

**LOCAL GOVERNMENT SUPPORT AGREEMENT FOR RECYCLING PROGRAMS**

**AMONG**

**THE CITY OF CHARLOTTESVILLE**

**THE COUNTY OF ALBEMARLE**

**AND**

**THE RIVANNA SOLID WASTE AUTHORITY**

This **Local Government Support Agreement for Recycling Programs** (this “Agreement”) is made this \_\_\_day of \_\_\_\_\_, 2011 by and among the **City of Charlottesville, Virginia** (the “City”), the **County of Albemarle, Virginia** (the “County”) and the **Rivanna Solid Waste Authority** (the “Authority”, individually, a “Party”, and together referred to as the “Parties”).

WHEREAS, on November 20, 1990, the City and the County entered into a certain Solid Waste Organizational Agreement (the “Organizational Agreement”) for the purpose of forming the Authority to operate the Ivy Landfill (the “Landfill”) and provide other waste management services for the City and County;

WHEREAS, the Landfill operated continuously from 1968 until the closure of Cell 2 in 2001; however the Authority continues to provide waste management services to the City and County and has continuing obligations with respect to the closure, remediation and monitoring of the Landfill;

WHEREAS, the Authority owns a transfer station at the Landfill site (the “Ivy Transfer Station”) currently operated by the Authority, with transportation and disposal of the compacted waste provided by Waste Management, Inc. (formerly Atlantic Waste Disposal, Inc.) pursuant to a contract with the Authority (the “Waste Management Contract”);

WHEREAS, in addition to the Ivy Transfer Station, the Authority provides other waste and recycling services at the Landfill site, commonly referred to as the “Ivy Material Utilization Center” (the “Ivy MUC”).

WHEREAS, the City, the County, the Authority and the University of Virginia entered into a Memorandum of Understanding dated January 10, 2005 with respect to the sharing of costs related to the closure, remediation and monitoring of the Landfill (the “Environmental Expenses MOU”);

WHEREAS, the City, the County and the Authority entered into a Local Government Support Agreement dated December 17, 2007, as amended by First Amendment to Local Government Support Agreement dated July 1, 2010, providing for the participation of the City and County in the costs of maintaining the operation of the McIntire Recycling Center and Paper Sort Facility (collectively the “Recycling Services”) as well as the Ivy Transfer Station and Ivy MUC, which agreement expired on December, 31, 2010;

WHEREAS, the Parties desire to enter into a new Agreement to continue to provide for local government contributions to the Authority by the City and the County to allow the Authority to cover the Authority’s administration and operating expenses allocated to recycling services provided at the Authority’s McIntire Recycling Center (the “MRC”) over and above the revenues received under, and the costs covered by, the Environmental Expenses MOU and the other revenues received by the Authority; and,

WHEREAS, the County and the Authority are entering into a separate Local Government Support Agreement for Ivy Material Utilization Center Programs pursuant to which a separate portion of the Authority’s Administration Services expenses (more particularly described in Paragraph 1 below) will be allocated (the “Ivy MUC Programs LGSA”).

NOW, THEREFORE, the Parties agree as follows:

1. **City’s and County’s Proportional Funding of Authority’s Projected Annual Recycling Operations Deficit**

If the Authority determines that despite all reasonable efforts to fund the operating and administrative expenses of the recycling services provided at the MRC from the sale of recyclable material collected at, and fees charged (if any) for the use of, the MRC that an operating deficit will exist, it shall prepare and adopt a budget, including reasonable reserves, balanced by using revenue to be contributed by the City and the County. For purposes of the budget for the Authority, the percentage of the City’s portion of the revenue to be contributed shall be thirty percent (30%) and the County’s portion of the revenue to be contributed shall be seventy percent (70%). The Administration Services expenses for the recycling services provided at the MRC shall be allocated as twenty percent (20%) of the total Administration Services expenses of the Authority. An example of the calculations required by this paragraph is set forth in Exhibit 1 attached hereto, and such calculations shall be made by the Authority in a manner consistent with the example in Exhibit 1. The percentage of Administration Services expenses set forth above assumes that an additional portion of the Authority’s total Administration Services expenses will be allocated under the Ivy MUC Programs LGSA, and therefore the parties hereto agree that this Agreement and the Authority’s continuation of the MRC recycling programs with the level of funding determined by such percentage is contingent upon entry by the County into the Ivy MUC Programs LGSA, and in the event of any extension

of the term of this Agreement pursuant to Paragraph 4 below, upon an extension for the same period of the term of the Ivy MUC Programs LGSA.

2. **Quarterly Payments**

If the Authority's proposed annual budget for the operating and administrative expenses of the recycling services provided at the MRC is balanced by revenues to be contributed by the City and the County, the City and the County agree to provide such revenues by payments to the Authority made quarterly on the first day of July, October, January, and April of such fiscal year of the Authority, subject to the provisions of paragraphs 5 and 6 below.

