

**STATE OF CONNECTICUT**

**V.**

**CITY RECYCLING, INC.**

**CONSENT ORDER # COWSWDS14001**

**Date Issued:** June 25, 2014

A. With the agreement of City Recycling, Inc. ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:

1. City Realty, LLC, is the owner of property located at 61 Taylor Reed Place in Stamford, Connecticut (also known as 336 Courtland Avenue) and more fully described as Assessor's Map 112, Block 304 and Lot A-1-2. The property will hereinafter be referred to as "the site".
2. Respondent, City Recycling, Inc. is the operator of a permitted solid waste volume reduction plant ("facility") located at the site under Permit to Operate No. 1350844-M/PO issued by the Department of Energy and Environmental Protection ("Department") on May 9, 2008.
3. On January 9, 2013, Application No. 201300293, submitted and prepared by Anchor Engineering Services, Inc. for City Recycling, Inc. for the Renewal of Permit to Operate No. 1350844-M/PO was received by the Department and remains pending.
4. On January 9, 2013, Application No. 201300291, submitted and prepared by Anchor Engineering Services, Inc. for City Recycling, Inc. for the Modification of Permit to Operate No. 1350844-M/PO was received by the Department and remains pending.
5. On April 16, 2014, the Department reviewed reports of compliance audits dated January 15, 2014 and April 14, 2014 submitted and prepared by Anchor Engineering Services, Inc. as required by Permit to Operate No. 1350844-M/PO.
6. On April 23, 2014, based on the Department's review referenced in paragraph A.5. above, the Department issued Notice of Violation (NOV) No. WSWDS14021 to the Respondent for:
  - a. Altering the design and method of operation of the facility, specifically, a new building was constructed, new equipment was installed, and a new process was operated after July 1, 1971, without a plan, design and method of operation of the altered facility having been filed with the Department and approved by the Commissioner by the issuance of a modified permit as required by Section 22a-208a(d)(1) of the Connecticut General Statutes ("CGS"); Section 22a-209-4(e) of the Regulations of Connecticut State Agencies ("RCSA"); and paragraph nos. A. 2, 3, and 6 of the Permit to Operate No. 1350844-M/PO issued on May 9, 2008.
  - b. Exceeding the storage limit of 200 cubic yards for the storage of commingled/single stream recyclables under paragraph C. 4. e. of solid waste permit to operate no. 1350844-M/PO; and

- c. The storage and processing of commingled recyclables in undesignated/unpermitted areas of the facility in violation of paragraph C. 3. and 4. e. of solid waste Permit to Operate No. 1350844-M/PO.
  7. On April 25, 2014, the Respondent submitted a signed Compliance Statement to the Department for the violations alleged in NOVSWDS14021. Based on this submission, Respondent has corrected the violations corresponding to those listed in subparagraphs A. 6. b and A. 6. c of this consent order.
  8. On May 1, 2014, the Respondent submitted a Business Recycling Profile for corporate offices located at 8 Viaduct Road and the facility at 61 Taylor Reed Place in Stamford, Connecticut.
  9. On May 21, 2014, the Respondent submitted a letter dated May 8, 2014 from the manufacturer of the processing equipment noted in Paragraph A.6.a above, Van Dyk, detailing the timeline and description of the final adjustment and testing procedure for the equipment.
  10. By virtue of the above, Respondent has violated CGS Sections 22a-208a(d)(1) and RCSA Section 22a-209-4(e) for the alteration of the design and method of operation of the processing of recyclables on the site without the required permits authorizing such activity.
  11. By agreeing to the issuance of this consent order, the Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1 and A.2 above.
- B. With the agreement of Respondent, the Commissioner, acting under CGS Sections 22a-6, 22a-208, 22a-225, 22a-226, and 22a-424, orders Respondent as follows:
1. Compliance. Respondent shall maintain its compliance with all applicable provisions of Connecticut's solid waste management regulations. In particular:
    - a. Subject to the provisions of this consent order, Respondent shall not operate any unpermitted processes of solid waste at the site unless a valid permit modification, issued by the Commissioner, is first obtained.
    - b. For final adjustment and testing purposes only, Respondent shall be allowed to operate the processing equipment noted in Paragraph A.6.a. until July 25, 2014.
    - c. On or before July 25, 2014, Respondent shall retain a third party entity licensed in Connecticut as an electrician to verify in writing to the Commissioner that the unpermitted equipment subject to this consent order has ceased in operation and rendered de-energized (locked out) until such time as a solid waste permit is issued.
    - d. On or before July 29, 2014, Respondent shall submit for the Commissioner's review said written verification identified in paragraph B.1.c..
    - e. On or before **sixty (60) days** after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a comprehensive plan which details the actions and/or operational changes it has undertaken or will undertake to ensure future compliance with the Connecticut solid waste management regulations including, but not limited to, those set forth in paragraph A.6 of this consent order. The plan shall address, among other things, inspection procedures, recordkeeping and reporting, training, and emergency planning procedures. Within five (5) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.

2. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
3. Status of Notice of Violation No. WSWDS14021. This consent order supersedes Notice of Violation No. WSWDS14021.
4. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **ten thousand dollars (\$10,000)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.6 of this consent order.
5. Supplemental Environmental Project. In addition to the penalty referenced in paragraph B.4 above, Respondent has agreed to fund one or more supplemental environmental projects ("SEP") acceptable to the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects". Therefore, on or before **thirty (30) days** after the date of issuance of this consent order, Respondent shall pay **ten thousand dollars (\$10,000)** to the **Statewide SEP Account**, provided Respondent has not received approval from the Commissioner to perform an alternate SEP. Within **fourteen (14) days** of issuance of the order, Respondent may submit an alternate SEP proposal for the Commissioner's review and written approval. If such approval is received, then the payment to the Statewide SEP Account noted above is limited to the difference between the credited value of the SEP and **ten thousand dollars (\$10,000)**. The proposed alternative SEP shall be implemented within sixty (60) days of the Commissioner's approval of the proposed SEP. Any payments under this paragraph shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection", with notation thereon "Statewide SEP Account" and the consent order number identified on the first page of this consent order. A copy of the check and any transmittal letter shall also be sent to Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
  - a. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contributions or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
  - b. If made when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
  - c. If Respondent fails to fully perform any SEP in accordance with paragraph B.5 of this consent order, Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to: the total estimated cost, as determined by the Commissioner, of all such SEP(s); plus either \$2,500 or 10% of such total estimated cost, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in paragraph B.5.
6. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to "Connecticut Department of Energy and Environmental Protection".

The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division civil penalty" and the consent order number identified on the first page of the consent order. A copy of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, at the same address.

7. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.
8. Definitions. As used in this consent order, "Commissioner" means the Commissioner of Energy and Environmental Protection or a representative of the Commissioner.
9. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
10. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the RCSA, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 53a-157b of the CGS and any other applicable law."
11. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
12. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under section 53a-157b of the CGS and any other applicable law.

13. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
14. Commissioner's powers. \*Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate pollution.
15. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
16. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance.
17. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
18. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
19. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
20. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

21. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Laurene Buckowski, Sanitary Engineer 2  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
79 Elm Street, 4<sup>th</sup> Floor  
Hartford, Connecticut 06106-5127

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Respondent consents to the issuance of this consent order without further notice. "The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

**CITY RECYCLING, INC.**

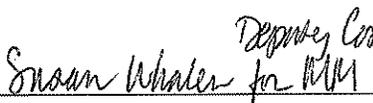
BY:   
*(Signature of the individual with authority to bind Respondent to terms of consent order)*

Michael F. Ferro, Jr.  
Name (typed)

Secretary  
Title

6-18-14  
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.

 *Deputy Commissioner*  
Macky McCleary  
Deputy Commissioner

June 24, 2014  
Date

CONSENT ORDER # COWSWDS 14001

City of Stamford Land Records