



## SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT

**THIS AGREEMENT** made this 22<sup>nd</sup> day of December, 2010, by and between the TOWN OF COLONIE, a municipal corporation duly organized and existing under the laws of the State of New York (hereinafter called the "TOWN") and WASTE MANAGEMENT INC. (hereinafter called "WMI") having its principal place of business at 200 Church Street, Albany, N.Y. 12202.

**WHEREAS**, the TOWN operates an integrated system for the management of municipal solid waste; and

**WHEREAS**, the integrated system for the management of municipal solid waste consists of the following facilities:

- a. Town Landfill
- b. Town Yard Waste Compost Facility
- c. Town Materials Recycling Facility
- d. Town Residential Recycling Drop Off Station
- e. Town Refuse Transfer Station; and

**WHEREAS**, the TOWN'S integrated system for the management of municipal solid waste offers incentives for waste reduction, recycling, and disposal of the various categories of municipal solid waste collected from waste generators by implementing a fee structure in a manner that protects public health and promotes waste reduction and sound environmental protection; and

**WHEREAS**, the TOWN and WMI understand that the TOWN'S integrated system is of significant benefit to the citizens of the TOWN and Capital Region, the municipalities within the Capital Region, and the customers served by WMI and the TOWN; and

**WHEREAS**, the TOWN and WMI recognize the value of a dependable and predictable volume of all categories of municipal solid waste to the TOWN'S Solid Waste system and agree to meet at least annually to discuss matters of concern pertaining to this Agreement; and

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained in this Agreement, the Parties hereto do hereby covenant and agree as follows:

## ARTICLE 1. DEFINITIONS

The terms set forth in this Agreement shall have the meanings ascribed to them herein, for all purposes of this Agreement, unless context clearly indicates some other meaning.

- A. ***“Commercial and Industrial Waste”*** - include all non-hazardous and non-toxic solid wastes generated by commercial and industrial sources exclusive of commercial and industrial by-products. [See 6 NYCRR 360].
- B. ***“Construction and Demolition Debris”*** - discarded building material, concrete, stones, earth from excavations or grading and all other matter resulting from the erection, repair or demolition of buildings, structures, or other improvements of property, tree parts over three (3) inches in diameter. Wood waste shall be separated from “Construction and demolition debris”.
- C. ***“Yard Waste”*** - grass clippings, leaves, cuttings and other debris from shrubs, hedges, tree branches less than three inches in diameter and four foot in length, and other vegetation. Garbage, recyclable material, construction and demolition debris, sod or soil shall not be construed to include “yard waste.”
- D. ***“Garbage”*** - kitchen and house refuse and table cleanings, fruits and vegetable parings, decaying vegetable, animal and fruit matter and fallen fruit and other putrescible solid waste including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. Garbage shall not include “yard waste.”
- E. ***“Household Hazardous Wastes”*** - materials which are exempt from State and Federal regulations; for the purpose of this Agreement, household hazardous waste shall include pesticides, pesticide residue and all containers containing the same, used motor oil and automobile batteries.
- F. ***“Household Metal Container”*** - any empty metal food containers including aluminum, bimetal and steel cans.
- G. ***“Large Household Furnishings”*** - all other large and/or bulky articles actually used in the home and which equip it for living (as chairs, sofas, tables, beds, carpets, etc.)
- H. ***“Major Appliances”*** - any large and/or bulky household mechanism, including but without limitation a refrigerator, washer, dryer, stove, etc. ordinarily operated by gas or electric current.
- I. ***“Municipality(ies)”*** - any village, town or city.

- J. **"Person"** – any individual, partnership, association, firm, corporation or any and all combinations thereof whereby individuals act in concert.
- K. **"Recyclable Material(s)"** – any material designated, from time to time, which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value. It shall mean those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, cardboard, flat paper, plastic, yard waste, engine oil, tires and vehicle batteries
- L. **"Recyclers"** – those persons who deal with recyclable material as collectors, separators and/or marketers. This definition shall include not-for-profit corporations and charitable corporations that collect recyclables for fund raising purposes.
- M. **"Select Solid Wastes"** – Solid Waste which does not contain construction or demolition debris or rigid items longer than two (2) feet.
- N. **"Solid Waste"** – Materials or substances which are discarded or rejected by the owner at the time of such discard or rejection and shall include garbage, yard waste, recyclable rubbish, household hazardous waste, major appliances, large household furnishings and nonrecyclable rubbish generated by any person. The term shall not include sewage, sludge or water-diluted material.
- O. **"Source Separation"** – the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.
- P. **"Tires"** – shall mean tires from motor vehicles, cars, trucks, farm equipment, construction equipment and their casings, but shall not include rims.

The terms "solid waste", "recyclable material", "construction and demolition debris" and "major appliances" shall not be construed to include "yard waste".

## ARTICLE 2. REPRESENTATIONS OF THE TOWN

- A. The TOWN agrees that at its Landfill it shall receive, recycle and dispose of all separated Solid Waste, Garbage, Non-Hazardous Commercial and Industrial Waste, Non-Hazardous Construction and Demolition Debris generated by any and all of the customers of WMI in the amounts herein agreed upon. The TOWN reserves the right to refuse any material it deems unacceptable or necessary to protect public health or the environment.
- B. The TOWN landfill shall be available to receive said solid wastes for disposal under this contract Monday through Friday, 7:00 a.m. to 3:00 p.m., and Saturdays, 7:00 a.m. to 1:00 p.m.

**ARTICLE 3. REPRESENTATIONS OF WMI**

- A. Throughout the term of this Agreement, WMI shall deliver to the TOWN Landfill Facilities a minimum of 15,000 tons annually of Solid Waste, as defined by Article 1(N) above. WMI shall deliver a minimum of 1,200 tons of Solid Waste per month, but shall not exceed a maximum of 2,000 tons in any month. In no event, shall WMI deliver more than 600 tons of Solid Waste to the Landfill Facilities in any given day.
- B. WMI may offer the TOWN the right of first refusal for the disposal of any quantities of Solid Wastes in excess of 15,000 tons at the contract rate. The TOWN does not guarantee the availability of disposal capacity for such excess wastes.
- C. WMI shall provide and assure that a minimum of 85% of the solid waste delivered to the TOWN under this Agreement shall be "Select Solid Waste" as defined in Article 1(M) above. The TOWN has the right to reject any solid waste that it deems unacceptable.
- D. WMI shall maintain in good standing its current Collection and the Disposal Permit issued by the TOWN and any other permits as may be required by State or Federal law.

**ARTICLE 4. CONTRACT RATE SCHEDULE**

- A. Based upon the representations of WMI, the TOWN agrees that it shall continue to maintain the Contract Rate below the gate rates, as provided for in the below Contract Rate Schedule, which reflects WMI's participation in the integrated system, and which is designed and intended to encourage waste reduction and recycling.
- B. The contract rates for WMI, commencing on January 1, 2011 and continuing through the end of this Agreement, December 31, 2012, shall be in accordance with the following schedule:

**Contract Rate Schedule**<sup>1,2,3</sup>

<u>Waste Category</u>	<u>2011</u>	<u>2012</u>
Select Solid Waste (includes household garbage, commercial/industrial waste, and construction demolition debris)	53.00	53.00

<sup>1</sup> All rates are stated in dollars per ton (\$/ton) as determined by weight at Town of Colonie landfill scale.

<sup>2</sup> One Dollar of tipping fee is dedicated to fund a Division property purchase fund.

<sup>3</sup> Contract Tipping Fee Rates shall not apply to any wastes in excess of contract tonnage maximums per month or per year.

- C. In the event that WMI is not able to deliver the specified minimum solid waste in as specified under Article 3, the TOWN may, at its option, if such default or defaults are continued for a period of ten (10) business days following written notice to WMI of such default, terminate this Agreement without prejudice to such other remedies as the TOWN may have for collection of any sum or sums due to the TOWN from WMI. The Town shall have the right to terminate this agreement upon written notice to WMI of its intention to do so, and upon such termination, all of WMI's rights hereunder, shall cease and the entire unpaid balance shall be immediately due and payable. In addition, as liquidated damages and not as a penalty, WMI agrees to pay to the TOWN the value of such default, which represents the balance of the minimum quantity of solid waste due under this Agreement but not delivered under Article 3, in addition to all other sums due and payable.
- D. In the event that the TOWN, by resolution, revises the Gate Rate for disposal of each specific waste commodity that would result in the Gate Rate for the specific waste commodity being lower than the rate identified in the Article 4 Contract Rate Schedule, WMI shall be afforded the lower of the Gate Rate or the Contract Rate for the term that the Gate Rate is lower than the Contract Rate for the specific waste commodity. Any increase in the TOWN's cost for disposal resulting from the addition of new regulatory requirements or capital expenditures required as a result of regulatory changes shall be passed along on a 1:1 basis. The TOWN shall notify WMI as soon as any increase or decrease in the rates is anticipated.
- E. The TOWN retains the right to terminate this Agreement, without financial or legal recourse to WMI, in the event that the TOWN enacts or implements Solid Waste Flow Control within Planning Units.
- F. All monthly charges are due and payable within thirty (30) days of the date of the invoice. WMI agrees to pay a charge for all past due amounts in an amount equal to one and one half percent (1.5 %) of such past due amount for each month or part thereof during which such payments remain unpaid. Should any portion of this account remain unpaid for more than sixty (60) days from the date of the invoice, the TOWN shall have the option to suspend service under this Agreement until and unless payment has been made for all services performed by the TOWN under this Agreement.

