

**DRAFT**

**MRC INVESTMENT AND  
RESERVE ACCOUNT POLICY**

Management requirements and  
guidelines for invested funds

Version 3.1 dated September 2019

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- 1. Policy Context.** This MRC Investment Policy provides guidance regarding the ongoing investment and management by the Municipal Review Committee, Inc. (MRC) of certain assets of the Joining Members. The Joining Members are the municipalities and other public entities that have signed Joinder Agreements with the MRC for management of their municipal solid waste (MSW) after April 1, 2018 in connection with the facility in Hampden, Maine (the Hampden Facility), developed and owned by Coastal Resources of Maine, LLC (Coastal). The Joining Members with assets managed by the MRC are those that had previously been Equity Charter Municipalities that had managed their MSW in accordance with waste disposal agreements in effect from 1998 through March 31, 2018. The Hampden Facility is located on a site owned by the MRC and leased to Coastal under a Restated and Amended Site Lease, with additional amendments (the Site Lease). The Site Lease obligates the MRC to maintain minimum balances in certain accounts as described herein. The MRC is also a party to a First Amended and Restated Master Waste Supply Agreement, as amended (the Master Waste Supply Agreement), with Coastal, which also obligates the MRC to maintain minimum balances in certain accounts as described herein. The financial obligations on the MRC from the Master Waste Supply Agreement, the Site Lease and the Joinder Agreements are described in Appendix A.
- 2. MRC Authorization.** The MRC is authorized to manage assets of Joining Members in accordance with Section 5.1(d) of the Joinder Agreements, in which the Joining Members authorize the MRC to act on its behalf

“... subject to the provisions of the MRC’s Articles of Incorporation and Bylaws and of Maine law ... to review and administer, accept, invest, apply and distribute tip fees, rebates, and other payments to the MRC and/or Joining Members consistent with the terms of this Agreement, including but not limited to the establishment and funding of such reserve funds as the MRC may deem appropriate from time to time;”

3. **MRC Accounts.** To satisfy its obligations in accordance with its authorizations, the MRC shall maintain and administer the following types of accounts:

- Cash management accounts.
- Unrestricted investment accounts under the control of the MRC.
- Restricted investment accounts in escrow or otherwise under the control of an entity other than the MRC.

3.1 **Cash management accounts.** The MRC shall maintain at least two cash management accounts as described below:

- A separate fully-liquid cash account for transactions resulting from activities of the Joining Members under the Master Waste Supply Agreement, the Site Lease and the Joinder Agreements. Such activities include receipt of rebates and other payment from Coastal, distributions to the Joining Members, payment of fees by and application of credits to Joining Members, and other transactions for which the MRC allocates the balance among the Joining Members. The **Custody Account** held at Bangor Savings Bank currently serves these purposes.
- A separate fully-liquid cash account for transactions related to MRC administrative activities. Such activities include receipt of dues payments, payment of MRC payroll, administrative and overhead costs, and payment of other budgeted and approved operating expenses of the MRC. The **Operating Account** held at Key Bank currently serves these purposes.,

3.2 **Unrestricted investment accounts under the control of the MRC.** The MRC shall maintain and control investment accounts to achieve the following objectives:

- A. Maintain a minimum balance of not less than \$4.0 million through the initial 15-year terms of the Site Lease and the Master Waste Supply Agreement as part of the requirements for the MRC under those agreements.
- B. Provide funds for other reserve accounts as directed by the MRC Board of Directors from time to time.
- C. Generate current income to support administrative expenses and offset or avoid the need for dues increases.
- D. Have funds available if and as needed to meet unforeseen and contingent obligations and liabilities, as well as related MRC administrative costs.

