

TO: MRC Joining Member Municipalities
FR: Greg Louder, Executive Director MRC
DT: July 3, 2018

RE: Model Recycling Services Agreement between Joining Members and Fiberright/Coastal

For your review and comment, please find enclosed a **draft** model recycling services agreement for potential use by certain Joining Member communities that wish to enter into an agreement with Fiberright/Coastal for the processing of recyclables from a single stream recycling program that a town operates, sponsors, oversees or otherwise makes available for the collection of qualified recyclable materials within its borders. We invite your comments and feedback on this draft document in advance of the July 25 Board Meeting where the MRC Board will consider its endorsement of the model agreement.

For Joining Members only, the cost of this processing service can be no greater than 50% of the effective tipping fee for MSW disposal. We expect this will be an attractive option for some Joining Member communities. Fiberright/Coastal would be entitled to receive all value and proceeds associated with the sale of recyclable materials.

In contrast to MRC's role managing MSW under the Joinder Agreements, the MRC does not have a direct role as an advisor and advocate in the administration of the recycling services agreement. However, as a service to its members, MRC has undertaken development of the enclosed model recycling agreement to ensure pricing consistency with the project agreements and to facilitate parity and equity for all Joining Members. Ultimately, members interested in these services will contract for them directly with Coastal.

As always, we are available to answer any questions you may have. In the meantime, we look forward to receiving your feedback on the draft document in advance of the July 25, 2016 MRC Board of Directors meeting. Please provide comments to Greg Louder via US Mail at 395 State Street, Ellsworth, Maine 04605; via email at glouder@mrcmaine.org, or via phone at 664-1700.

**See the reverse side for answers to some Frequently Asked Questions about recycling.
We also encourage you to visit MRC's new website at www.mrcmaine.org.**

Local Recycling Programs and Organics Management

As you know, the new Fiberight/Coastal advanced recycling and mixed waste processing facility for municipal solid waste (MSW) being developed in Hampden is nearing readiness to accept and process our MSW this year. This update is intended to clarify issues related to Joining Member use of the Fiberight facility and continuation and/or expansion of local recycling programs.

Towns can continue or expand their existing recycling programs.

The agreements that the MRC negotiated with Fiberight specifically allow towns to continue or expand their existing recycling programs. The Fiberight facility is being designed with the understanding that many communities will chose this route. Towns that would like to continue or expand their existing recycling programs will be able to do so.

Towns can elect to send materials collected in single-sort programs to the Fiberight facility.

The Fiberight facility will be capable of processing materials collected in single-sort recycling programs into marketable materials. Fiberight will provide that single sort processing service on a cost-competitive basis at 50% the \$70 MSW tip fee to towns that wish to continue their single-sort recycling collection programs by directing collected materials to the facility in Hampden. Member communities would contract separately with Coastal for this service. As a service to its members, the MRC is working with Fiberight/Coastal to develop model contract language.

The Fiberight facility will enhance diversion of recyclables in our region.

The Fiberight facility will include a front-end processing component that removes recyclables in the MSW that were missed at the local level. This includes hard recyclables like steel cans, other non-ferrous metals, and various grades of plastic and recoverable corrugated cardboard. These materials will be cleaned, baled, and sold or used to produce other saleable products. The Fiberight facility will recover material from the waste stream that is not being recovered by even the most efficient local recycling programs and provide a level of recycling to communities that do not offer programs to their citizens.

The Fiberight facility will capitalize on the organic content of MSW.

A key and exciting objective of the Fiberight facility is to process organic components of MSW. Particularly food waste, into high-value energy products and potentially, industrial energy and chemical products. Towns that have existing programs for composting of yard waste or for agricultural wastes (e.g., blueberry or seafood processing wastes) can continue to operate those programs. And, of course, any resident that would like to engage in back yard composting may continue to do so.

Towns can continue or add pay-as-you-throw (PAYT) programs.

The MRC agreements for the Fiberight facility will not impose requirements to deliver a Guaranteed Annual Tonnage (GAT) of MSW on individual towns, and towns will NOT be liable for penalties for failure to deliver shortfalls, unless MSW is intentionally diverted to other processing or disposal facilities prior to or after the Commercial Operation Date. The MRC agreements will require that all MSW collected through arrangements controlled by the towns be delivered to the Fiberight facility on an exclusive basis rather than be diverted to landfills or other disposal facilities.