3. **Increase or Decrease in the Recycling Operations Deficit**

Payments by the City and the County to the Authority for any particular fiscal quarter shall be increased or decreased, as appropriate to take into account any extraordinary increases or reductions in MRC recycling services operation and administrative expenses and/or reductions or increases in recycling revenues from the MRC not anticipated by the adopted budget for such year upon the Authority's submission of an amended budget approved by the Authority's Board of Directors to the City and the County at least 30 days prior to the due date of the next payment. Upon completion of the audited financial statements of the Authority for the prior fiscal year, the City's and County's payments to the Authority shall be increased or decreased, as appropriate, to take into account increases or decreases in actual MRC recycling services operation and administrative expenses and/or reductions or increases in actual MRC recycling revenues of the Authority from those anticipated by the adopted budget as shown by such financial statement, and such adjustments shall be determined by using the City's and County's percentages as set forth in paragraph 1 above; provided, however, that any such increase or decrease shall take into account any increase or decrease in payments for such year pursuant to the most recently adopted amended budget of the Authority for such year, if any. In the event the amount of local government support payments exceed amount of revenues needed by the Authority pursuant to paragraph 1 above, the Authority shall remit such excess to the City and County, or in the event that the City and County extend this Agreement as provided in paragraph 4 below, the Authority may carry such excess over to the next fiscal year giving the City and County credit during such year for such excess.

4. **Term of Agreement**

This Agreement shall be effective upon execution and the financial participation requirements shall be retroactive to July 1, 2011 and shall continue for the Authority's fiscal year ending June 30, 2012. Subject to Paragraph 1 above, the term of this Agreement shall be extended for up to two (2) additional one (1) year terms upon the Authority's receipt of a written request by both the City and County not later than **January** **May** 1 of the current term or any extended term..

5. **Solid Waste Organizational Agreement**

The Parties enter this Agreement notwithstanding any provisions in the Organizational Agreement conflicting with this Agreement, and agree that in the event of any such conflicting provisions, this Agreement shall control.

6. **Voluntary City and County Funding**

Nothing in this Agreement shall be construed as creating a claim, cause of action, or right of recovery against either the City or the County by the Authority or by any creditor or claimant of the Authority. The Authority acknowledges that neither the City nor the County is under any legal or equitable obligation to provide funding to the Authority, but that each has voluntarily chosen to do so for the sole reason of insuring the continuation of a certain level of solid waste disposal and recycling services being provided by the Authority at the MRC, and the City and County each acknowledges that in the event such funding is not made available to the Authority, the Authority will necessarily have to curtail those services.

7. **Non-Appropriation**

This Agreement is subject to the approval, ratification, and annual appropriations by the Charlottesville City Council and the Albemarle County Board of Supervisors of the necessary money to fund this Agreement for this and any succeeding fiscal years. Should the City or the County fail to appropriate the necessary funding, it shall give prompt written notice to the Authority and the other party of such non-appropriation, and this Agreement shall automatically terminate without further notice by or to any Party.

8. **Amendment**

Any amendment to this Agreement must be made in writing and signed by the Parties.

9. **Governing Law**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia.

10. **Notices**

Any notice, invoice, statement, instructions, or direction required or permitted by this Agreement shall be addressed as follows:

- a. To the City: Office of the City Manager  
P.O. Box 911  
Charlottesville, VA 22902

- b. To the County: Office of the County Executive  
401 McIntire Road  
Charlottesville, VA 22902
- c. To the Authority: Office of the Executive Director  
Rivanna Solid Waste Authority  
P.O. Box 979  
Charlottesville, Virginia 22902-0979

or to such other address or addresses as shall at any time or from time to time be specified by any Party by written notice to the other Parties.

11. **Integration Clause**

This Agreement, and any amendment or modification that may hereafter be agreed to in accordance with the provisions herein, constitutes the entire understanding between the Parties with respect to the matters addressed, and supersedes any and all prior understandings and agreements, oral or written, relating hereto, except for the Environmental Expenses MOU.

12. **Execution**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WHEREAS these terms are agreeable to the City of Charlottesville, the County of Albemarle and the Rivanna Solid Waste Authority, and each Party offers its signature as of the date below.

THE CITY OF CHARLOTTESVILLE:

\_\_\_\_\_  
Maurice Jones  
City Manager

\_\_\_\_\_  
Date

THE COUNTY OF ALBEMARLE:

\_\_\_\_\_  
Thomas Foley  
County Executive

\_\_\_\_\_  
Date

RIVANNA SOLID WASTE AUTHORITY:

---

Thomas L. Frederick, Jr.  
Executive Director

---

Date

\31557129.4