

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 263

EFFECTIVE ~~Approved~~ May 30, 2005

RESOLVED, That His Honor the Mayor is requested to execute an agreement to provide Solid Waste and Recycling Services with Rhode Island Resource Recovery Corporation, to provide such services to the City for the period between July 1, 2004 and June 30, 2005.

IN CITY COUNCIL
MAY 30 2005
READ AND PASSED

[Signature]
PRES.
[Signature]
CLERK

Effective without the
Mayor's Signature:

[Signature]
Michael R. Clement
City Clerk

IN CITY COUNCIL
AUG 5 2004
FIRST READING
REFERRED TO COMMITTEE ON
FINANCE

Richard A. Clement CLERK

THE COMMITTEE ON
FINANCE
Approves Passage of
The Within Resolution

John M. Stee
Clerk
4-28-05

Councilman Jackson (By Bequest)

MUN CON FY05
6-22-04

SOLID WASTE AND RECYCLING SERVICES AGREEMENT

Between the

RHODE ISLAND RESOURCE RECOVERY CORPORATION

And the

CITY OF PROVIDENCE

THIS AGREEMENT, made and entered into as of this _____ day of _____, 2004 by and jointly between RHODE ISLAND RESOURCE RECOVERY CORPORATION, ("Corporation") a quasi-public corporation organized under the laws of the State of Rhode Island (hereinafter referred to as "Corporation"), and the CITY OF PROVIDENCE, R.I., (hereinafter "Municipality"), a municipal corporation organized and existing under the laws of the State of Rhode Island, with a business address at 25 Dorrance Street, Providence, RI. In consideration of the mutual covenants, promises and payments set forth herein, Corporation and Municipality do hereby agree as follows:

1. **TERM.** The term of this Agreement is the one-year period from July 1, 2004 through June 30, 2005. **The effective date of this Agreement shall commence on the date first appearing above** and end on June 30, 2005, unless sooner terminated or extended as provided herein. Fiscal Year 2005 is the one-year period from July 1, 2004 through June 30, 2005.

2. **DISPOSAL OF SOLID WASTE.** Municipality agrees to deliver for disposal to Corporation's landfill in Johnston, R.I. (hereinafter "Landfill"), one hundred percent (100%) of its Municipal Solid Waste for which Municipality has undertaken the collection, transfer or disposal, (hereinafter "MSW"), and Corporation agrees to accept and dispose of one hundred percent (100%) of Municipality's MSW.

Municipality shall be deemed to have undertaken the collection, transfer or disposal of that MSW for which it:

- a. provides any of these aforementioned services through a contract or license, or by municipal employees, or
- b. pays for any of these aforementioned services with municipal funds, enterprise funds or the like, or
- c. assigns, subject to Corporation approval, all or part of its municipal waste cap for disposal at the Landfill to a third party.

This Agreement shall not apply to the disposal of any other type of solid waste, including, but not limited to: 1) solid waste generated by residents of a municipality in the course of their employment; 2) solid waste generated by any manufacturing or commercial enterprise, or, 3) solid waste for which Municipality has not undertaken the collection, transfer or disposal, as set forth above.

3. **FEES FOR THE DISPOSAL OF MSW.** For Fiscal Year 2005, Municipality agrees to pay Corporation the price per ton established by Rhode Island General Law or by Rhode Island State Budget Article for the disposal of all its MSW up to its annual Cap in FY 2005. The FY 2005 MSW rate has been (will remain) set at **\$32.00** per ton. Municipality agrees to pay Corporation **\$50.75** per ton for the disposal of all MSW in excess of its annual Cap in FY 2005. [The disposal fee of \$50.75 per ton represents the lowest basic contract commercial solid waste disposal fees to be charged by Corporation in FY 2005.]

"Cap" means the MSW tonnage established by Corporation for each municipality. **Providence's Cap is 72,440 tons** for FY 2005.

If Corporation charges a lower disposal fee for MSW to another municipal customer, the lower disposal fee shall be made available to Municipality on the same terms and conditions that it is available to the other municipal customer.

