

RESOLUTIONS

RESOLUTIONS APPROVING THE GENERAL TERMS OF A SETTLEMENT OF A DISPUTE WITH THE CITY OF VIRGINIA BEACH CONCERNING THE AUTHORITY'S YARD WASTE FACILITY INVOLVING A CLOSURE OF THE FACILITY, WITH THE TERMS TO BE INCLUDED IN A FINAL DEFINITIVE AGREEMENT THAT WILL BE CONSIDERED BY THE BOARD AT A SUBSEQUENT MEETING

WHEREAS, the Southeastern Public Service Authority of Virginia ("SPSA") operates on a portion of Virginia Beach Landfill No. 2 (the "Virginia Beach Landfill") a facility for the processing of yard waste materials delivered to the Virginia Beach Landfill ("Yard Waste Facility") involving composting, mulching and the sale of compost and mulch to the public; and

WHEREAS, the operation of the Yard Waste Facility is provided as a service to SPSA's member communities and commercial customers and affords them an opportunity to recycle a portion of their solid waste at a reduced disposal rate and further benefits such members and customers by extending the capacity of SPSA's landfill located in Suffolk, Virginia; and

WHEREAS, the Yard Waste Facility is operated by SPSA on a portion of the Virginia Beach Landfill pursuant to the terms of the lease with the City of Virginia Beach, Virginia, dated November 10, 2003 ("Yard Waste Facility Lease") and a rezoning and conditional use permit approved by City Council of the City of Virginia Beach at its meeting on January 13, 2004 (the "City Approval"); and

WHEREAS, certain residents of adjacent residential neighborhoods have demanded that SPSA cease its operation of the Yard Waste Facility because of odors emanating therefrom and alleged health problems associated with composting operations conducted at the Yard Waste Facility; and

WHEREAS, notwithstanding numerous operational improvements that SPSA has implemented and proposed for the Yard Waste Facility, the City of Virginia Beach, Virginia (the "City") has insisted that SPSA close the Yard Waste Facility; and

WHEREAS, SPSA and the City have agreed that the Yard Waste Facility should be closed on terms that will recognize SPSA's investment, that will allow it to relocate its mulching operations to a site at the Virginia Beach Landfill where such operations were formerly conducted and that will insure that closure of the Yard Waste Facility and cessation of composting activities occurs as soon as reasonably practicable;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of SPSA approves the following terms for closure of the Yard Waste Facility for inclusion in a final definitive agreement (the "Definitive Agreement") and related documentation to be agreed upon between City staff and SPSA staff and submitted to the Board for consideration at a later Board meeting:

1. The City will pay SPSA the sum of One Million Four Hundred Fifty Thousand Dollars (\$1,450,000.00) as compensation for SPSA's investment in the Yard Waste Facility. The timing and method of payment shall be included in the Definitive Agreement.

2. As a demonstration of its good faith, SPSA will cease accepting new yard waste at the Yard Waste Facility site (the "Yard Waste Site") on June 1, 2007 and will process and sell all yard waste received through that date as promptly as possible. If, however, SPSA determines in its sole judgment that an acceptable Definitive Agreement will not be agreed upon, then SPSA may, at its option, resume yard waste operations at the Yard Waste Site pursuant to the terms of the Yard Waste Facility Lease and the City Approval. Any continued operation at the Yard Waste Site will be conducted in accordance with current practices, subject to the terms of the Yard Waste Facility Lease and the City Approval.

3. The Definitive Agreement will include the following provisions:

(a) The Yard Waste Facility Lease will be terminated no later than December 31, 2007 under the terms of a termination instrument acceptable to both parties (the "Lease Termination Agreement").

(b) The City will accept the Yard Waste Site from SPSA after SPSA has processed and sold or otherwise removed all yard waste materials and SPSA has removed its equipment and structures from the Yard Waste Site. All roads and pavement will remain in place.

(c) SPSA will comply with all existing regulations and best management practices until the Yard Waste Site is surrendered to the City. SPSA will have no obligation to make any additional improvements to the Yard Waste Site or to upgrade its operations.

(d) The City will assume all responsibility for closure of the Yard Waste Site including compliance with DEQ closure requirements and any modifications to the Yard Waste Site required to meet long-term storm water issues.

4. The City will lease to SPSA the nine (9) acre site previously leased by SPSA (the "Mulching Site") for operation of a mulching facility for a term ending January 24, 2018, the expiration date of the City's August 8, 1984 Use and Support Agreement with SPSA (the "Use and Support Agreement"). In lieu of rent, SPSA agrees to provide white goods recycling services to the City without charge. The terms of the lease of the Mulching Site between the City and SPSA shall be included in a lease agreement acceptable to both parties (the "Mulching Site Lease").

5. The terms of the Definitive Agreement will not address and will have no effect on the calculation of fees charged for the disposal of yard waste or other solid waste. Disposal and other fees shall be subject to SPSA's regular rate setting procedures and to the terms of the Use and Support Agreement and the August 8, 1984 Agreement for Disposal of Ash and Process Residue between the City and SPSA.

6. The Definitive Agreement, the Lease Termination Agreement, the Mulching Site Lease and any other related documents shall all be subject to approval by SPSA's Board and the terms set forth in this Resolution shall not be binding upon SPSA or the City. These Resolutions state the general terms that SPSA is willing to include in a Definitive Agreement under which SPSA would be willing to close the Yard Waste Facility.

Adopted this 25th day of April, 2007

Attest: _____
Leroy Bennett
Chairman, SPSA Board of Directors