Questions? Don't hesitate to contact Greg Lounder at glounder@mrcmaine.org or (207)664-1700.

**COASTAL RESOURCES OF MAINE LLC
RECYCLING SERVICES AGREEMENT**

AGREEMENT made this ____ day of _____, 20__ (the Effective Date) by and between Coastal Resources of Maine LLC, a Delaware limited liability company with offices at 1450 South Rolling Road, Baltimore, Maryland, ("Coastal") and the Town of _____, located in ____ County, in the State of Maine (the "Town") with offices at _____.

WHEREAS, Coastal owns, is constructing and will bring into commercial operation an advanced recycling and mixed-waste processing facility located at 348 Coldbrook Road, Hampden Maine that, once operational, will be capable of accepting and processing materials collected through single-stream recycling programs (the "Facility"); and

WHEREAS, the Town operates or sponsors programs for collection of recyclable materials within its boundaries and controls the disposition of the materials collected through the programs that it operates or sponsors;

WHEREAS, the Town is seeking a cost-effective and environmentally sound means for processing of recyclable materials that are collected through programs under the Town's control; and

WHEREAS, the Town is a Joining Member of the Municipal Review Committee, Inc. (the MRC) by virtue of having executed a Joinder Agreement with the MRC regarding the management and disposal of municipal solid waste (MSW) originating with the Town's borders;

WHEREAS, the MRC owns the land on which the Facility is being constructed, which land is being leased to Coastal pursuant to a Restated and Amended Site Lease dated August 17, 2017 (the Site Lease);

WHEREAS, the MRC is obligated to have its Joining Members deliver MSW to the Facility pursuant to a First Amended and Restated Master Waste Supply Agreement between the MRC and Coastal dated August 17, 2017, as amended on November 21, 2017 (the Master Waste Supply Agreement);

WHEREAS, Section 5.2 of the Master Waste Supply Agreement obligates Coastal to accept materials from Single Stream Recycling Programs and other programs involving collection or accumulation and delivery by Joining Members of recyclable materials to the Facility, and to designate tipping fees for acceptance of such materials that do not exceed 50 percent of the tipping fee charged to Joining Members for MSW under the Master Waste Supply Agreement and the Joinder Agreement;

WHEREAS, Coastal is willing to accept and process at the Facility the Recyclable Materials that are collected through programs under the Town's control in accordance with

its obligations to the MRC and Joining Members under Section 5.2 of the Master Waste Supply Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Coastal and the Town hereby agree as follows:

1. Definitions. Capitalized terms used herein and not defined below shall have the meaning as set forth in the Master Waste Supply Agreement. In addition to any terms defined elsewhere in this Agreement, the following capitalized terms shall have the following meanings:
 - a. "Contaminants" means any material or Acceptable Waste not included under the heading of Acceptable Materials in the Program List.
 - b. "Hauler" means any entity or person which performs solid waste services on behalf of the Town, including delivery of Recyclable Materials to the Facility, including the Town when it delivers Recyclable Materials with its own employees or agents.
 - c. "Hazardous Waste" means waste by its composition, characteristics, or other inherent properties is dangerous to handle by ordinary means, or which may present a substantial endangerment to health or safety, or which presents a reasonable possibility of adversely affecting the operation of the Facility. "Hazardous Waste" shall also mean waste which is defined as harmful, toxic, dangerous, or hazardous at any time during the term of this Agreement pursuant to (i) the Solid Waste Disposal Act, 42 U.S.C. §§6901 et seq. as amended; and (ii) the Maine Hazardous Waste, Septage and Solid Waste Act 38 M.R.S.A. 591301 et seq., as amended; and (iii) any other Federal, State, county or local codes, statutes or laws; and (iv) any regulations orders or other actions promulgated or taken with respect to the items listed (i) through (iii) above; provided, however, that any such materials which are later determined not to be harmful, toxic, dangerous, or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be considered "Hazardous Waste" unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction.
 - d. "Program List" means a list of Recyclable Materials accepted by Coastal for processing at the Facility as further defined by Attachment A hereto and as subsequently amended in accordance with the terms hereof.
 - e. "Recyclable Materials" means materials which are separated from MSW, either at the source of such MSW or at any transfer station, recycling facility or other location, and which, in the reasonable judgment of Coastal are capable of being processed at the Facility for return to the economic mainstream in the form of raw materials or products, provided that Recyclable Materials shall not include Hazardous Waste.

