

RESOLUTION NO. 366

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT, AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT, WITH THE CITY OF KINGSPORT FOR AUTOMATED RESIDENTIAL GARBAGE COLLECTION.

WHEREAS, the Town of Mount Carmel, Tennessee, has the opportunity to end its contract for residential garbage collection effective June 30, 2007, provided it gives at least a 120 day notice; and

WHEREAS, the City of Kingsport has agreed to provide automated residential garbage collection for the Town of Mount Carmel, Tennessee, if its current residential garbage collection contract is terminated pursuant to the terms of that agreement; and

WHEREAS, an interlocal agreement between the Town of Mount Carmel and the City of Kingsport for automated residential garbage collection would serve the public interest.

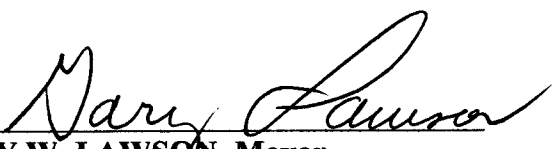
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE, as follows:

SECTION I. That the Board of Mayor and Aldermen would approve an interlocal agreement with the City of Kingsport, Tennessee for automated residential garbage collection, upon terms agreeable to the parties, if the current agreement that the Town of Mount Carmel has with its provider is properly terminated in accordance with the terms of that agreement, and specifically Section 10 of the Refuse Collection and Disposal General Specifications.

SECTION II. That subject to the fulfillment of the terms and conditions contained in Section I, the Mayor, or in his absence, incapacity, or failure to act, the Vice Mayor, is authorized to execute, in a form approved by the Town Attorney, an agreement, and all other documents necessary and proper to effectuate the purpose of the agreement, with the City of Kingsport, Tennessee for automated residential garbage collection.

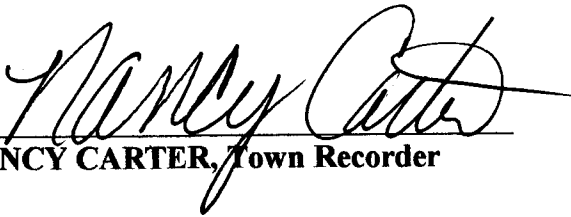
SECTION III. That this resolution shall take effect immediately upon its adoption, the public welfare requiring it.

A D O P T E D this the 27th day of February, 2007.

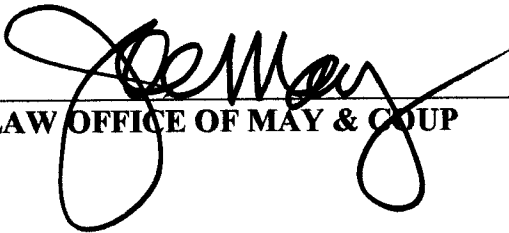


GARY W. LAWSON, Mayor

ATTEST:


NANCY CARTER, Town Recorder

APPROVED AS TO FORM:


LAW OFFICE OF MAY & GOUP

FIRST READING	AYES	NAYS	ABSENT
Vice Mayor Eugene Christian			
Alderman Richard Gabriel			
Mayor Gary Lawson			
Alderman Tresa Mawk			
Alderman Thomas Wheeler			
Alderman Carl Wolfe			
Alderman Wanda Worley-Davidson			
TOTALS			

PASSED: _____

INTERLOCAL AGREEMENT

This interlocal Agreement is entered into this the 15th day of May, 2007, by and between the TOWN OF MOUNT CARMEL, hereinafter referred to as the "Mt. Carmel", and the CITY OF KINGSPORT, hereinafter referred to as "Kingsport", both 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, it is deemed in the public interest for the parties hereto to enter into an interlocal mutual aid agreement for certain residential solid waste collection services.

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

1. Kingsport will furnish all personnel, labor, equipment, trucks and all other items necessary to provide Residential Refuse collection as defined herein within the corporate limits of Mt. Carmel at a price of \$10,750 dollars per month subject to adjustments provided for herein for 1825 Carts in Mt. Carmel. Kingsport will provide curbside collection service for the collection of Residential Refuse to each Residential Unit one (1) time per week. Carts will be placed at curbside by 6:00 a.m. on the designated collection day. Residential Refuse must be placed in the ninety-six (96) gallon Cart provided by Kingsport to be collected by Kingsport.