4. **BILLING AND PAYMENT.** Corporation shall bill Municipality monthly for the disposal of MSW at the Landfill and Municipality agrees to pay all sums due within thirty (30) days of invoice date.
5. **EARLY PAYMENT DISCOUNT.** Upon **receipt** of full payment of an invoice within 20 days of the invoice date, Municipality shall receive a one-and-one-half percent (1.5%) discount from the invoice's amount, provided Municipality's balance is in the 1-30-day column of Corporation's monthly Account Receivable Aged Balance Report. Municipality's eligibility expires monthly and is renewed monthly as stated in this Section 5 with the issuance of each month's invoice.
6. **DELIVERY OF RECYCLABLES FOR PROCESSING.** Municipality agrees to deliver to Corporation's Materials Recycling Facility (hereinafter "MRF") in Johnston one hundred percent (100%) of the Recyclables which are collected within its borders under its municipal recycling program and Corporation agrees to process and market, one hundred percent (100%) of said Recyclables. For purposes of this Agreement, "Recyclables" are defined as follows: aluminum and steel tin-lined cans; aluminum foil and aluminum scrap such as pie plates; metal lids; empty steel aerosol and latex paint cans; scrap metal small enough to include in the blue recycling bin; glass bottles and jars; No. 1 PET plastic bottles and jugs; No. 2 HDPE plastic bottles and jugs; paper milk cartons and juice boxes; mail; magazines and catalogs; writing paper; corrugated cardboard; paperboard (e.g. cereal boxes); newspaper and newspaper inserts; brown (Kraft) paper bags; and telephone directories. Municipality agrees to deliver these Recyclables regardless of whether these Recyclables are collected in a curbside program or through a drop-off program.
7. **TRANSFER OF RECYCLABLES.** Municipality must apply to Corporation in writing for permission to use a transfer station to transfer Recyclables from a curbside collection vehicle to a trailer truck for transport to the MRF. Recyclables can be transferred only if Corporation grants, in writing, permission to do so under the following conditions:
 - a. The transfer station to be used by municipality must be initially inspected and certified by Corporation before the transfer of recyclables can begin.
 - b. Municipality must fully comply with all terms and conditions of Corporation's Recyclables Transfer Policy.

- c. Municipality must demonstrate to Corporation's satisfaction that the transfer of recyclables according to the aforementioned Recyclables Transfer Policy will result in a significant cost saving.
- d. Corporation shall retain the right to additionally inspect the transfer station with respect to the transfer of recyclables. If the transfer station is privately-owned, the Corporation's inspection rights must be granted before permission to transfer Recyclables is granted.
- e. Corporation also reserves the right to audit any weight transaction reports pertaining to the transfer of Municipality's Recyclables.
- f. If the Recyclables Transfer Policy or any part of this Section 7 is violated in any way by Municipality or Municipality's hauler for any reason, Corporation may terminate this Agreement.
- g. If the Corporation previously approved the use of a transfer station in connection with the "Solid Waste and Recycling Service Agreement" which expired on June 30, 2004, Municipality must confirm by signing where indicated that the Municipality and/or the transfer station comply with all terms and conditions of Corporation's Recyclables Transfer Policy.

Name	Title	Date
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- 8. **MUNICIPAL RECYCLABLES TIP FEE FREE.** Municipal Recyclables, as delineated in Section 6 of this Agreement, shall be delivered to the MRF by Municipality and accepted for processing by Corporation tip fee free.
- 9. **DISPOSAL FEES FOR OTHER MATERIALS.**
 - a. **White Goods.** For Fiscal Year 2005, Municipality agrees to pay Corporation a fee of \$17.00 per ton for white goods. [The non-contract rate for the disposal of white goods is \$65.00 per ton.]
 - b. **Leaf & Yard Waste.** For Fiscal Year 2005, the Corporation agrees to allow the Municipality to tip free leaf and yard waste.
 - c. **Tires.** For Fiscal Year 2005, Municipality agrees to pay Corporation a fee of \$25 per ton for waste tires. [The non-contract rate for disposal of tires is \$65.00 per ton.]
 - d. **Mattresses.** Please be advised that for Fiscal Year 2005, the Corporation will impose a \$15.00/unit charge for mattresses and box springs.
- 10. **COMPOST FOR CONTRACT MUNICIPALITIES.** Corporation will, from time to time, make finished compost available free of charge to those municipalities with Solid Waste and Recycling Services Agreements who have also delivered leaf and yard waste to

Corporation. When finished compost is available for free distribution to the aforementioned municipalities, Corporation will provide notice and the municipalities will be allowed to pick up free compost for their use.

11. RECYCLING AWARD INCENTIVES.

Statewide Recycling Target Rate Incentive (Target Rate) – RIRRC shall share on a pro-rata basis, the sum of \$300,000, with all Municipalities that have a fully-executed FY 2005 Solid Waste and Recycling Services Agreement (Agreement).