- f. "Single Stream Recycling Program" means the program for processing of single stream recyclable materials operated by Coastal at the Facility, whereby materials to be recycled are separated from MSW but are accepted and handled in a commingled fashion without separation of each individual material from each other material.
- g. "Town" means a municipality as defined in 30-A M.R.S.A. § 200 I or other governmental entity that is party to this Agreement.

2. Delivery and Acceptance of Recyclable Materials.

- a. Town agrees to deliver or cause to be delivered to the Facility, on an exclusive basis, Recyclable Materials on the Program List that are generated within the boundaries of the Town and collected by or delivered to the Town or on behalf of the Town pursuant to a recycling program that the Town operates and or sponsors and oversees. The Town shall not have a minimum obligation regarding delivery quantities, nor shall it be required to institute flow control or implement other measures to direct to the Facility recyclable materials collected by others through programs not under its control. The Town can continue pre-existing programs for diversion of specific materials, provided that a list and description of such programs and the materials included is provided to Coastal prior to the execution of this Agreement.
- b. Coastal agrees to receive and process all Recyclable Materials delivered to the Facility by the Town through the Single Stream Recycling Program.
- c. Coastal shall be entitled to receive and retain any and all value, proceeds and/or benefits derived from the processing of all Recyclable Materials delivered to the Facility by or on behalf of the Town.

3. Collection and Transportation of Recyclable Materials.

- a. Town shall be responsible for all costs associated with collection and transportation of Recyclable Materials to the Facility. The Town shall ensure that all vehicles delivering Recyclable Materials to the Facility on behalf of the Town shall comply with the applicable delivery requirements of the Joinder Agreement and the Master Waste Supply Agreement.
- b. Until delivery to the Facility, Recyclable Materials remain the property of the Town, and all responsibility for safe and lawful handling rests thereof with the Town.
- c. Upon acceptance of Recyclable Materials by Coastal from Town or Hauler, all responsibility belongs to Coastal, provided that any Hazardous Waste delivered by the Town to the Facility and inadvertently accepted by Coastal shall remain the responsibility of the Town.
- d. Delivery of Recyclable Materials shall occur during the hours of operation at the

Facility as posted by the Coastal.

e. Program List. Town acknowledges that (i) the materials to be delivered under this Agreement shall be Recyclable Materials as listed under the heading of Acceptable Materials on the Program List that is Attachment A to this Agreement, and (ii) the materials listed under the heading of Unacceptable Materials on the Program List are considered Contaminants. Coastal may revised the Program List up to twice a year upon 60 days prior notice to Town, provided that (a) Coastal shall provide notice of the same revisions to the Program List to all Joining Members that have entered into a Recycling Services Agreement with Coastal on the same schedule; and (b) in the event that Coastal reduces the range of Acceptable Materials on the Program list to a level that is below what the Town considers acceptable in its sole discretion, then the Town can terminate this Agreement by giving notice of termination to Coastal within 45 days of receipt of the notice of the change in the Program List. Such termination shall take effect on the later of the date of change of the Program List and the date that is 30 days from receipt by Coastal of the termination notice from the Town.

f. Town shall use reasonable commercial efforts to provide information to the users of its recycling programs regarding materials that are Acceptable Materials and Unacceptable Materials or Contaminants pursuant to the Program List and to discourage inclusion of Contaminants with Recyclable Materials. Coastal shall make available sample templates of informational materials to support the dissemination of information by the town.

