



ROBERT J. MCSKER

CITY SOLICITOR

RONALD H. GLANTZ

DEPUTY CITY SOLICITOR

JOHN CAPPELLO

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ASSISTANTS

HENRY J. ALMAGNO

SPECIAL COUNSEL

ROBERT J. PACI

CLAIMS ADJUSTER

MAYOR

JOSEPH A. DOORLEY, JR.

## LAW DEPARTMENT

CITY HALL, PROVIDENCE

RHODE ISLAND 02903

421-7740 EXT. 381

AREA CODE 401

July 6, 1973

Mr. Vincent Vespia, City Clerk  
City Hall  
Providence, R.I. 02903

Dear Vincent:

Enclosed please find a copy of the current shredder lease.

*Louis A. Mascia*  
Louis A. Mascia  
City Solicitor

LAM-sf  
enc

IN CITY COUNCIL  
AUG 2 1973

READ:

WHEREUPON IT IS ORDERED THAT  
THE SAME BE RECEIVED.

*Vincent Vespia*  
CLERK

LEASE

THIS AGREEMENT made this 5th day of May, A.D. 1973, by and between the CITY OF PROVIDENCE, a municipal corporation, in the County of Providence, State of Rhode Island, hereinafter referred to as the "LESSOR", party of the first part, and FIELD'S POINT REALTY COMPANY, 1 Fields Point Drive, Providence, Rhode Island, "LESSEE", party of the second part:

WITNESSETH:

That the Lessor, in consideration of the rents and charges hereinafter reserved, doth hereby grant, demise, and lease unto the Lessee, that certain tract or parcel of land situated in the Fields Point section of the City of Providence, R.I., comprising Lot 258 on City Assessor's Plat 56, designated by the letters A-B-C-D-A on the accompanying plan entitled, "Providence, R.I., P.W. Dept.-Engineering Office, City Property Section, Plan No. 063591, Dated December 11, 1972," bounded and described as follows:

Beginning at the northwesterly corner of Fields Point Drive and Harborside Boulevard; thence westerly along the northerly line of Harborside Boulevard, one hundred eighty-three and 07/100 (183.07') feet to a corner at point marked "B" on the accompanying plan; thence northwesterly, making an interior angle of 107°-05'-00" and bounded southwesterly in part by land now or formerly of Berry-Hill Corporation and in part by land now or formerly of Narragansett Electric Company, one thousand seven hundred ninety-two and 16/100 (1,792.16') feet to the southerly line of New York Avenue; thence easterly making an interior angle of 61°-36'-22", along the southerly line of New York Avenue, one hundred ninety-eight and 93/100 (198.93') feet to the southwesterly corner of New York Avenue and Fields Point Drive; thence southeasterly, making an interior angle of 118°-23'-38", along the southwesterly line of Fields Point Drive, one thousand seven hundred fifty-one and 34/100 (1,751.34') feet to the northwesterly corner of Fields Point Drive and Harborside Boulevard at point marked "A" on the accompanying plan and the point and place at beginning. The last described line makes an interior angle of 72°-55'-00", with the line first described herein.

Said parcel contains 310,056 square feet or 7.117 acres and is further identified as being Lot 258 on City Assessor's Plat 56.

The above described parcel is subject to easements for sewer, water and railroad lines, as shown by shaded areas on the accompanying plan.

TO HAVE AND TO HOLD the said tract or parcel of land for and during a term of twenty (20) years, from the 1st day of November, 1972 until the 31st day of October, 1992, yielding and paying during said period an annual rental of TWENTY FOUR THOUSAND EIGHT HUNDRED FOUR and 48/100 (\$24,804.48) DOLLARS, payable quarterly in advance at the office of the City Collector of the City of Providence on the first days of November, February, May and August during the first ten (10) years of this lease. The annual rental for the remaining ten (10) years of this lease shall be renegotiated between the parties. If the parties cannot agree on the annual rental to be charged for the remaining ten-year period, then it shall be arbitrated in accordance with Clause 26 of this lease.

(1) In addition to the rental herein provided, and in further consideration of the lease of said tract of land, the Lessee shall pay and yield to the Lessor the prevailing wharfage and other established shipping charges upon material shipped or received by the Lessee interchanged from the ship to the municipal pier.