2. The initial term of this Agreement will commence on July 1, 2007 and end on June 30, 2010, and will automatically be extended for two (2) successive additional one (1) year terms commencing on July 1st and ending on June 30th of each successive year. Unless either party notifies the other party, in writing, not less than one hundred twenty (120) days prior to the expiration of the initial term of its intention to terminate this Agreement. Any such written notice will be served by certified or registered mail, return receipt requested.

3. Mt. Carmel will pick up or caused to be picked up Bags, Bulky Waste, Bundled Items, Construction Debris, Dead Animals, Rubbish, and any other trash, garbage or items for disposal that are not Residential Refuse and that are not contained in the Cart provided by Kingsport.

4. The work under this Interlocal Agreement does not include the collection and disposal of any increased volume resulting from a flood, tornado, high winds, electrical storms or other act of God over which Kingsport has no control. In the event of such a flood, tornado, high winds, electrical storms or other act of God, Kingsport and Mt. Carmel will negotiate the payment to be made to Kingsport. Further, if Mt. Carmel

and Kingsport reach such agreement, then Mt. Carmel will grant to Kingsport variances in routes and schedules as deemed necessary by Kingsport.

5. Kingsport will provide 1825 Carts at 96 gallons at no charge for the collection of Residential Reuse herein and only the Carts supplied by Kingsport will be used for this collection. These Carts will remain the property of Kingsport, except as otherwise provided in this section. Carts will be assigned to properties by serial number stamped on each cart. Mt. Carmel has two options pertaining to the supplying of the carts. In option 1 Kingsport will supply the same Cart used in Kingsport, which is currently a 96 gallon gray cart with a black lid and the words "Keeping Kingsport Beautiful" hot stamped in white on each side and with a serial number hot stamped on the side that faces the curb. If this option is chosen by Mt. Carmel then there will be no cost impact on this Agreement and the Carts remain the property of Kingsport. In option 2 Kingsport will order Carts made specifically for Mt. Carmel. In option 2 Mt. Carmel may select a color for the Carts and provide a logo or "slogan" to be hot stamped on the side of the Carts, provided this is done prior to ordering the Carts from the vendor Kingsport selects. Since Kingsport will be purchasing the 1825 Carts for the use and benefit of the citizens of Mt. Carmel and since the Carts will be stamped with the logo design selected by Mt. Carmel, there is a need to make sure this Agreement remains in place for a sufficient term for Kingsport to recover its costs for the Carts. Under option 2 Mt. Carmel agrees to pay Kingsport on the following schedule for payment for the carts based on the termination or expiration of the Agreement.

Year of Agreement	Amount Due the City of Kingsport
One (ending June 30, 2008)	\$90,000
Two (ending June 30, 2009)	\$80,000
Three (ending June 30, 2010)	\$70,000
Four (ending June 30, 2011)	\$60,000
Five (ending June 30, 2012)	\$50,000
Six (ending June 30, 2013)	\$40,000
Seven (ending June 30, 2014)	\$30,000
Eight (ending June 30, 2015)	\$20,000
Nine (ending June 30, 2016)	\$10,000
Ten (ending June 30, 2017)	\$0

6. The current site for the disposal of the Residential Refuse collected hereunder is the BFI landfill in the Carter's Valley Community. This site is available pursuant to an agreement between Hawkins County, Tennessee and BFI to which neither Kingsport or Mt. Carmel is a party. In the event the agreement is ever modified such that it is no longer available free of charge, the cost hereunder will be re-negotiated.

7. Each Cart will be placed at curbside for collection. Kingsport may indicate the location for the placement of a Cart. Curbside refers to that portion of right-of-way fronting the residential dwelling and adjacent to paved or traveled streets. Containers will be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Cart will be placed as close as practicable to an access point for the collection vehicle. Kingsport may decline to collect any Cart not placed in accordance with this section.

8. Mt. Carmel agrees to impose the same restrictions and requirements on the citizens of Mt. Carmel who are serviced by this Interlocal Agreement as Kingsport imposes on its citizens for Residential Refuse collection, and Mt. Carmel agrees it will take the action necessary to enforce such requirements, including but not limited to the requirements for automated Residential Refuse collection. This includes but is not limited to the requirement that the customer pay for a replacement Cart when the Cart is no longer reasonable usable, damaged beyond reasonable use, stolen or lost or if the customer wants an additional Cart.