Coastal shall have the right to inspect deliveries of Recyclable Materials and to evaluate the level of contamination of each load. Upon inspection,

- (i) If the load contains more than three percent (3%) but less than five percent (5%) Contaminants by volume, Coastal may issue a written warning to the Town, with a copy to the hauler that delivered such load on behalf of the Town, if applicable.
- (ii) If the load contains more than five percent (5%) but less than ten percent (10%) by volume, Coastal can process the Recyclable Materials and can dispose of the remaining material as waste. For such loads, the Town will pay Coastal the sum of Fifty Dollars (\$50) per ton for the load
- (iii) If the load contains ten percent (10%) or greater Contaminants by volume, then Coastal has the discretion to process the entire load as if it were MSW, and the Town will pay Coastal the tipping fee for such load as if it were MSW under the Joinder Agreement.

With regards to clauses (ii) and (iii) above, Coastal shall document the level of contamination in each load for which charges in excess of the tipping fee are applied, both with photographs and with a reasonable basis for determining that the level of Contaminants exceeds the applicable threshold. Coastal shall provide such documentation to both the Town and the MRC within five days of receipt of the load.

Loads containing any portion of Hazardous Waste, including medical waste, will be immediately rejected and disposed of at an appropriate facility designated by Coastal.

All costs associated with management and disposal of Hazardous Waste delivered by the Town, including but not limited to medical waste, will be at the sole expense of the Town.

4. Term of Agreement.

- a. This Agreement shall commence on the _____ day of _____, 20____, (the Commencement Date) and shall be effective for two (2) years unless sooner terminated under the terms hereof.

[The Town is able and willing to supply and deliver Recyclable Materials to the Facility on an intermittent basis in advance of the Commencement Date in accordance with the terms hereof and in the quantities and at the times requested by Coastal.]

- b. To facilitate continuous service, this Agreement will be automatically renewed for successive two (2) year periods, unless either party serves written notice of termination upon the other party no less than ninety (90) days before the end of the initial term and ninety (90) days before the end of any subsequent two (2) year term.

5. Tipping Fees and Most Favored Nation Pricing. The tipping fee for loads of Recyclables delivered by the Town shall be 50 percent of the tipping fee charged to the Town for MSW under the Joinder Agreement (the MSW Tipping Fee) [, provided that, in the event that Coastal signs a Recycling Services Agreement with a Joining Member at less than 50 percent of the MSW Tipping Fee, the tipping fee in this agreement shall be reduced to match [comment – most favored nations pricing clause provides option to reduce the tipping fee below 50% of the MSW Tipping Fee for all Joining Members if Coastal make that election, while retaining parity among all Joining Members and avoiding special deals]. Payment shall be on a monthly basis in accordance with procedures set forth in the Joinder Agreement and Master Waste Supply Agreement.

6. Notices. All notices required by this Agreement shall be considered sufficiently given if sent by First Class, U.S. Mail, addressed to the party at the following addresses:

If to Coastal:

Coastal Resource of Maine LLC
c/o Fiberight, LLC
BWtech@UMBCSouth
1450 South Rolling Road
Halethorpe, MD 21227
Attn: Craig Stuart-Paul, Chief Executive Officer

If to Town:

[]

7. Compliance with Laws. Town shall comply with all Federal, State and local laws, regulations, rules, ordinances and orders of any kind which are applicable to Town's performance under this Agreement.

8. Indemnification. To the extent permitted by law, Coastal and Town shall each indemnify, save, and hold harmless the other from and against any and all liabilities, expenses, including reasonable attorney's fees, claims, costs, losses, suits, judgments, or damages relating to injuries or deaths of persons or damage to property in any way attributable, directly or indirectly, to the acts of authorized agents, contractors or employees of the other party; provided, however, that the indemnifying party shall not be liable for indemnification under this Section 9 to the extent any such liabilities, expenses, claims, costs, losses, suits, judgments, or damages result from the negligence, contributory negligence, fault or willful misconduct of the indemnifying party or its authorized agents, contractors or employees.

9. Assignment. This Agreement, its rights and obligations, is not assignable or transferable by either party, in whole or in part, except with the prior written consent of the other party.