The **Tip Fee Stabilization Account**, managed for the MRC by the Investment Advisor (currently, People's United Bank), is used to meet Objectives A through D above. At present, this fund is being used for the following reserve accounts described in the Joinder Agreements, Exhibit B, and in Appendix A<sup>1</sup>:

- **Bridge Waste Transportation Reserve Fund.** Up to \$1.0 million to offset the costs of transportation of Bridge Waste (MSW delivered by Joining Members to facilities other than the Hampden Facility prior its commercial operation date) per the direction of the MRC.
- **Target Value Fund.** Up to \$1.5 million for distributions of (x) \$5.00 per ton of MSW delivered by Joining Members that were Equity Charter Municipalities; and (y) \$3.00 per ton of MSW delivered by Joining Members that were New Charter Municipalities.

The **Operating Budget Stabilization Account**, managed for the MRC by the Investment Advisor, has been used in the past to meet MRC administrative costs related to unforeseen and contingent obligations and liabilities per Objective D above. This Account currently holds only a nominal balance. This Account may be closed and/or reopened by vote of the MRC Board of Directors.

**3.3 Restricted investment accounts in escrow or otherwise under the control of an entity other than the MRC.** Under the Master Waste Supply Agreement and the Site Lease, the MRC is required to maintain a restricted account with a minimum balance of \$3.0 million pledged as security for performance of certain MRC obligations through the initial 15-year terms of those agreements. The Cash Collateral Account, managed for the MRC by the Investment Advisor, currently meets this requirement.

**4. Guidelines for account investments.** The MRC shall manage the investment accounts in accordance with the following guidelines:

#### **4.1 Unrestricted investment accounts**

**The Tip Fee Stabilization Account.** To ensure compliance with the minimum balance requirement, the MRC shall maintain the Tip Fee Stabilization Account to hold laddered investments in permitted instruments with a market value and total value at maturity of not

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<sup>1</sup> The Tip Fee Stabilization Account had also been used to provide funds for the other reserve accounts described in Section 2 of Exhibit B to the Joinder Agreements. The obligations related to such reserve accounts not referenced herein have been satisfied, and funds need no longer be reserved in the Tip Fee Stabilization Account for such purposes. See also Appendix A hereto.

less than \$4.0 million. The MRC shall monitor the market value of the Tip Fee Stabilization Account to hold sufficient amounts of cash, cash-equivalent investments or other investments to meet all applicable requirements.

For amounts in excess of \$4.0 million, to consider safety, maintenance of liquidity and income, the MRC shall manage funds in the Tip Fee Stabilization Account in accordance with the following guidelines and limitations:

- The average duration (level of risk) of the portfolio shall be maintained to stay within two years of the duration of a benchmark based on blended values of an appropriate index that includes treasuries (i.e., public obligations of the U.S. Treasury that have remaining maturities of more than one year) and agencies (i.e., publicly issued debt of U.S. Government agencies, quasi-federal corporations, and corporate or foreign debt guarantees by the U.S. Government).
- No more than 25 percent of the value of the portfolio may be invested in any individual U.S. government security or U.S. agency security.
- The cash position of the portfolio shall not exceed 25 percent for more than 30 days without prior approval of the MRC Finance Committee
- Funds shall only be invested in instruments that are eligible for municipal investments under Maine law, Title 30-A, Chapter 223, Subchapter 3-A, Article 2: Investment in Securities; section 5712(1) Government unit bonds and including certificates of deposit insured by the Federal Deposit Insurance Corporation.
- Funds shall be invested in rated issues of investment grade quality that are denominated in U.S. dollars, including eligible treasury bonds, agency bonds, or other obligations of the U.S. government of comparable security that are fully liquid through ability to be traded in an established public market.
- Funds shall not be invested in instruments that have a term that extends beyond 2033.
- Funds shall not be invested in any of the following types of instruments:
  - Corporate bonds or commercial paper.
  - Derivatives, options, futures, swaps or similar contingent investment instruments.
  - Subordinated debt.
  - Common or preferred equities.
  - International bonds or international fixed income liabilities.