(2) The Lessee shall further pay to the Lessor TWO (\$2.00) DOLLARS per car or whatever other rate may be the established and prevailing car charge in force and effect during the term of this lease for every loaded car shipped inward to and outward from the Lessee over tracks belonging to the Lessor.

(3) In consideration of the payment of said rents and charges herein specified, and the performance of the covenants and agreements mutually agreed upon, the parties hereto mutually covenant and agree as follows:

That the Lessee, paying the rents and charges hereby reserved, and performing and observing the covenants of the Lessee herein contained, may peaceably hold and enjoy said premises during said term, without any lawful let or hindrance by the Lessor or any party claiming by, through or under the Lessor, as herein provided.

The Lessee may use the railroad connections built by the Lessor and its extensions and the main line tracks of the Lessor in conformity with that certain agreement by and between the Lessor and the New York, New Haven and Hartford Railroad Company dated September 20, 1917, for receiving freight consigned by rail to said premises and in shipping freight by rail from said premises. Subject to ownership of the rail connections and extensions between Ernest Street and New York Avenue and immediately adjoining the demised premises being vested in the Lessor, said Lessor covenants and agrees that the Lessee may use the same for loading or unloading cars, but in so doing, shall not block the free passage of rail traffic to and from the adjoining area.

All tracks owned by the Lessor shall be at all times maintained by it in a reasonable and satisfactory condition.

The Lessor will supply water to said premises, and the Lessee will pay for said water at the same rate for which like quantities of water are supplied to other customers of the Lessor. But the Lessor shall make no charge for water used for the extinguishment of fires. The Lessee will use the leased premises solely for the purpose of operating a shredder machine for the pulverizing of garbage and refuse, subject to such terms and conditions that the City Council may, by ordinance or resolution, impose, and such other business as the City Council, by resolution, may, from time to time, permit.

(4) It is further understood and agreed by and between the parties hereto that all buildings and improvements erected or placed upon said land are and shall be pledged for the payments of all rents and sums of money accruing or owing under this lease. The Lessee shall obtain an agreement from Luigi Damiano, holder of secured interest in all equipment, machinery, conveyors, shredders electric motors, cables, generators and other components, singularly or merged, comprising the complete structural unit on situs at

1 Fields Point Drive, Providence, Rhode Island belonging to the said Lessee, subordinating the interest of the said Luigi Damiano to the interest of the said Lessor under the terms of this lease. And at any time after default in the payment of any rent or sum of money accruing or owing under this lease, and such default shall have continued for the space of thirty (30) days, from and after written notice as hereinafter provided is served upon the Lessee, it shall be lawful for the Lessor to enforce said pledge by selling the buildings and improvements, or any of them on said leased premises at public auction, first giving notice once a week at least for three (3) successive weeks of the time and place of such sale by advertisement in some newspaper published in the City of Providence and in its or their own name or names, or as the attorney or attorneys of the Lessee, (for that purpose by these presents duly authorized and appointed, with full power of substitution and revocation) to make, execute and deliver to the purchaser or purchasers thereof good and sufficient transfers or bills of sale thereof; and to receive the proceeds of such sale or sales, and from such proceeds to retain the amount of rent then due from the Lessee, and all other sums of money accruing or owing under this lease, together with the expenses incident to such sale or sales, rendering and paying the surplus of said proceeds, if any there be, to the Lessee. The Lessor further agrees to subordinate the pledge of buildings and improvements erected on said leased premises in order to induce financial institutes to grant financing to the Lessee for the erection of said improvements of said land.

(5) That the Lessee will not assign this lease nor sublet the whole or any part of said premises, except with the approval of the Lessor acting by and through such official body, committee or commission as shall exercise jurisdiction over the premises, and in all cases with the approval of the Mayor.

(6) At the expiration or sooner termination of this lease or any renewal thereof, all buildings and improvements erected

or placed on the leased premises shall be and become the property of the Lessor unless twenty (20) days prior to such termination the Lessee shall remove the same; and unless the Lessee shall thereupon remove the same, the Lessor may do so and may charge the Lessee reasonable compensation for the expense of the same and for any loss of the use of the said premises for any time required subsequent to the termination of the lease in the removal of said improvements and the restoration of the premises to their usual condition.