10. Severability. In the event any covenant, condition or provision of this Agreement is held to be invalid or unenforceable by the final judgment of a court of competent jurisdiction, or by any other board, tribunal or entity the decision of which is binding upon the parties hereto and which has become final, such invalidity or enforceability shall in no way affect any of the other covenants, conditions or provisions hereof.

11. Modification. This Agreement represents the entire agreement of the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may only be modified or revised in writing, signed by the authorized agents of the parties

12. Construction of Agreement. This Agreement and its performance shall be construed and governed in accordance with the laws of the State of Maine. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

**Coastal Resource of Maine LLC
by Fiberight, LLC its Manager**

Witness

Craig Stuart-Paul
Chief Executive Officer

City/Town of _____

BY: _____
Town Manager / Clerk / Selectman

Witness

Coastal Resources of Maine Hampden, ME

Acceptable & Unacceptable Waste

Acceptable Waste

Solid Waste, including all ordinary household, municipal, institutional, commercial and industrial wastes, refuse, and discarded materials **except for the following** which shall be considered Unacceptable Waste, but excluding *de minimus* amounts of such waste typically found in household waste and in quantities below thresholds for regulatory requirements for separate management:

Unacceptable Waste

Stove and Fire Ash

Clothing and other textiles such as stuffed animals, bedding, pillows, towels, and curtains

Demolition or construction debris from building and roadway projects or locations

Liquid wastes or sludges

Abandoned or junk vehicles and car parts, but excluding small quantities of tires accepted by agreement with the Company;

Hazardous Waste and Flammable Waste;

Dead animals or portions thereof or other Infectious or Biological wastes;

Water treatment facility residues

Tree stumps

Tannery sludge

Waste oil, lubricants or fuels, including gasoline and propane;

Discarded “white goods” such as freezers, refrigerators, washing machines, dryers, etc.

Bulky items such as couches, mattresses, and carpets

Waste which, in the reasonable judgment of COMPANY based on a visual inspection at the time of delivery could, if processed, result in damage to the Facility, interruption of normal Facility operations or extraordinary processing or maintenance costs, solely by virtue of the physical or chemical properties of such waste.

Waste that, if delivered to the Landfill as Bridge Capacity Waste or Bypass Waste, is considered Unacceptable Waste under the terms of the agreement between the MRC and the owner or operator of the Landfill.

**Coastal Resources of Maine
Hampden, ME**

Single Sort Recycling Guidelines

Acceptable Materials

Paper

Clean Cardboard & Pizza Boxes
Clean Paper Plates & Paperboard
Newspaper & Newspaper Inserts
Magazines & Catalogs
Mail & Envelopes
Office Paper
Phone Books
Books
Paper Bags
Milk & Juice Cartons
Drink Boxes
Shredded Paper (bagged in clear bag only)

Plastics #1 & #2

Water Bottles
Milk Jugs
Detergent Bottles
All rigid containers with a #1 or #2

No Styrofoam of any kind

Metal

Tin Cans
Aluminum Cans
Aluminum Containers
Aerosol Cans (empty)
Pots & Pans

All containers must be empty

Unacceptable Materials

Trash & Garbage
Needles & Sharps
Knives and other blades
Wood or Lumber
Glass Bottles & Jars
Plastic containers - #3 - #7
Paper Napkins & Towels
Clothing & Shoes
Bedding & Pillows
Toys - Plastic or Plush
Pipes - Plastic or Metal

Food or Plants

Food Contaminated Paper Products

Bubble Wrap
Envelopes with plastic or Tyvek
Button-cell, rechargeable, or alkaline batteries

Propane, helium or other gas cylinders
Large metal parts
Boat Wrap or Tarps

Plastic Bags of any kind

Plastic Wrap or Film
Vinyl Siding
Garden hoses
Rope, String or Chain
Light bulbs
Diapers
Kitty Litter
Styrofoam
Aluminum Foil

No Hazardous or Unacceptable Waste

As further described by CRM above, and to include, without limitation, Ammunition, Anti-freeze, Button-cell batteries, CFL light bulbs, Chemicals, Computers & related parts, Fertilizers, Florescent light bulbs, Fuel, Mercury, Oxygen tanks, Paint thinner, Pesticides, Propane tanks, Rechargeable batteries, Televisions and electronics