To be eligible for a pro-rata share of the \$300,000, a municipality must have a fully - executed FY 2005 Agreement and have attained or exceeded the FY 2005 statewide recycling Target Rate of 20% (as defined below). A municipality's pro-rata share will be based on the municipality's Maximum Recycling Program Materials delivered to the Corporation's Materials Recycling Facility (MRF).

The statewide 20% Target Rate is defined as the percentage of Maximum Recycling Program material tonnage delivered to the MRF to the sum total of a municipality's Maximum Recycling Program material tonnage and municipal solid waste tonnage, exclusive of leaf & yard waste, delivered to the Corporation's facilities.

An eligible municipality's pro-rata share of the \$300,000 shall be equal to the municipality's percentage of its FY 2005 Maximum Recycling Program material tonnage delivered to the MRF to the sum total of all municipal Maximum Recycling Program material tonnage delivered to the MRF by eligible Municipalities.

Maximum Recycling Improvement Incentive – RIRRC has also set aside additional funds (up to \$25,000) to be awarded, at the Corporation's discretion, to the one municipality with a fully - executed FY 2005 Agreement with the Corporation, that achieves the greatest increase in its Recycling Target Rate during FY 2005, as determined by the Corporation but that did not achieve the statewide 20% Target Rate (as defined above). The Corporation also reserves the right to distribute the Maximum Recycling Improvement Incentive amongst a maximum of three municipalities based on the FY 2005 recycling rates.

Conditional Award - Utilization of the Recycling Incentive Awards distributed by the Corporation as part of its Recycling Incentive Program are to be utilized by the municipal recipients for the express purpose of improving and enhancing their respective recycling programs.

Acknowledgement - Municipality understands the condition of the incentive award program and agrees to comply with said condition.

Authorized Signature

Title

Date

12. **INFORMATION.** If Municipality engages the services of a private company or contractor to collect and/or transport MSW, including Segregated Solid Waste and Recyclable materials, then a copy of this Agreement shall be included in any request for bids and incorporated as a part of any agreement between Municipality and the private party/contractor and the agreement between Municipality and the private party/contractor shall expressly require the private party/contractor to abide by the terms of this Agreement.

13. **TERMINATIONS AND REMEDIES.**

TERMINATIONS. This Agreement may be terminated due to:

- a. Breach of any duty and/ or obligation under this Agreement which is not cured within five days of notice by either party.
- b. Change of circumstances which prohibit or significantly impair either party's ability to perform its duties and/ or obligations under this Agreement.

REMEDIES. Failure of Municipality or Corporation to perform the obligations hereunder shall constitute a breach of contract. Five business days after providing the other party with notice of a breach of contract, a party may take any or all of the following steps:

- a. commences an action for damages and for injunctive relief;
- b. pursue any other remedies available to it by law; and/or
- c. Corporation may refuse to provide Municipality with any Solid Waste Disposal or Recycling services or Municipality may refuse to bring all Solid Waste and Recyclables to Corporation's facilities.

14. **UNACCEPTABLE MATERIALS.** Neither Solid Waste nor Recyclables delivered pursuant to this Agreement may contain any waste generated or collected outside the State of Rhode Island, hazardous waste, as defined in Subsection 23-19.1-4 (4) (i) of the Rhode Island General Laws or any other waste which U.S. Environmental Protection Agency, R.I. Department of Environmental Management or Corporation statutes or regulations prohibit for disposal at the Landfill.

15. **LICENSE RESTRICTIONS AND REQUIREMENTS.** The Corporation is currently utilizing the Phase IV landfill cell to dispose of MSW and anticipates that a license for the Phase V landfill cell will be in place for FY 2005. Municipality agrees to be bound by any additional requirements and/ or restrictions, which may be imposed by the RI Department of Environmental Management as a requirement of the Phase V operating license or by a change in the regulations.

16. **COMPLIANCE WITH LAWS.** Municipality agrees to use its best efforts to ensure that it, its agents and contractors, and all waste materials and Recyclables delivered to Corporation's Facilities by Municipality, its agents and contractors will comply with all state and federal laws and R.I. Department of Environmental Management, U.S. Environmental Protection

Agency, and Corporation regulations, including any Facility site regulations, including but not limited to those stated in Paragraph 14, above. Municipality, and its agents, contractors and employees, shall abide by all Corporation work rules, practices and procedures. While they are present on Corporation property, Municipality, and its agents, contractors and employees, shall act in a safe, efficient and workmanlike fashion. The failure or refusal of Municipality, or any agent, contractor or employee of Municipality to go, act, or follow instructions of a Corporation official, operating manager or other responsible person of Corporation or its Agents are grounds for the ejection of such person from Corporation property, and the removal of Municipality's vehicle, whether or not it has been off-loaded.