(7) That the Lessee will not keep explosives of any kind upon said premises, except gasoline, kerosene, oil and fire extinguishers.

(8) This lease is made on the express condition that if any installment of the rent reserved or any other money due the Lessor hereunder shall not be paid when it shall become due and payable as herein provided, or if default shall be made in the performance or observance of any of the other covenants, agreements or conditions of this lease on the part of the Lessee to be performed or observed, and such default shall continue for a period of fifteen (15) days, or if the Lessor shall so elect, it may declare this lease terminated and order the Lessee to vacate the said premises and remove the pulverizing machine or shredder so-called within ninety (90) days and restore the land to its previous condition, or if the Lessee shall become bankrupt or insolvent according to law, or an assignment made of his property for the benefit of creditors, then the Lessor, unless and only to the extent restrained by law and notwithstanding any waiver of any prior breach or default, may immediately or at any time thereafter, and without notice or demand, and with or without process of law, enter upon said premises or any part thereof and declare this lease at an end and take immediate possession of said premises, including any and all buildings and improvements erected or placed thereon by the Lessee or otherwise recover possession of the same, and thence forth the lessor shall peaceably and quietly

held and enjoy said premises, including any and all buildings and improvements then thereon as if this lease had not been made, without prejudice, however, to any claim of the Lessor for rent due or to become due under this lease, or to any claim for damages or right of action or remedy for breach of any of the covenants, agreements and conditions herein which the Lessor has or might otherwise have or use. And in the event of such entry, the Lessee will indemnify the Lessor against all losses of rents or other payments and damages for the non-performance of covenants which to the Lessor have accrued or may accrue during the residue of said term.

(9) The Lessee will conform to and observe all federal and state laws, city ordinances, departmental regulations and any other laws relevant to waste disposal, storage of residue, use and repair of machines and equipment, construction, repair, maintenance or use of all buildings and improvements heretofore or hereafter constructed or placed by it on said premises.

(10) This lease is made on the express condition that the Lessee shall keep and maintain the entire area under the said lease clean from debris and as sanitary as possible under the circumstances and in view of the material being processed. The Lessee shall permit the Lessor to conduct weekly inspection of the said premises to insure that this clause is fully carried out. The residue from the said pulverizing machine or shredder so-called shall be stored in an appropriate container located upon the premises and must be removed from the said demised premises within twenty-four (24) hours.

(11) The Lessee at the expiration or sooner termination of this lease will quietly and peaceably surrender up the possession of said premises to the Lessor.

(12) The Lessee shall maintain in its possession and on the premises sufficient replacement parts and equipment to insure the proper operation and maintenance of the said pulverizing machine or shredder so-called so that the Lessor may be assured

of an efficient facility with capacity to dispose of all of the refuse and debris delivered to the said Lessee under the terms of this agreement.

(13) The Lessee shall within nine (9) months of the date of the execution of this lease construct and maintain another pulverizing machine or shredder so-called upon the demised premises which shall be in full operation to insure that the said Lessee will continuously dispose of all the garbage, refuse and other debris delivered to it. The construction of this additional pulverizing machine or shredder so-called to begin no later than four (4) months from the date of the execution of this lease.

(14) The Lessee will not accept garbage, refuse or disposable debris from any other source unless Lessee has submitted a request in writing to the Mayor or his officially designated representative seven (7) days in advance and specifying the nature of waste materials, date to be delivered, approximate quantity to be shredded, and the person, firm or corporation delivering the same and Lessee has received written approval from the Mayor or his officially designated representative or the Chairman of the City Property Committee to accept such garbage, refuse or disposable debris.

(15) If the Lessee should neglect, fail or refuse to shred and/or dispose of garbage, refuse or disposable debris delivered to it by the Lessor or from any other source within seventy-two (72) hours from the date and time of delivery to the said Lessee, said Lessee shall be required to pay the Lessor the sum of FIVE HUNDRED (\$500) DOLLARS per day for liquidated damages for each and every business day that the Lessee shall be in default of this provision. If default under this provision shall continue for a period of fifteen (15) days, the Lessor shall have the option to terminate this lease, and in any event the Lessee shall not accept garbage, refuse or disposable debris from any other source while in default of this provision. The Lessee shall not be liable under this provision for any cause beyond its control.