Withdrawal of funds from the Tip Fee Stabilization Account shall require a majority vote of the MRC Board at a properly-noticed meeting. Earnings on the Tip Fee Stabilization Account may be withdrawn for transfer to the MRC Operating Account to offset or avoid the need for dues increases.

- **The Operating Budget Stabilization Account.** The MRC may invest all holdings in cash-equivalent money market funds or equivalent instruments until the balance exceeds \$100,000, and may invest holdings in excess of \$100,000 in accordance with the guidelines provided above for investment of the Tip Fee Stabilization Account. Withdrawal shall require a majority vote of the MRC Board at a properly-noticed meeting.

**4.2 Restricted investment account: The Cash Collateral Account.** The **Cash Collateral Account** is the subject of a separate Agreement Regarding the Cash Collateral Account between the MRC, Coastal and Fiberight (the CCA Agreement). Under the CCA Agreement, funds are deposited in an investment agency account owned by Coastal and entitled "Coastal Resources of Maine, LLC fbo [for the benefit of] the Municipal Review Committee, Inc". The CCA Agreement requires that investments must be in one or more of the following: certificates of deposit or other depository instruments insured by the Federal Deposit Insurance Corporation; or United States Treasury bills or other debt instruments issued by the government of the United States or an agency thereof and secured by the full faith and credit of the government of the United States, in each case with a maturity of not more than one year. The MRC controls the investments by providing investment and disposition instructions to Coastal, which is obligated by the CCA Agreement to pass them on to the investment agent.

If the balance in the Cash Collateral Account falls below \$3.0 million, the MRC is obligated to make available for deposit an amount to remedy the shortfall. If the balance in the Cash Collateral Account exceeds \$3.0 million, the MRC can issue instructions to Coastal to make withdrawals to an account of the MRC's choice.

To implement the above, the MRC shall perform the following:

- Make laddered investments in US Treasury bills and other permitted instruments that mature on approximately a quarterly basis with a market value and total value at maturity of approximately \$3.0 million.
- Maintain a cash balance in the Cash Collateral Account of approximately \$25,000 in order to comply with the minimum balance obligation notwithstanding fluctuations in the market value of investments.
- Review the investments on a quarterly basis to ensure compliance and to designate and approve the amount being withdrawn.
- Limit discretionary withdrawals to amounts of cash available in excess of \$25,000.

Withdrawal of funds from the Tip Fee Stabilization Account shall require a majority vote of the MRC Board at a properly-noticed meeting, and shall be implemented by providing appropriate instructions to Coastal in accordance with the CCA Agreement..

Withdrawals shall be designated for transfer to the MRC Operating Account unless directed otherwise by the MRC Board of Directors.

5. **Transactions.** The MRC Treasurer, or in the Treasurer's absence, the Treasurer's designee from the Finance Committee, is authorized to approve and sign for transactions involving management of funds on behalf of the MRC consistent with these guidelines.
6. **Limitations on withdrawal.** Funds shall not be withdrawn from the investment accounts without a prior authorizing vote of the MRC Board of Directors. For removal of doubt, if a budget resolution is passed that anticipates withdrawal of a specific total amount from the Tip Fee Stabilization Account or the MRC Operating Budget Stabilization Account in a specific budget year, then amounts up to such total amount on a cumulative basis may be withdrawn during that budget year without further vote.
7. **Investment Advisor.** The activities of the Investment Advisor shall be overseen by the MRC Finance Committee, which is a subcommittee of and reports to the MRC Board of Directors. The Investment Advisor shall serve at the pleasure of the MRC Board, which shall be authorized to designate any replacement.
8. **Monitoring procedures.** The investment portfolio, including the maturities of individual investments and the duration of the portfolio, shall be discussed and determined at quarterly reviews with the Investment Advisor and the Finance Committee. The performance of the portfolio shall be measured quarterly and compared to the performance of the Index.
9. **Amendment.** This Investment Policy may be amended at any time by a voted decision of the MRC Board of Directors. This Investment Policy shall be reviewed by the MRC Finance Committee and the MRC Board of Directors at least once per year.