9. Collection of Refuse will not start before 6:00 a.m. or continue after 6:00 p.m. on the same day. Exceptions to collection hours will be effected only upon the mutual agreement of the respective public works directors of Mt. Carmel and Kingsport, or when Kingsport reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

10. Collection routes will be established by Kingsport. Kingsport will submit a map designating the collection routes to Mt. Carmel for its approval, which will not be unreasonably withheld. Kingsport may from time to time propose to Mt. Carmel changes in routes or days of collection.

11. Kingsport observes certain holidays, which may alter the scheduled pick up days. Kingsport has the right to alter the scheduled pick up days due to the observance of a holiday, but Kingsport will provide collection service at least once per week. The current holidays include: New Year's Day, Martin Luther King's birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and at the discretion of Kingsport board of mayor and aldermen other days. Kingsport may decide to observe any or all of the above-mentioned holidays by suspension of collection service on the holiday, but such decision in no manner relieves Kingsport of its obligation to provide collection service at least once per week.

12. The beginning Cart count for this Agreement is 1825 Carts. A new Cart count will be established for every twenty-five (25) additional Carts provided. The monthly charge set out in paragraph 1 will increase by \$5.89 per Cart per month upon the establishment of a new Cart count, or at the newly established rate determined in accordance with section 20 herein. In no event will the Cart count be reduced.

13. Kingsport will bill Mt. Carmel for services rendered within ten (10) days following the end of the month and Mt. Carmel will pay Kingsport on or before the 25th day following the end of such month. Such billing and payment will be based on the rates set out herein with permitted adjustments. Kingsport will be entitled to payment for services rendered regardless of whether or not Mt. Carmel collects from the customer for such services.

14. Apartment complexes or condominiums with more than six (6) units will not be considered residential units and the owners must make their own arrangements for collection and disposal.

15. All complaints will be made directly to Kingsport Streets Sanitation Division at 229-9451 between 8:00 a.m. and 3:00 p.m. Monday through Friday. In the case of alleged missed scheduled collections, Kingsport will investigate and, if such allegations are verified, will arrange for the collection of the Refuse not collected within 24 hours after the complaint is received. However, in no event will Kingsport be required to collect any item not contained in the Cart.

16. Kingsport will provide an adequate number of vehicles for regular collection services. All vehicles and other equipment will be kept in good repair, appearance, and in a sanitary condition at all times. Only truck bodies specifically constructed by a recognized manufacturer of this type of specialized equipment for handling of garbage will be acceptable. Each vehicle will have clearly visible on each side a designation showing the vehicle is Kingsport's vehicle.

17. Kingsport will maintain local telephone service where it can be contacted. A person will be available from 8:00 a.m. to 4:30 p.m. on regularly scheduled collection days. Kingsport Streets and Sanitation Division has a present address and phone number as follows:

609 Industry Drive
Kingsport, Tennessee 37660
423-229-9451

18. Mt. Carmel will notify all Producers at Residential Units about complaint procedures, regulations, and day(s) for scheduled refuse collection by posting such notification on the Carts.

19. Kingsport's employees will be the responsibility of Kingsport, although nothing herein will be construed to waive any governmental immunity, including such as set forth in the Governmental Tort Liability Act. Appropriate protective clothing or equipment for Kingsport's employees is Kingsport's responsibility. Kingsport employees will deal with customers and citizens in a courteous manner and will avoid abusive and obscene language or behavior.

20. The fees, which may be charged by Kingsport for the second and subsequent years of the term hereof, will be adjusted upward or downward to reflect changes in the cost of operations. In addition to the above, the fees which may be charged by Kingsport will be increased or decreased at any time upon thirty (30) days notice to Mt. Carmel for additional rate and price adjustments due to any changes in responsibility of bearing disposal cost, an increase in the number of Residential Units, such as Mt. Carmel growth or annexation, and changes in the location of disposal sites. Any change in Kingsport's cost of operations such as revised laws, ordinances, or regulations will constitute the right of Kingsport to negotiate with Mt. Carmel an increase to cover these additional operating expenses.

21. For all purposes of this Agreement unless the context shall otherwise require, the terms set forth in this Section whenever capitalized in this Agreement will have the indicated meanings:

Bags – Bags will mean a bag made of plastic approximately two (2) feet in diameter and no more than four (4) feet in length and be of sufficient strength to contain the weight of the contents without breaking open. Such plastic bags must be securely tied and will contain only leaves and yard trimmings.

Bulky Waste – Bulky Waste will mean stoves, refrigerators (if certification is attached that freon has been reclaimed), water tanks, washing machines, furniture and other waste materials other than Construction Debris, Dead Animals, Hazardous Waste or Stable Matter with weights or volumes greater than those allowed for Containers.

Bundled Items – Bundled items will mean tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding ten feet in length or 5" inches in diameter.

Construction Debris – Construction Debris will mean waste building materials resulting from construction, remodeling, repair or demolition operations, specifically excluding dirt and rock.

Cart - A receptacle with a capacity of ninety-six (96) gallons supplied and owned by Kingsport.

Dead Animals – Mt. Carmel will continue to pick up Dead Animals. Dead Animals means animals or portions thereof equal that have expired from any cause, except those slaughtered or killed for human use.

Disposal Site - A Refuse depository including but not limited to sanitary landfills, transfer stations, incinerators, materials recycling facilities and waste processing/separation centers licensed, permitted or approved to receive for processing or final disposal of Refuse by all governmental

bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.

Garbage - Every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents), except (in all cases) any matter included in the definition of Bags, Bulky Waste, Bundle, Construction Debris, Dead Animals, Hazardous Waste, Rubbish, Stable Matter, or Special Waste.

Hazardous Waste - Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous" as that term is defined by or pursuant to Federal or State Law.

Producer - An occupant of a Residential Unit who generates Refuse.

Refuse - This term will refer to Residential Refuse generated by a Producer at a Residential Unit.

Residential Refuse - All Garbage generated by a Producer at a Residential Unit.

Residential Unit - A dwelling within the corporate limits of Mt. Carmel occupied by a person or group of persons comprising not more than six dwelling units. A Residential Unit will be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling or an apartment complex whether of single or multi-level construction, consisting of six or less contiguous or separate single-family dwelling units, will be treated as a Residential Unit, except that each single-family dwelling within any such Residential Unit will be billed separately as a Residential Unit.

Rubbish – Rubbish will mean all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not

included in the definition of Bulky Waste, Construction Debris, Dead Animals, Garbage, Hazardous Waste or Stable Matter.

Special Waste – Any solid waste which requires special processing, handling or disposal techniques which are different from the techniques normally utilized for handling or disposal or contains an added element of expense to transport or dispose of or requires approval from any State agency. Examples of Special Waste may include, but are not limited to: oil, gas, paint, paint cans, biohazardous waste, white goods, tires, mining wastes, fly ash, combustion ash, sludges, drilling fluids and drill cuttings, asbestos, industrial wastes, liquid wastes, infectious wastes and residue, pollution control residue, debris or contaminated soil and water from the cleanup or a spill.

22. Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, severe weather, thunderstorms, severe wind, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by either party. The party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.

23. No amendment to this Interlocal Agreement will be made except upon the written consent of the parties.

24. In the event that any provision or portion of this Interlocal Agreement is found to be invalid or unenforceable, then such provision or portion thereof will be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any of this Interlocal Agreement will not affect the validity or enforceability of any other provision or portion of the Interlocal Agreement.

25. Upon the occurrence of an alleged default, or a dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement or, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties will engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it will be to meet for the purpose of attempting to resolve such Dispute. The designated officers will meet as often as the parties will deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this paragraph, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to nonbinding mediation. If the matter is not resolved by mediation either party will have the right, at its sole option, without further

demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights including, but not limited to, the suspension or termination of this agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate original counterparts, each of which constitutes an original.

**TOWN OF MOUNT CARMEL,
TENNESSEE**

ATTEST:

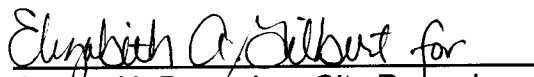

Marian Sandidge, City Recorder

By: 
Gary Lawson, Mayor

APPROVED AS TO FORM:


Joseph E. May
City Attorney for Mount Carmel

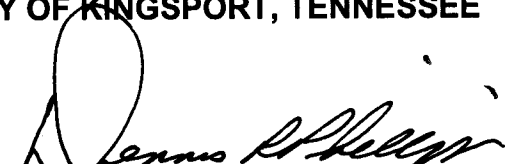
ATTEST:


James H. Demming, City Recorder

APPROVED AS TO FORM:


J. Michael Billingsley
City Attorney for Kingsport

CITY OF KINGSFORT, TENNESSEE

By: 
Dennis R. Phillips, Mayor