(16) Failure of the Lessor to insist in any one or more instances upon the strict and literal performance of any of the covenants, terms or conditions of this lease, or to exercise any option or election of the Lessor therein contained shall not be construed as a waiver or a relinquishment for the future of such covenant, term, condition, option or election, but the same shall continue and remain in full force and effect. The receipt by the Lessor of rent with knowledge of the breach of any covenant, terms



or condition hereof by the Lessee shall not be deemed to be a waiver of such breach, and no waiver by the Lessor of any covenant, term, condition or other provisions of this lease or of the breach thereof shall be deemed to have been made by the Lessor unless expressly acknowledged in writing by the Lessor over its signature.

(17) The Lessee will pay said rent at the times and in the manner aforesaid.

(18) The Lessee shall have the right and privilege to erect and place such buildings and improvements on the demised premises, including the construction and maintenance of a fence enclosing the demised premises, provided approval shall be first obtained in writing from the Chief, Division of Public Buildings of the City of Providence.

(19) The Lessee will hold the Lessor harmless, exonerated and indemnified from or against all loss, costs, damages and expenses, including reasonable counsel fees, under any and all claims by any third person or persons, or co-partnership, association or corporation, made and based upon any neglect or default during the term hereof of the Lessee, or his tenants, agents or servants, upon or about said premises, or in the use, condition, maintenance, control or occupation of said premises or of any building, structure, fixture or other improvement, or any personal property thereon, or of any part or parts thereof, or made or based upon any act or omission during said term in the erection or placing on said premises any building, structure, fixture or other improvement, or any personal property, or made or based upon any accident caused by the Lessee's negligence whatever occurring during said term upon or about said premises, or in or about any building, structure, or improvement, or any personal property thereon, or any injuries suffered by any person or persons, or any damages to any property therein or thereon at any time or times during said term, and against any forfeiture, fine, loss, costs, damage and expense caused by its or their refusal or neglect during said term to comply with any statute, ordinance or law, present or future, in any way affecting said premises, or the erection, maintenance or use of any building, structure,

fixture or other improvement, or any personal property thereon, and against all loss, costs, damage and expense, including reasonable counsel fees, lawfully suffered or reasonably incurred by the Lessor in discharging said premises from any lien, judgment or incumbrance attached through any act or omission of the Lessee, his agents or servants during the term hereof, or suffered or incurred by the Lessor in obtaining possession of said premises after default, or upon the expiration of the term of this lease.

(20) The Lessee will permit the Lessor, its successors and assigns, at all reasonable times to enter and inspect said premises and the buildings and improvements thereon and their contents.

(21) Whenever the words "City" and "FIELD'S POINT REALTY COMPANY" and "Lessor" and "Lessee" are herein used, they shall be construed to and shall include, subject to any of the foregoing provisions hereof inconsistent therewith, the successors and assigns in title of the same, so that such successors and assigns in title shall enjoy the respective benefits and be subject to the respective duties and liabilities of the Lessor and Lessee respectively under the covenants, agreements and conditions herein contained.

(22) Whenever it becomes necessary or advisable to give any notice hereunder to the Lessee or the Lessor, such notice shall be given in writing by registered mail addressed to the Lessee at 1 Fields Point Drive, Providence, Rhode Island, or to the Lessor at City Hall, Providence, Rhode Island, provided that either the Lessor or the Lessee may, from time to time, appoint a new address by notice in writing by registered mail addressed to the other of them at the then designated address of such other.

(23) The Lessee agrees with the Lessor that during the first two (2) years of this lease the Lessee will charge FIVE and 50/100 (\$5.50) DOLLARS per ton for the treatment of refuse of the Lessor, and for the next eight (8) years will charge SIX (\$6.00) DOLLARS per ton of the Lessor's refuse. The rate to be charged by the Lessee to dispose of the refuse delivered to it by the Lessor

during the remaining term of this lease shall be agreed upon by the parties. If the parties cannot agree upon the rate to be charged, then said rate shall be arbitrated in accordance with Clause 26 of this lease. The Lessor guarantees that it will dispose of at least SEVENTY (70%) PERCENT of its garbage, refuse and disposable debris collected by the said Lessor in any calendar year at the Lessee's facility at Fields Point, Providence, Rhode Island during the term of this lease, and the Lessee must accept and dispose of all of the said refuse delivered to it.

