

1 A RESOLUTION STATING THE CITY'S UNDERSTANDING
2 OF REGIONAL EFFORTS TO MANAGE SOLID WASTE IN
3 SOUTHSIDE HAMPTON ROADS AFTER JANUARY 24,
4 2018 AND THE CITY'S INTENT TO PURSUE
5 COOPERATIVE DEVELOPMENT OF A REGIONAL SOLID
6 WASTE MANAGEMENT SYSTEM
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9 WHEREAS, the Southeastern Public Service Authority ("SPSA") was created by
10 concurrent resolution of the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and
11 Virginia Beach and the Counties of Isle of Wight and Southampton (the "member localities") in
12 1976, and
13

14 WHEREAS, between 1983 and 1984, Virginia Beach and the other member localities
15 entered into individual Use and Support Agreements providing, among other things, that each
16 member jurisdiction would deliver substantially all of the disposable solid waste generated or
17 collected by or within or under the control of the member locality; and
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19 WHEREAS, all of the Use and Support Agreements will expire on January 24, 2018;
20 and
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22 WHEREAS, a series of studies have been performed by SCS Engineers for the region
23 as well as other studies for individual localities in order to assess regional solid waste
24 management issues following the expiration of the Use and Support Agreements; and
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26 WHEREAS, the City of Virginia Beach has determined that a cooperative approach to
27 the continuation of a regional system of municipal solid waste management would be in the
28 best interests of the City and its citizens and businesses; and
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30 WHEREAS, SPSA has established a strategy to and will eliminate its debts by the date
31 of expiration of the current Use and Support Agreements; and
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33 WHEREAS, SPSA provides a reliable, effective and environmentally sound operation
34 for the disposal of municipal solid waste; and
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36 WHEREAS, the City Council believes that a cooperative regional approach to the
37 disposal of municipal solid waste is superior to other alternatives available to the City for the
38 disposal of municipal solid waste, ~~including a "go-it-alone" approach~~; and
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40 WHEREAS, at the direction of the Chief Administrative Officers of the members, a
41 technical committee was established to review and address numerous policy and operational
42 issues; and

43
44 WHEREAS, the Chief Administrative Officers have reached a consensus for the
45 continuation of SPSA as the regional provider of solid waste disposal service after January 24,
46 2018, subject to the approval of the governing bodies of the member localities; and

47
48 WHEREAS, pursuant to legislation enacted in 2009, the process for appointment of
49 SPSA's Board of Directors was changed, and such legislation provides that the process shall
50 remain in effect until SPSA is dissolved pursuant to applicable provisions of the Virginia Water
51 and Waste and Authorities Act (the "Act")

52
53 WHEREAS, pursuant to legislation enacted in 2000, SPSA shall "continue and have
54 perpetual existence" until dissolved pursuant to applicable provisions of the Act; and

55
56 WHEREAS, the directors of SPSA have an equal vote in decisions made by the Board,
57 and each member locality may shall be represented by two directors; and

58
59 WHEREAS, tipping fees paid by the member localities are not uniform, in that the City
60 of Suffolk, as the host of the Regional Landfill, does not pay tipping fees and the City of
61 Virginia Beach's tipping fees are capped through the year 2015, and tipping fees charged to
62 private entity customers, are also not uniform; and

63
64 WHEREAS, under current statutory provisions, a member locality may withdraw from
65 SPSA, provided that all written obligations to SPSA incurred by such locality while it was a
66 member of SPSA shall remain in full force and effect following the locality's withdrawal; and

67
68 WHEREAS, the SPSA's contract with Wheelabrator Technologies, Inc. for disposal of
69 municipal solid waste ("MSW"), which expires on January 24, 2018, requires that an
70 established minimum annual tonnage be delivered to Wheelabrator's Waste-to Energy Plant in
71 the City of Portsmouth; and

72
73 WHEREAS, the current Conditional Use Permit authorizing the SPSA Landfill in the City
74 of Suffolk does not encompass all potential or likely expansion areas identified in the SPSA's
75 land use plan; and

76
77 WHEREAS, there is a lack of uniformity among the provisions governing the ownership,
78 leasing, and use of the transfer stations operated by SPSA; and

79 | ~~WHEREAS, SPSA's long term debt will be retired by the expiration of the existing Use~~
80 | ~~and Support Agreements; and~~

81 | WHEREAS, in the event of SPSA's dissolution, its assets are to be distributed in
82 | accordance with applicable provisions of the Act, but that the current Use and Support
83 | Agreement between SPSA and the City of Suffolk provides that the Regional Landfill site shall
84 | be conveyed to the City of Suffolk upon permanent completion of the operation of the Landfill
85 | by SPSA for the disposal of solid waste; and

86 |
87 | WHEREAS, although SPSA primarily provides municipal solid waste disposal services,
88 | it has, on occasion, provided recycling and other disposal services for white goods, yard waste
89 | and household hazardous waste; and

90 | WHEREAS, the City of Virginia Beach owns and operates a legally permitted municipal
91 | landfill with sufficient capacity to operate many decades into the future; and

92 |
93 | WHEREAS, SPSA may, at its option, dispose of ash and residue from the Portsmouth
94 | waste-to-energy plant at either the Regional Landfill or the Virginia Beach Landfill;

95 |
96 | NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL:

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98 | ~~That it supports the continued operation of~~ That SPSA ~~should continue to operate~~ after
99 | January 24, 2018 as the region's solid waste disposal service provider ~~under subject to~~ the
100 | following guidelines principles, which should be set forth in a Memorandum of Understanding
101 | among the aforementioned Hampton Roads localities establishing the principles to be
102 | embodied in Use and Support Agreements entered into for a term after January 24, 2018
103 | ("Post -2018 SPSA organization"):

- 104 |
105 | 1. The current process for appointing the board of directors membership will be
106 | retained; unless or until the state laws governing SPSA are amended to provide
107 | for a different manner of appointment;
- 108 |
109 | 2. Membership in the ~~new~~-Post-2018 SPSA organization will be open only to those
110 | localities that have entered into new Use and Support Agreements or similar
111 | instruments with SPSA
- 112 |
113 | 3. After January 24, 2018, SPSA will may be comprised of ~~an Eastern Divisions, the~~
114 | ~~members of which shall consist of the Cities of Chesapeake, Norfolk,~~
115 | ~~Portsmouth, Suffolk and Virginia Beach, and a Western Division, consisting of~~
116 | ~~the City of Franklin and the Counties of Isle of Wight and Southampton;~~ with the
117 | divisional membership based upon the method of solid waste disposal employed

- 118 | by the member localities, which impacts the establishment of a fair and
 119 | reasonable tipping fee;
- 120 |
- 121 | 4. If SPSA is comprised of divisions, then when ~~Where~~ an issue to be decided
 122 | affects the member localities of only one Division, only the representatives of the
 123 | member localities of that Division shall be entitled to vote, and for issues affecting
 124 | one or more member localities of both Divisions, all SPSA representatives
 125 | member localities shall be entitled to vote. Each member shall have an equal
 126 | vote within its division and each member shall have an equal vote when voting
 127 | on issues affecting the entire Post-2018 SPSA organization;
- 128 | 5. Members shall pay equal fees for equal services ~~Tipping fees for all member~~
 129 | ~~localities will be equal~~, and ~~tipping fees for private entity non-member~~ customers
 130 | will be equal to or higher than those of member localities;
- 131 |
- 132 | ~~6.~~ A members locality will have the right to withdraw from the Post-2018 SPSA
 133 | organization and terminate its Use and Support Agreement or other instrument
 134 | binding it to SPSA, provided it satisfies its ~~financial responsibilities for long term~~
 135 | ~~debt written obligations in accordance with applicable statutes incurred during its~~
 136 | ~~membership and there are no adverse impacts on the other members localities~~;
- 137 | 6.
- 138 | 7. Based on a thorough review of the alternatives, ~~The~~ SPSA Board of Directors
 139 | will determine by majority vote the fiscally and environmentally best disposal
 140 | method for the member localities waste it receives;
- 141 |
- 142 | ~~7.~~ 8. Prior to the execution of a Use and Support aAgreement, the member localities
 143 | will agree on the percentage and types of solid waste to be delivered to SPSA ;
- 144 |
- 145 | ~~8.~~ 9. SPSA will seek a comprehensive conditional use permit allowing the full
 146 | expansion of the Regional Landfill and determine the financial feasibility of that
 147 | expansion prior to the execution of new Use and Support Agreements;
- 148 |
- 149 | ~~9.~~ 10. Localities shall have the option to acquire Oownership of the all-transfer
 150 | stations in that locality upon such terms and conditions that may be agreed upon
 151 | with SPSA. SPSA will continue to operate all transfer stations; will become or
 152 | remain, as the case may be, that of the locality in which the property is located;
- 153 |
- 154 | ~~10.~~ 11. Post-2018 SPSA long term debt will be restricted to capitalization costs
 155 | associated with the Regional Landfill, and a maximum of Five Million Dollars per
 156 | member as contributory financing for the construction of new, relocated, or

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157 revitalized or expanded existing transfer stations within the member localities,
158 and will be in conformity with the provisions of Virginia Code Section 15.2-
159 5102.1(8) provided that such payments to a member shall be approved by the
160 Board of Directors after presentation of evidence sufficient to support the need
161 for such new, relocated, renovated or expanded transfer station;
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163 ~~11.~~ 12. An annual business expense will be created to serve as a host fee for the
164 City of Suffolk, with such expense to be allocated within the tipping fee rates
165 established for all member localities;
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167 ~~12.~~ 13. SPSA will have the authority to provide other solid waste disposal services
168 in addition to municipal solid waste disposal if the provision of such other
169 services is permitted by law, financially feasible and appropriate contracts are
170 entered into for such services and the cost allocated to users of that service;
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172 ~~13.~~ 14. The use of the Virginia Beach landfill for municipal solid waste disposal
173 will only occur during emergency conditions such as, but not limited to, natural
174 disasters; and
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176 ~~14. The disposal of ash and residue from the Portsmouth waste-to-energy plant will~~
177 ~~be negotiated by separate agreement.~~
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179 BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
180 BEACH:

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182 That the City of Virginia Beach will commit to remaining in SPSA upon the expiration of
183 the current Use and Support Agreement, ~~and so that~~ all assets except the transfer stations
184 remain the property of SPSA.
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186 BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
187 BEACH:

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189 That the City Manager is directed to undertake all necessary actions to effectuate the
190 provisions of this Resolution, with a view toward the continued existence of SPSA as the
191 provider of solid waste disposal for the region after the expiration of the current Use and
192 Support Agreements on January 24, 2018. Such actions shall include: (1) participating in
193 negotiations of a Memorandum of Understanding with other SPSA members, and thereafter
194 participating in negotiations of a new Use and Support Agreement with SPSA, with both the
195 said Memorandum of Understanding and Use and Support Agreement containing terms

196 materially in accordance with the foregoing provisions of this Resolution; (2) and such other
197 and further actions as may be necessary or advisable or as are directed by the City Council.

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199 Adopted by the City Council of the City of Virginia Beach, Virginia on the _____ day
200 of _____, 2013.

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APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

City Manager's Office

City Attorney's Office

210 CA-12484
211 January 24, 2013
212 R-2

DRAFT

