TENNESSEE**, and that he as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that he executed the foregoing instrument for the purpose therein contained by signing his name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF LOOKOUT MOUNTAIN, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **CAROL MUTTER**, with whom I am personally acquainted, and who upon oath acknowledged herself to be, the Mayor of the **CITY OF LOOKOUT MOUNTAIN, TENNESSEE**, and that she as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that she executed the foregoing instrument for the purpose therein contained by signing her name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF RED BANK, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **JOHN ROBERTS**, with whom I am personally acquainted, and who upon oath acknowledged himself to be, the Mayor of the **CITY OF RED BANK, TENNESSEE**, and that he as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that he executed the foregoing instrument for the purpose therein contained by signing his name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF RIDGESIDE, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **JANET JOBE**, with whom I am personally acquainted and who upon oath acknowledged herself to be, the Mayor of the **CITY OF RIDGESIDE, TENNESSEE**, and that she as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that she executed the foregoing instrument for the purpose therein contained by signing her name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF SODDY DAISY, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the ____ day of _____, 2015, before me, personally appeared **RICK NUNLEY**, with whom I am personally acquainted and who upon oath acknowledged himself to be, the Mayor of the **CITY OF SODDY DAISY, TENNESSEE**, and that he as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that he executed the foregoing instrument for the purpose therein contained by signing his name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:

CITY OF WALDEN, TENNESSEE

BY: _____
MAYOR

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

On this the _____ day of _____, 2015, before me, personally appeared **WILLIAM TROHANIS**, with whom I am personally acquainted and who upon oath acknowledged himself to be, the Mayor of the **CITY OF WALDEN, TENNESSEE**, and that he as such Mayor, being authorized so to do on behalf of said corporation, upon oath acknowledged that he executed the foregoing instrument for the purpose therein contained by signing his name as Mayor.

WITNESS my hand and Notarial Seal on the day and year above written.

NOTARY PUBLIC AT LARGE

My Commission Expires: _____

ATTEST:
