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**Resolve, Authorizing the Executive Department To Facilitate
the Closure of the Maine Energy Recovery Company Facility
in Biddeford by Negotiating the Transfer of the Juniper Ridge
Landfill and Requiring Other Actions To Improve Recycling**

Whereas, the Maine Energy Recovery Company facility located in downtown Biddeford has been for years a source of controversy in the City of Biddeford and the neighboring City of Saco; and

Whereas, the cities of Biddeford and Saco have engaged in periodic negotiations with the owner of the Maine Energy Recovery Company facility, Casella Waste Systems, Inc., in an effort to close the Maine Energy Recovery Company facility; and

Whereas, the cities of Biddeford and Saco have long believed that the closure of the Maine Energy Recovery Company facility would enhance economic development in the cities and in southern Maine; and

Whereas, the City of Biddeford is interested in acquiring the Maine Energy Recovery Company facility for the purpose of closing that facility; and

Whereas, in 2004, the State purchased the West Old Town Landfill, now the Juniper Ridge Landfill, from Fort James Operating Company for \$26,400,000 using funds provided by Casella Waste Systems, Inc.; and

Whereas, in 2004, Casella Waste Systems, Inc., paid the State \$26,400,000 as the winning bidder to serve as the 30-year contractual operator of the landfill and has paid for all capital improvements to the landfill and associated costs of its operation since 2004; and

Whereas, Casella Waste Systems, Inc., is willing to sell the Maine Energy Recovery Company facility to the City of Biddeford at a price set below its assessed value if the State transfers ownership and licenses, including any public benefit determination, of the Juniper Ridge Landfill to Casella Waste Systems, Inc., to be operated by Casella Waste Systems, Inc., in compliance with the laws and rules applicable to a commercial solid waste disposal facility with the ability to dispose of municipal solid waste; and

Whereas, as part of the transfer of the Maine Energy Recovery Company facility, and as a means to maximize recycling rates, Casella Waste Systems, Inc., will provide the City of Biddeford with a citywide residential, curbside zero-sort recycling program; and

Whereas, upon the transfer contemplated above, Casella Waste Systems, Inc., will pay the higher per ton host fee to the City of Old Town for the disposal of all municipal solid waste at a volume not to exceed the volume currently being accepted at the Maine Energy Recovery Company facility as anticipated and provided for in the host community compensation and facility oversight agreement between the City of Old Town, Casella Waste Systems, Inc., and the State executed in 2005 or as amended; and

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Whereas, Casella Waste Systems, Inc., is willing to accept at the Juniper Ridge Landfill a restriction on out-of-state waste identical to the current limitation placed on the State's other commercial landfill, the Crossroads Landfill owned by Waste Management, Inc., in the Town of Norridgewock; and

Whereas, Casella Waste Systems, Inc., and the Penobscot Energy Recovery Company are working collaboratively on a plan to establish a zero-sort recycling system for the Penobscot Energy Recovery Company charter member communities in an effort to maximize recycling and to ensure that the Penobscot Energy Recovery Company does not experience shortfalls of municipal solid waste arising from this initiative; now, therefore, be it

Sec. 1 Transfer of landfill ownership and licenses authorized. Resolved: That, notwithstanding the Maine Revised Statutes, Title 5, section 1825-B, subsection 1, Title 38, section 1310-X and Title 38, chapter 24, the following provisions apply.

1. The State, through its executive branch departments, is authorized to negotiate the terms, procedures, responsibilities and schedule of, and to consummate, the state components of the contemplated transaction necessary to facilitate the closure of the Maine Energy Recovery Company facility, significantly enhance zero-sort recycling and institute other aspects of the contemplated transaction that must include the following actions, each of which is a condition precedent to closing:

A. The transfer of the ownership and licenses of the Maine Energy Recovery Company facility to the City of Biddeford;

B. The transfer of the ownership and licenses of the Juniper Ridge Landfill to Casella Waste Systems, Inc., with the authorization to dispose of municipal solid waste at the Juniper Ridge Landfill at a volume not to exceed that volume currently being accepted for disposal at the Maine Energy Recovery Company facility and a limitation on the amount of out-of-state waste that may be received at the Juniper Ridge Landfill identical to the limitation placed on the other commercial landfill in the State, the Crossroads Landfill owned by Waste Management, Inc., in the Town of Norridgewock;

C. The termination of the operating services agreement between Casella Waste Systems, Inc., and the State; and

D. The modification or transfer of the public benefit determination for the Juniper Ridge Landfill expansion occasioned by the change in ownership of the Juniper Ridge Landfill, as the landfill is described in Resolve 2003, chapter 93, which authorized the State to acquire the landfill, to Casella Waste Systems, Inc., in accordance with the terms and conditions of this resolve.

2. A required component of the contemplated transaction must be that the State, through its executive branch departments, and Casella Waste Systems, Inc., pursue, and Casella Waste Systems, Inc., execute if presented, an amendment to the host community compensation and facility oversight agreement between the City of Old Town, Casella Waste Systems, Inc., and the State authorizing continuation of the agreement under its existing provisions, notwithstanding termination of the operating services agreement and the Town of Alton community benefits agreement authorizing continuation of the agreement under its existing provisions, notwithstanding termination of the operating services agreement.

Notwithstanding Title 38, section 1310-N, subsection 9, an additional or new community benefits agreement with the City of Old Town or Town of Alton may not be required prior to the earlier of:

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A. The expiration of the term of 30 years or term of 28 years, 4 months provided for in the respective community benefits agreements existing at the time of adoption of this resolve; and

B. After amendment of the respective community benefits agreements as contemplated in this subsection, termination of the agreement by one or more of the parties as provided in the agreement.

3. Notwithstanding the operation of the Juniper Ridge Landfill as a privately owned commercial solid waste disposal facility, the joint citizen advisory committee shall continue as provided in Resolve 2003, chapter 93, section 1, subsection 5, as amended by Public Law 2005, chapter 341, section 2, and as provided in Title 38, section 1310-N, subsection 12.

4. Notwithstanding any existing municipal ordinance provisions that differentiate between a state-owned and privately owned landfill or pertain to transfer of a landfill from state to private ownership, the authority of municipalities to regulate the operation or any other aspect of the Juniper Ridge Landfill as a commercial solid waste disposal facility continues as provided in Resolve 2003, chapter 93, section 1, subsection 5.

5. The tipping fees provided for the Fort James Operating Company, now known as the Old Town Fuel and Fiber mill and the Lincoln Paper mill in the operating services agreement must continue to apply to the Juniper Ridge Landfill as a commercial solid waste disposal facility.

6. Nothing in this resolve permits the abrogation of, abrogates or intends to abrogate the sovereign immunity of the State with respect to any agreement authorized under this resolve; and be it further

Sec. 2 Report. Resolved: That, by February 15, 2013, the Executive Department, State Planning Office or the Department of Economic and Community Development shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters on actions taken pursuant to section 1.

SUMMARY

This resolve authorizes the State to take action to facilitate the transfer of the Maine Energy Recovery Company facility to the City of Biddeford and the closure of this facility. It also authorizes the State to transfer the ownership and licenses of the Juniper Ridge Landfill in the City of Old Town to Casella Waste Systems, Inc. It specifies requirements that must be met before the Maine Energy Recovery Company facility may be closed, one of which is the transfer of the Juniper Ridge Landfill to Casella Waste Systems, Inc.