Investment Policy Version 3.0 was considered and approved by the MRC Board of Directors at a noticed special meeting on August 28, 2019, on the condition that Version 3.0 be edited to respond to and incorporate additional comments received from Director Robert Butler prior to the meeting and discussed at the meeting. This Investment Policy Version 3.1 has been edited to respond to and incorporate such comments.

**MRC INVESTMENT AND  
RESERVE ACCOUNT POLICY**

**APPENDIX A  
Financial obligations on the MRC  
from the Joinder Agreements,  
Master Waste Supply Agreement and Site Lease**

The MRC obligations to create and maintain reserve funds include the following requirements and restrictions as set forth in the Site Lease, the Master Waste Supply Agreement and the Joinder Agreements:

From the Site Lease and the Master Waste Supply Agreement:

- Maintain a minimum balance of \$3.0 million in a Cash Collateral Account in which Coastal has a security interest and enter into appropriate control agreements with Coastal and with the financial institution at which the Cash Collateral Account is maintained (Site Lease, Section 20.1(b)).
- Maintain a minimum balance of \$4.0 million in the Tip Fee Stabilization Account (Site Lease, Section 20.1(c)).

From Exhibit B to the Joinder Agreements:

- Fund up to \$5.0 million for acquisition of the site of the Hampden Facility and development of related infrastructure.
- Reserve up to \$7.0 million as security for MRC purchase obligations upon any termination that might occur under Sections 3.2(b), 3.3 and 20 of the Site Lease.
- Reserve an initial amount of \$3.0 million in a Cash Collateral Account to secure MRC obligations under Section 3.7 and 3.8 of the Master Waste Supply Agreement.
- Reserve \$1.167 million against liabilities and costs associated with the dissolution of the PERC Partnership and closure of the PERC Facility.
- Reserve up to \$1.0 million to offset incremental costs of Joining Members for extra transportation of Bridge Waste to the Back-up Facility rather than to the Hampden Facility prior to the Commercial Operation Date;
- For MSW delivered to the Hampden Facility by Joining Members in the first 36 months following the Commercial Operation Date, reserve amounts required to distribute \$5.00 per ton to Joining Members that were Equity Charter Municipalities and \$3.00 per ton to Joining Members that were New Charter Municipalities (estimated at \$1.5 million).

Note the following regarding satisfaction of these obligations:

- The \$3.0 million maintained in the Cash Collateral Account also serves as security for MRC delivery shortfall payments per Section 3.8 of the Master Waste Supply Agreement.
- The minimum balance of \$4.0 million in the Tip Fee Stabilization Account is deemed to satisfy the portion of the obligation to reserve up to \$7.0 million as a Building Reserve Fund that is not satisfied by the Cash Collateral Account.
- Funds are reserved in the Tip Fee Stabilization Account for extra transportation costs of Bridge Waste to the Back-up Facility prior to the Commercial Operation Date, and for \$1.5 million of distributions to Joining Members after the Commercial Operation Date.
- The MRC has already satisfied its obligations to fund up to \$5.0 million for acquisition of the site of the Hampden Facility and development of related infrastructure; paid amounts (after review by an independent auditor) to the Equity Charter Municipalities that did not sign Joinder Agreements (known as Departing Municipalities); and completed its obligations related to withdrawal of Charter Municipalities from the PERC Partnership without need for the \$1.167 million originally designated as a reserve against liabilities and costs that might have been associated with such withdrawal. No further reserves are required to satisfy these obligations.

In addition to the above, the MRC has already satisfied its obligation to fund a Supplemental Cash Collateral Account in the amount of up to \$4.0 million prior to Financial Close per Section 20.1(d) of the Site Lease, which account was opened timely before Financial Close, and from which the funds were withdrawn after Financial Close. No further reserves are required to satisfy this obligation.