

## **SOLID WASTE AND RECYCLING SERVICES AGREEMENT**

**Between the**

**RHODE ISLAND RESOURCE RECOVERY CORPORATION**

**And the**

**MUNICIPALITY**

This solid waste and recycling services agreement (Agreement) is made and entered into by and jointly between The Rhode Island Resource Recovery Corporation, ("The Corporation" or "Corporation") a quasi-public corporation organized under the laws of the State of Rhode Island, and the \_\_\_\_\_, (hereinafter "Municipality"), a municipal corporation organized and existing under the laws of the State of Rhode Island, with a business address at \_\_\_\_\_, Rhode Island. In consideration of the mutual covenants, promises and payments set forth herein, The Corporation and Municipality do hereby agree as follows:

1. **TERM.** The term of this Agreement shall commence on the date of municipal execution or July 1, 2021 whichever is the later and end on June 30, 2023, unless sooner terminated or extended as provided herein.
2. **DISPOSAL OF SOLID WASTE.** For the term of this agreement and pursuant to Rhode Island General Law ("RIGL") Chapters 23-18.9-1 et seq. and 23-19-3, Municipality agrees to deliver for disposal to the Corporation's landfill in Johnston, R.I. (hereinafter "Landfill" or "Central Landfill"), one hundred percent (100%) of its Municipal Solid Waste as defined in RIGL §23-19-5(5) for which Municipality has undertaken the collection, transfer or disposal, (hereinafter "MSW"), and the 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 the Corporation's approval, all or part of its municipal waste cap for disposal at the Landfill to a third party in accordance with RIGL 23-19-13(g)(3) and 23-18.9-1(b)(3).

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 except where Municipality has implemented a commercial recycling program for which it has assumed responsibility for collection, either directly by municipal employees or through a contract or license.

3. **COMPLIANCE WITH LAWS.** Municipality agrees to use its best efforts to ensure that it, its agents and contractors, and all MSW, Mixed Recyclables, as defined herein below, and other materials delivered to the 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 rules, regulations, and policies including any facility site regulations and policies. 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 the Corporation or its Agents are grounds for the ejection of such person from Corporation property, and the removal of Municipality's, or any agents, vehicle, whether or not it has been off-loaded. The Corporation's "On-Site Safety Policy" is attached and incorporated herein by reference (Attachment 1).
4. **FEES FOR THE DISPOSAL OF MSW.** For the duration of the term of this Agreement, Municipality agrees to pay the Corporation the municipal disposal fee set in accordance with the Rule "Municipal Solid Waste Disposal Fee Pricing Structure and Procedure", §845-RICR-00-004 (Attachment 2), as adopted by the RIRRC Board of Commissioners on December 9, 2020, for the disposal of all its MSW up to its annual MSW Cap. The municipal disposal fee will be forty-seven dollars (\$47.00) per ton in Fiscal Year 2022 (the one-year period from July 1, 2021 through June 30, 2022) and fifty-four dollars (\$54.00) per ton in Fiscal Year 2023 (the one-year period from July 1, 2022 through June 30, 2023).

"Municipal Solid Waste Cap (MSW Cap)" means the MSW tonnage established by the Corporation for each municipality to dispose of at the municipal disposal fee. The MSW Cap is calculated in accordance with the Rule "Rhode Island Resource Recovery Annual Municipal Solid Waste Cap Allotments," §845-RICR-00-003 (Attachment 3). The MSW Cap shall be adjusted each year according to the procedures outlined in Attachment 3. The Corporation shall notify municipalities of the new MSW Caps no later than April 1.

During Fiscal Year 2022, Municipality agrees to pay the Corporation ninety dollars (\$90.00) per ton for disposal of all MSW in excess of its annual MSW Cap. During Fiscal Year 2023, Municipality agrees to pay the Corporation one hundred dollars (\$100.00) per ton for disposal of all MSW in excess of its annual MSW Cap.

There shall be a minimum charge of one (1) ton for any load of MSW.

5. **BILLING AND PAYMENT.** The Corporation shall bill Municipality monthly for the services rendered and Municipality agrees to pay all sums due within thirty (30) days of invoice date.
6. **EARLY PAYMENT DISCOUNT.** Upon receipt of full payment of an invoice within twenty (20) days of the invoice date which brings the Municipality's outstanding balance to zero, Municipality shall receive a one-and-one-half percent (1.5%) discount from the invoice's amount. Municipality's eligibility expires monthly and is renewed monthly with the issuance of each month's invoice.
7. **MUNICIPAL RECYCLING AND DIVERSION PLANS.** Pursuant to RIGL § 23-19-13(e)(3), the municipality's 2021-2022 Recycling and Diversion Plan serves as an addendum to this contract. It includes a residential and municipal waste stream evaluation and a description of the process by which thirty-five percent (35%) of its solid waste will be recycled and fifty percent (50%) of its solid waste will be diverted from landfilling. The Municipality is responsible for implementing the plan and reporting on the results. Reporting will be accomplished through completion of the Corporation's 2021

annual data survey. An updated municipal recycling and diversion plan for the 2023 and 2024 time frame will be provided to the Corporation prior to February 1, 2023.

8. **DELIVERY OF RECYCLABLES FOR PROCESSING.** Municipality agrees to deliver to the Corporation's Materials Recycling Facility (hereinafter "MRF") at 33 Shun Pike in Johnston one hundred percent (100%) of the Mixed Recyclables, as defined herein below, which are collected within its borders under its municipal recycling program, unless specifically allowed to deliver Mixed Recyclables, as defined herein below, elsewhere. Municipality must request in writing permission from the Executive Director to direct mixed recyclables to an alternate recycler via a variance request, due to the Corporation by June 1 for the following fiscal year. Requests will be considered on a two year basis that coincides with the term of this agreement.

The Corporation agrees to process and market one hundred percent (100%) of said Mixed Recyclables that are delivered to the Corporation and meet the criteria outlined in the Corporation's "Materials Acceptance Criteria", attached and incorporated herein by reference (Attachment 4) for as long as such markets exist and it is economically beneficial to do so. For purposes of this Agreement, "Mixed Recyclables" generally includes materials defined as recyclable by the Materials Acceptance Criteria and generated by a household during the normal course of the day which are then placed in a recycling container set out for collection or are delivered to a recycling drop off. Municipality agrees to deliver these Mixed Recyclables regardless of whether these Mixed Recyclables are collected in a curbside program or through a drop-off program. Additional materials may be allowed in the program from time to time, and would therefore be subject to the terms of this Agreement. Mixed Recyclables properly delivered to the Corporation in accordance with its policies shall not incur a tip fee, pursuant to RIGL §23-19-31.

9. **TRANSFER OF MATERIALS.** Municipality must apply to the Corporation in writing for permission to use a transfer station to transfer Mixed Recyclables or MSW from a curbside collection vehicle to a trailer truck for transport to Corporation facilities. These materials can be transferred only if the Corporation grants permission in writing to do so and all transfers must comply with the Corporation's Municipal Transfer Policy (Attachment 5).

10. **DISPOSAL FEES FOR OTHER MATERIALS.** Municipality agrees to pay the Corporation, any appropriate fees for materials delivered as set forth in the attached Fee Schedule and incorporated herein by reference (Attachment 6). Municipality agrees to only deliver materials that the Corporation accepts as outlined in Attachment 4 (Materials Acceptance Criteria). Municipality is encouraged to find alternate disposal or recycling options for other materials that can be diverted from the Central Landfill, including appliances (white goods), batteries, construction & demolition debris (C&D), leaf & yard waste, scrap metal, unrecoverable (non-recyclable) mattresses, tires and wood pallets, but excluding Mixed Recyclables as defined in Section 8.

- a) **Leaf & yard waste.** For the term of this agreement and pursuant to RIGL 23-19-3(17), Municipality agrees to pay the Corporation a fee of zero dollars (\$0.00) per ton for leaf and yard waste up to its annual leaf and yard waste Cap. "L&YW Cap" shall mean the leaf and yard waste tonnage established by the Corporation for each municipality. The leaf and yard waste Cap is calculated by multiplying the municipal population (as determined by the State of Rhode Island Statewide Planning Population Projections) by 0.025 tons. L&YW Caps shall be adjusted annually and disseminated with the MSW Cap, in accordance with the " Rhode Island Resource Recovery Annual Municipal Solid Waste Cap Allotments," (Attachment 3). The new L&YW Cap shall be distributed to Municipality no later than April 1 each year. Municipality agrees to pay the Corporation the fee in accordance with RIGL 23-19-3, currently set at twenty-

five dollars (\$25.00) per ton, for the acceptance of all leaf and yard waste in excess of its annual L&YW cap. The over the cap fee is established by State law and subject to change.

Municipalities shall have the opportunity to request leaf and yard waste cap from each other to hedge against overages. The Municipal Leaf and Yard Waste Debris Cap Sharing Policy and Form are attached to this Agreement as Attachment 7, attached and incorporated herein by reference.