Corporation has the absolute right in its sole discretion to terminate this Agreement and prohibit any deliveries if Corporation determines that Municipality is not abiding by the terms of this Agreement or is otherwise not acting in conformance with Rhode Island laws and/or State regulations.

17. **HOURS OF OPERATION.** The normal hours for receiving Solid Waste at the Landfill are Monday through Friday from 6:00 a.m. to 3:45 p.m., and Saturday 6:00 a.m. to 12:00 p.m., (except following a holiday, whereby the Landfill will remain open until 2:00 p.m. on Saturday). Normal hours for receiving recyclables at the MRF are 6:00 a.m. to 3:30 p.m. Monday through Friday, and Saturday 6:00 a.m. to noon. Corporation may change these hours upon reasonable notice to Municipality.
18. **INDEMNIFICATION.**
 - a. Corporation agrees to indemnify, save harmless, and defend Municipality from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorneys' fees), which it may incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, caused, in whole or in part, by any negligent or willful act or omission of Corporation's employees, agents, or contractors in the performance of this Agreement; or any violation by Corporation of any applicable law, rule, or regulation.
 - b. Municipality agrees to indemnify, save harmless, and defend Corporation from and against any and all liabilities, claims, penalties, forfeitures, suits and the costs and the expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which Corporation may incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on Corporation's property or the environment, caused, in whole or in part by any negligent or willful act or omission of Municipality's employees, agents, or contractors in the performance of this contract; or any violation by Municipality of any applicable law, rule, or regulation.
19. **ASSIGNMENTS.** Municipality may not assign, transfer, broker or otherwise vest in any other municipality, entity or person, any of its rights or obligations under this Agreement without first obtaining the prior written consent of Corporation. Corporation may sell or assign any of its rights or obligations under this Agreement to any other entity, provided that Corporation shall provide written notice of same to Municipality, which shall have the option to terminate this Agreement within fifteen (15) days of receiving the notice provided, however, that Municipality shall have no termination option if the sale or assignment is to an

entity or agency of the State of Rhode Island.

- 20. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.
- 21. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island.
- 22. **ENTIRE AGREEMENT.** This Agreement represents the entire understanding reached between the parties hereto with respect to Municipality's use of the Corporation's Facilities, and shall supersede or replace any prior understandings or agreements, whether or not in writing.
- 23. **SEVERABILITY.** If any provision of this Agreement is declared invalid by any tribunal, the remaining provisions of the Agreement shall not be affected thereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

FOR THE RHODE ISLAND RESOURCE RECOVERY CORPORATION:

BY: Sherry Mulhearn Dated: 6-20-05
Sherry Mulhearn
Executive Director

BY: James N. Allam Dated: 6-17-05
James N. Allam
Deputy Executive Director

FOR THE CITY OF PROVIDENCE

BY: [Signature] Dated: 6/1/05
(SIGNATURE)

DAVID N. Cicilline
(NAME PRINTED OR TYPED)

Title: MAYOR

The execution of this Agreement has been properly authorized by the governing body of the Municipality and is executed by the properly authorized official.

[Signature]
(SIGNATURE)

Dated: 17 FEB 2006

JOSEPH M. FERNANDEZ
(NAME PRINTED OR TYPED)
Solicitor for the City of Providence

Resolutions/RIRRC Resolution

RESOLVED, That His Honor, the Mayor, is hereby authorized to execute an agreement to provide Solid Waste and Recycling Services with the Rhode Island Resource Recovery Corporation, to provide such services to the City for the period between July 1, 2004 and June 30, 2005.

~~Samuel C. Jackson~~
Jackson

OK
Jackson 7/29/04
11:37 AM

entity or agency of the State of Rhode Island.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

FOR THE RHODE ISLAND RESOURCE RECOVERY CORPORATION:

BY: _____
Sherry Mulhearn
Executive Director

Dated: _____

BY: _____
James N. Allam
Deputy Executive Director

Dated: _____

FOR THE CITY OF PROVIDENCE

BY: 
(SIGNATURE)

Dated: 6/1/05

DAVID N. Cicilline
(NAME PRINTED OR TYPED)

Title: MAYOR

The execution of this Agreement has been properly authorized by the governing body of the Municipality and is executed by the properly authorized official.

(SIGNATURE)

Dated: _____

(NAME PRINTED OR TYPED)
Solicitor for the City of Providence