

WASTE SERVICE CONTRACT
Maine Waste Solutions dba Resurgam Zero Food Waste

This Agreement made and entered into this 1st day of July, 2014, by and between the Town of Cape Elizabeth, (hereinafter “Generator”), having a principal place of business at 320 Ocean House Road, Cape Elizabeth, Maine, and Maine Waste Solutions, LLC (hereinafter “Contractor”), having a principal place of business at 910 Riverside Street, Portland, Maine (in Cumberland County).

In consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

- 1. Waste Acceptance Protocol:** Generator agrees to comply with Contractor’s standards for acceptable wastes, as defined in Addendum I of this Agreement.
- 2. Services Provided:** Contractor will collect and manage food waste from Generator’s three public schools: Pond Cove Elementary School, Cape Elizabeth Middle School, and Cape Elizabeth High School. Contractor’s scope of services and costs are detailed in Addendum II of this Agreement.
- 3. Conditions of Waste Removal:** Beginning on or around July 1, 2014, Contractor agrees to remove from the premises of Generator waste byproducts consistent with Addendum 1 of this Agreement (hereinafter, “BP”).
 - a. Contractor agrees to supply collection containers for the removal of BP from Generator.
 - b. Contractor shall collect up to 10 (ten) bins from Generator up to 2 (two) days per week.
 - c. Generator shall deposit BP bin for Contractor collection in a designated area on the Generator’s premises agreed to by both parties, and ensure that Contractor has unobstructed access to said area.
 - d. The Services provided by Contractor can be amended upon written consent of both parties.
 - e. Contractor shall provide at its discretion BP collection beyond the scope of Services defined herein, with said additional Services subject to surcharges above fees agreed to herein.
- 4. Indemnity:** Contractor shall indemnify, defend and hold the Generator harmless from and against claims, liabilities, suits, loss, cost, expense and damages arising from any negligent act or omission of Contractor in the performance of work and service pursuant to this Agreement. Contractor’s liability for all of the aforesaid matters is limited to the proceeds recovered from the insurance carried by Contractor after settling claims of third parties. Generator agrees to indemnify, defend and hold harmless Contractor from and against any claims, liabilities, suits, loss, cost, expense and damages arising from any breach of this Agreement or any negligent act or omission of the Generator in the performance of work and service pursuant to this Agreement.
- 5. Term:** This Agreement shall take effect on July 1, 2014 for a term of three (3) years. This agreement shall be automatically renewed annually unless either party gives the other party written notice of termination at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the then-existing term.
- 6. Fees and Costs:** Contractor agrees to remove BP produced by Generator for an average monthly service fee of \$1,140.58 (one-thousand one-hundred and forty and 58/100).
 - a. Contractor shall invoice Generator on the 1st day of every month of service under this Agreement.
 - b. Generator shall pay all invoices within thirty (30) days of the date of the invoice.
 - c. Generator shall receive a 2% (two percent) discount for payment within ten (10) days (NET 10).
 - d. Contractor shall be entitled to annually adjust fees and costs upward by the same percentage of increase reported in the New England Consumer Price Index.
 - e. Contractor’s cost for repairing or replacing damaged bins may be recovered from Generator.
 - f. Surcharges up to \$1.00(one and 00/100 dollars) per bin for BP in non-compliance with the standards described in Article 1 shall be assessed by Contractor at its sole discretion.

7. **Insurance:** Contractor shall maintain in effect during the term of this Agreement at its sole cost and expense, the following types of insurance: (1) Workers compensation insurance on Contractor's employees as required by the State of Maine; and (2) Liability insurance on equipment used by Contractor, in the amount of \$500,000.00, to remove BP from source locations.

8. **Cooperative Marketing License for Authorized Use of Contractor Brand Assets.** Generator, as a client of Contractor, is enabled as an Authorized User to use Contractor's *Resurgam Zero Food Waste* brand assets to promote its sustainable practices consistent with Addendum III.

9. **Right of First Refusal.** Generator grants Contractor a right of first refusal to match any offer relating to services similar to those provided hereunder which Generator receives (or intends to make) from or to any person intended to be effective on or after termination of this Agreement for any reason. The Customer shall give the Company prompt written notice of any such offer (including a copy) and at least 15 days to respond to it.

10. **Termination:** The parties shall have the right to terminate this Agreement at the normally scheduled expiration of the contract or its extension only upon: 1) deliverance of certified written notification to the Contractor no less than ninety (90) days prior to the termination date. If Generator wishes to terminate for convenience prior to the scheduled expiration of the contract or its extension, Generator agrees to payment of liquidated damages in the amount of ninety (90) day average billings by Contractor to Generator. Average billings shall be determined by the arithmetic average of the three preceding months of invoices prior to the date of the letter of termination. Contractor shall have the right to terminate this Agreement should Generator habitually violate Addendum 1 of this Agreement, following a written warning of same.