- b) **Construction and Demolition Debris (C&D).** Acceptable Municipal C&D is only that material as defined by RI Department of Environmental Management Solid Waste Regulation, §250-RICR-140-05-1. Municipal C&D tonnage is considered MSW and will be applied against the Municipality's annual MSW Cap as defined in Section 4 of this Agreement and charged accordingly. It is recommended that municipalities attempt to find alternate outlets for C&D.
- c) **Rejected Loads.** There will be an Equipment Use/MRF Rejected Load Handling Charge assessed for any load of municipal recyclables that are rejected by the MRF, requiring reloading into a RIRRC vehicle for transfer to the landfill. The tonnage associated with the rejected load will be charged to the Municipality at its MSW rate and applied to the Municipality's MSW Cap.

**MRF Load Inspection and Rejection Procedure:**

The minimum quality standards have been established for Mixed Recycling and are defined in Attachment 4, Materials Acceptance Criteria. The rejection of a load by the MRF inspector is binding on all parties. The Corporation will notify the Municipality electronically (e-mail) of any rejected loads, generally within 24 hours after the close of business on the day of the rejected load. Load rejection notification will normally be in the form of a report identifying the material quality issue and include photographs of the contamination. Continued failure of a customer to meet the minimum quality standards could result in a determination that this agreement has been breached. Municipality shall have the right to appeal the termination of the Agreement, and the appeal shall be heard by the Corporation's Board of Commissioners.

**11. COMPOST FOR CONTRACT MUNICIPALITIES.** The Corporation will, from time to time, make finished compost available free of charge, subject to the provisions of Attachment 8, attached and incorporated herein by reference, to those municipalities with current and fully effective Agreements who have also delivered leaf and yard waste to the Corporation during the current fiscal year. When finished compost is available for free distribution to the aforementioned municipalities, the Corporation will provide notice and the municipalities will be allowed to request free compost for their use, as outlined in the Compost Distribution Policy, Attachment 8.

**12. RECYCLING INCENTIVES.** To be eligible to participate in the recycling incentive program, municipalities must have a current, fully executed Agreement with the Corporation. The incentive program shall include:

- a) When the Board of Commissioners authorizes, a MRF profit share shall be offered to eligible municipalities. MRF profit share will be based on a consistent measure of profit from the MRF operation and shared 50-50 between RIRRC and the municipalities as a group. The municipal share shall be distributed to those municipalities with executed Agreements based on the per ton pro rata share of municipal recyclables delivered to the MRF. The MRF profit will be calculated as the revenue derived from the sale of all MRF commodities less: all direct operating expenses from the MRF, capital depreciation associated with the MRF, disposal of process residue from the MRF, program grants and funding provided to municipalities, and a share of

RIRRC administrative overhead. Municipality must use the recycling profit shares to further enhance and expand the municipal recycling and diversion program. Please use "Recycling Profit Share Annual Reporting Form" (Attachment 9) to record and report to the Corporation the use or intended use of the prior year's profit share. The annual reporting form is due to the Corporation by August 1 of each year.

Condition - The Corporation will offset any and all profit share funds from any amounts due to the Corporation from the Municipality with a receivable greater than sixty (60) days on the Corporation's monthly Account Receivable Aged Balance Report.

- b) When the Board of Commissioners authorizes, a competitive waste reduction and recycling enhancement grant program will provide funding for RIRRC approved municipal proposals as outlined in the "Municipal Grant Policy," Attachment 10, attached and incorporated herein by reference. Grant awards must be used solely for the purpose for which they were approved. Grants are not transferable, either year to year or entity to entity.
- c) A twenty five percent (25%) discount shall be applied to the Corporation's wholesale price for standard curbside recycling bins.
- d) A "Fiscal Year-End Tip Fee Rebate (Rebate)" is defined as a fixed per ton refund for MSW disposed, in accordance with paragraph 2 of this Agreement, at the Corporation's facilities during FY22 and FY23. This Rebate is offered to those municipalities that qualify based on the following recyclable percentages.
  - i) Zero dollar Rebate: Applies to any municipality that delivers Mixed Recyclables between zero percent (0%) and twenty-four and ninety-nine hundredths percent (24.99%) of its solid waste at the MRF.
  - ii) One Dollar (\$1.00) Rebate: Applies to any municipality that delivers Mixed Recyclables between twenty-five percent (25%) and twenty-nine and ninety-nine hundredths percent (29.99%) of its solid waste at the MRF.
  - iii) Two Dollars (\$2.00) Rebate: For any municipality that delivers Mixed Recyclables between thirty percent (30%) and thirty-four and ninety-nine hundredths percent (34.99%) of its solid waste at the MRF.
  - iv) Three Dollars (\$3.00) Rebate: For any municipality that delivers Mixed Recyclables greater than thirty-five percent (35%) or more of its solid waste at the MRF.

The Corporation shall issue a Rebate not later than September 1, 2022 and 2023 to those Municipalities qualifying for a year-end tipping fee adjustment according to the municipality's actual recorded tonnage delivered to the MRF and in accordance with the provisions of the Municipality's current Agreement with the Corporation.

**13. INFORMATION.** If Municipality engages the services of a private company or contractor to collect and/or transport MSW or Mixed Recyclables, 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.

#### **14. TERMINATIONS AND REMEDIES.**

- a) **TERMINATIONS.** The Corporation has the absolute right in its sole discretion to terminate this Agreement if the 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. Municipality shall have the right to appeal any termination of the Agreement, and the appeal shall be heard by the Corporation's Board of Commissioners.

b) **REMEDIES.** Failure of Municipality or the Corporation to perform the obligations hereunder shall constitute a breach of contract. Ten 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:

i) Commence an action for damages and for injunctive relief;

ii) Pursue any other remedies available to it by law; and/or

Any delay or failure in the performance by either party hereunder shall be excused to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, "Force Majeure" shall mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane, sabotage terrorism, vandalism, accident, restraint of government, governmental acts, injunctions, labor strikes, and other like events that are beyond the reasonable anticipation and control of the party affected thereby, despite such party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to the party's failure to perform its obligations under this Agreement.

**15. UNACCEPTABLE MATERIALS.** Neither MSW nor Mixed 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 acceptance at the Resource Recovery facilities.

**16. LICENSE RESTRICTIONS AND REQUIREMENTS.** Municipality agrees to be bound by any additional requirements and/or restrictions, which may be imposed by the Environmental Protection Agency, the RI Department of Environmental Management, or any other local agency, as a requirement of its operating license(s) or by a change in the regulations.

**17. HOURS OF OPERATION.** The normal hours for receiving materials at the facility 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 state holiday, whereby the Landfill will remain open until 1:00 p.m. on Saturday). The Corporation may change these hours upon reasonable notice to Municipality. Municipalities may request an extension of the normal hours of operation due to extreme or unforeseen events, such as natural disasters. The Corporation has sole discretion to grant such requests. Should the Governor of the State of Rhode Island declare an official state of emergency resulting in road closures leading to the Corporation facilities, the Corporation shall comply with the executive order immediately. In such cases, reasonable notice of facility closure or a change in operating hours may not be able to be provided.

**18. GENERAL RELEASE.** Municipality, or its employees, agents, subcontractors or assigns (hereinafter referred to as "Releasers"), in consideration of travelling on the property of the Rhode Island Resource Recovery Corporation do hereby release, and forever quitclaim unto the said Corporation all manner of actions, claims and demands arising out of any assistance that the Corporation may give to the Releasers in pushing, towing, loading or cleaning any vehicles owned, rented, subcontracted or otherwise utilized to transport Releasers materials that may be stopped from progressing for any

reason whatsoever.

- 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. 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 within fifteen (15) days of the assignment provided, however, that assignee agrees to undertake the obligations herein.
- 20. GOVERNING LAW.** This Agreement shall be deemed to be a contract entered into and made pursuant to the laws of the State of Rhode Island and shall in all respects be governed, construed, applied and enforced in accordance with the laws of said state.
- 21. ENTIRE AGREEMENT.** This Agreement and incorporated attachments 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. Any modifications hereof shall be in writing and shall be signed by appropriate authorized representatives of Municipality and Corporation.
- 22. SEVERABILITY.** If any provision of this Agreement is declared invalid by any tribunal, the remaining provisions of the Agreement shall not be affected thereby.
- 23. ATTACHMENTS.**
  - (1) On-Site Safety Policy
  - (2) Municipal Solid Waste Disposal Fee Pricing Structure and Procedure
  - (3) Rhode Island Resource Recovery Annual Municipal Solid Waste Cap Allotments
  - (4) Materials Acceptance Criteria
  - (5) Municipal Transfer Policy & Form
  - (6) Fee Schedule
  - (7) Municipal Leaf and Yard Debris Cap Sharing Policy & Form
  - (8) Compost Distribution Policy
  - (9) Recycling Profit Share Reporting Form
  - (10) Municipal Grant Policy

During the term of this Agreement, the Corporation will provide 30 days notice to the municipality prior to adopting any revisions to pertinent attachments, excepting the Fee Schedule which shall remain in effect without revision for the term of the Agreement.

**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: \_\_\_\_\_  
Joseph Reposa, Executive Director

Dated: \_\_\_\_\_

BY: \_\_\_\_\_  
Dean Huff, Chief Financial Officer

Dated: \_\_\_\_\_

**FOR THE MUNICIPALITY:**

BY: \_\_\_\_\_  
(SIGNATURE)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(NAME PRINTED OR TYPED)

Title: \_\_\_\_\_

**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 MUNICIPALITY