(24) The Lessee further agrees with the Lessor that the Lessor will get first preference on the use of the pulverizing machine or shredder so-called for the treatment of the Lessor's garbage, refuse and disposable debris.

(25) At all times Lessee shall keep Lessor advised of internal corporate affairs by filing annually with the Mayor, in the month of February a full disclosure report reflecting corporate officers, stockholders and authorized agents. Any change in officers, stockholders or agents must be filed in writing with the Mayor within 30 days of the change.

(26) The Lessee shall have the option of renewing this lease for two (2) successive ten-year periods, beginning October 31, 1992. Any such renewal shall be upon the same terms and conditions as are contained in this lease, excepting as to the annual rental, wharfage and dockage fees and charges for the disposal of garbage, refuse and disposable debris, which shall be agreed between the parties; notice of election of these options to be given at least two (2) calendar years prior to the termination of this lease in the manner provided herein. This notice requirement shall apply to any options exercised hereunder. In case the parties cannot agree as to said rental, wharfage or dockage fees or charges for the disposal of garbage, refuse and disposable debris, it shall be fixed and determined by a majority of three (3) disinterested persons--one chosen by the Mayor for the time being of the City of Providence, the other by the Lessee, and the third by the two (2) so chosen; the decision of said majority to be final and binding upon the parties hereto, and the cost of said arbitration

to be borne equally by the parties.

In case the two (2) arbitrators chosen by the respective parties cannot agree upon a third person, then such third person to be appointed by the Presiding Justice of the Superior Court for the Counties of Providence and Bristol, upon petition filed by either party.

IN TESTIMONY WHEREOF, said City of Providence has caused these presents to be executed and its corporate seal to be hereunto affixed by Joseph A. Doorley, Jr., Mayor, hereunto duly authorized by vote of its City Council, and said FIELD'S POINT REALTY COMPANY has caused these presents to be executed by LUIGI DAMIANO, President, duly authorized at a meeting of the Board of Directors of said corporation held on January 30, 1973.

WITNESSED:

CITY OF PROVIDENCE

BY

FIELD'S POINT REALTY COMPANY

BY

President

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

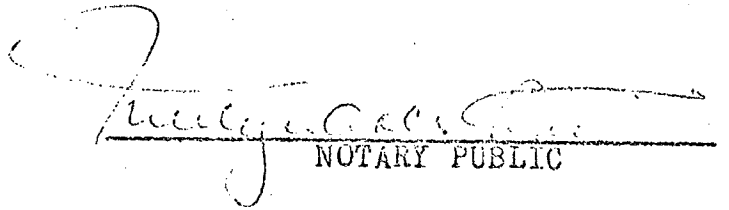
In Providence, on the 9<sup>th</sup> day of May, A.D., 1973, before me personally appeared the above-named JOSEPH A. DOORLEY, JR. Mayor of the City of Providence, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument by him executed in the name of and on behalf of said CITY OF PROVIDENCE, to be his free act and deed and the free act and deed of said CITY OF PROVIDENCE.

Notary Public

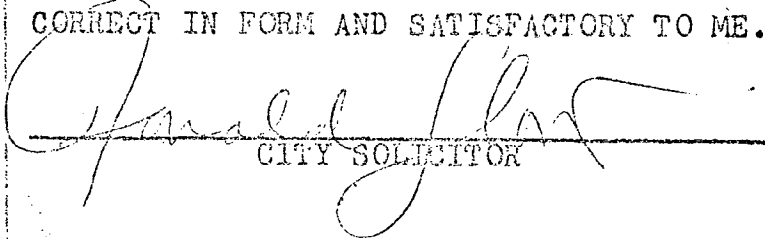
STATE OF RHODE ISLAND  
PROVIDENCE, SC.

In Providence, on the 5<sup>th</sup> day of May, A.D., 1973, before me personally appeared LUIGI DAMIANO, President, of FIELD'S POINT REALTY COMPANY, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said

instrument by him executed in the name of and on behalf of said  
FIELD'S POINT REALTY COMPANY to be his free act and deed in his  
capacity and the free act and deed of said FIELD'S POINT REALTY  
COMPANY.

  
NOTARY PUBLIC

CORRECT IN FORM AND SATISFACTORY TO ME.

  
CITY SOLICITOR