11. **Force Majeure:** In the event that Generator is prevented from generating BP, or Contractor is prevented from accepting and removing BP because of fire, flood, windstorm, earthquake, or other Acts of God; or because of war, civil unrest, or terrorist attack; or in the event of governmental restrictions, such party shall be excused from its obligations under this Agreement for the duration of the period of which it is so prevented.

12. **Governing-Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.

13. **Entire Agreement:** This Agreement and any exhibits attached hereto contain the entire understanding of the parties with respect to the matters contained herein. This Agreement may only be modified by written agreement of the parties.

In witness whereof, the parties so execute this Agreement.

Contractor:
Maine Waste Solutions, LLC

Generator:
Town of Cape Elizabeth

By:

By:

Print:

Print:

Title:

Title:

Date:

Date:

Addendum I: WASTE ACCEPTANCE PROTOCOL

To enable Contractor to provide Generator the highest level of professional service, Generator commits to separate non-compostable waste from Contractor's collection bin. To gain the benefits of the Resurgam Zero Food Waste composting solution, Generator will provide a clean stream of compostable waste. Contractor cannot accept non-compostable waste.

- 1. Definition of Acceptable Waste.** Wastes acceptable to Contractor are those that decompose during Contractor's composting process, including:
 - a. Fruits and Vegetables
 - b. Meat & Fish scraps
 - c. Eggshells
 - d. Paper Towels and Napkins
 - e. Coffee Grounds and Filters
 - f. Bread, Bagels and other Baked Goods
 - g. Rice
 - h. Pasta

- 2. Definition of Unacceptable Waste.** Wastes unacceptable to Contractor are those that do not decompose during Contractor's composting process, including:
 - a. Plastics (including but not limited to table wear, drinking vessels, straws, and packaging)
 - b. Metals (including but not limited to silverware, canned good containers, and bottle caps)
 - c. Wax coated packaging
 - d. Styrofoam
 - e. Tin foil
 - f. Condiment packets
 - g. Bulky wood
 - h. Leather
 - i. Hygiene products

- 3.** Generator further agrees that it possesses no understanding, data, information or knowledge that waste by-products and residuals to be handled under this Agreement are hazardous materials as defined by State and Federal law.

- 4.** Contractor at its discretion has the right to refuse collection from Generator bins in violation of this Waste Acceptance Protocol.

Addendum II. SCOPE OF SERVICES, MANAGEMENT FEE

Initial Base Line Service & Price

Contractor will collect and manage a total of 18 food waste totes for Generator each week. The following is a breakdown of bin distribution by school and collection:

- Pond Cove / CEMS: 10 bins per week (5 per collection)
- CEHS: 8 bins per week (4 per collection)
- Community Center: 1 bin per week

Contractor’s base line service to Generator is represented in the following table. Requests for additional totes and/or collection frequency will be billed according to the fees below. A 5-day written notice is requested for such service changes.

Pick Ups / Week	AVG # Totes	Per Stop Fee	Per Tote Fee	Per Week Fee	Per Month Fee
2	10	\$23.69	\$10.22	\$265.25	\$1,140.58

Management Fee, Detail of Services and Costs

It is recognized that there are significant costs associated with the implementation of this food waste composting service that include but are not limited to: container delivery, waste stream contamination removal, staff training, station monitoring, and attendance at school functions / meetings. As compensation to offset such costs, Contractor will bill Generator a management fee of \$750.00 for services rendered during the initial launch period.

1. Container delivery: no charge
2. Contamination removal: no charge
3. Principal / Administration meetings: 2 hours, \$150.00
4. Staff outreach / school assemblies: 2 hours, \$150.00
5. Custodial outreach / trainings: 2 hours, \$150.00
6. Lunch station monitoring (3 lunches): 4 hours, \$300.00

Total: \$750.00 one-time initiation fee

Addendum III. AUTHORIZED USE OF RESURGAM ZERO FOOD WASTE BRAND

ASSETS

Generator, as a client of Contractor, is enabled by this contract as an Authorized User to utilize Contractor's *Resurgam Zero Food Waste* brand assets to promote Generator's sustainable business practices.

The assets that are the subject of this Agreement shall consist of *Resurgam Zero Food Waste* logo, slogans, marketing language, and materials (hereinafter referred to as the "Licensed Materials").

Generator acknowledges that the trademark, copyright and title to the *Resurgam Zero Food Waste* brand assets and any trademarks or service marks relating thereto remain with Contractor. Generator shall have no right, title or interest in the Licensed Materials except as expressly set forth in this Agreement.

Contractor shall have the right, upon its request, to review and approve Generator's use of the Licensed Materials in Cooperative Marketing and to request representative copies of materials created in connection with Cooperative Marketing.

Display. Generator shall have the right to physically or electronically display the Licensed Materials.

Unauthorized Use. Generator shall not knowingly permit anyone other than Generator to use the Licensed Materials.

Modification of Licensed Materials. Generator shall not modify or create a derivative work of the Licensed Materials without the prior written permission of Licensor.