#### **ARTICLE 5. TERM OF AGREEMENT**

The Agreement shall be effective as of January 1, 2011 ("Effective Date") and continue through the 31st day of December, 2012.

## **ARTICLE 6. INSURANCE**

WMI shall procure and maintain insurance in the form and amounts set forth below for the entire term of this Agreement.

- A. Workers' Compensation or Workers' Compensation Waiver;
- B. Comprehensive General Liability including Contractual Liability with a limit of \$1,000,000;
- C. Automobile liability with a Combined Single Limit of \$1,000,000.

WMI shall furnish to the TOWN proof of any and all insurance policies as required and set forth above. Each policy of insurance required under the Agreement shall be in form and content satisfactory to the TOWN and its Attorney, shall provide that the TOWN is named as an additional insured and that the policy shall not be changed or canceled without thirty (30) days prior written notice to the TOWN

## **ARTICLE 7. INDEMNIFICATION**

WMI shall agree, to the fullest extent permitted by law, to indemnify and hold harmless the TOWN, and its respective officers, agents and employees, from any and all losses, costs, damages, harms, claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, penalties, fees and expenses of every name and description, including attorneys' fees, arising out of or relating in any way to: (a) any acts, errors, omissions or negligence of WMI, and their respective agents, employees, contractors and subcontractors, in or about the TOWN'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon; (b) the performance of the Agreement or any acts, errors, omissions or negligence relating thereto, including those of WMI, its tenants, subtenants and licensees and their respective agents, employees, contractors and subcontractors; (c) any failure on the part of WMI to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions of the Agreement or any exercise by the TOWN of any remedy provided for in the Agreement; and (d) any accident, injury, including death, or damage to any person or property, from any cause whatsoever, occurring in, on or about the TOWN's property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon. Reason or enumeration of any insurance coverage shall not limit such indemnity.

## **ARTICLE 8. ASSIGNMENT**

In accordance with the provisions of Section 109 of the New York State General Municipal Law, WMI is hereby prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of his/her/its rights, title, or interest in this Agreement, or his/her/its power to execute this Agreement, to any other person or entity without the prior written consent of the Town.

**ARTICLE 9. APPLICABLE LAW**

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

**ARTICLE 10. MODIFICATION**

This Agreement represents the entire Agreement between the parties and no modifications thereto, or additions thereto, have been agreed to or will be binding hereafter, unless evidenced in writing by the parties hereto.

**ARTICLE 11. PREVAILING WAGES**

The parties hereto, in accordance with the provisions of Section 220(3) and 220(d) of the New York State Labor Law, hereby agree that there shall be paid each employee engaged in work under this contract not less than the prevailing hourly wage rate and supplements, if any, set for the trade and occupation engaged in.

**ARTICLE 12. NOTICES**

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereinafter be designated in writing.

To Town:

Town of Colonie  
Environmental Services Division  
Department of Public Works  
Attn: Matthew McGarry  
1319 Loudon Road  
Cohoes, NY 12047  
518-783-2827

To Contractor:

WASTE MANAGEMENT INC.  
Attn: Ken Bevis, General Manager  
200 Church Street  
Albany, New York 12202  
800-339-4770

Any and all payments required hereunder shall be submitted as follows, or to such other address as may hereinafter be designated in writing.

To Town:

All payments required hereunder shall be addressed as follows:

Town of Colonie  
Comptrollers Office  
P. O. Box 508  
Newtonville, New York 12128  
518-783-2708  
518-783-2877 facsimile

**ARTICLE 13. SAVINGS CLAUSE**

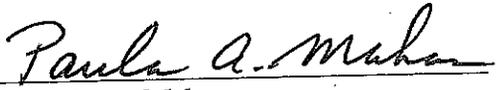
In the event any part or parts of this Agreement is found to be void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same force and effect as though the void or unenforceable part or parts were deleted.

*IN WITNESS WHEREOF*, the parties hereto have executed this agreement the date and year hereinafter written.

WASTE MANAGEMENT INC.

TOWN OF COLONIE

By: 

By:   
Paula A. Mahan  
Town Supervisor

Date: 12/16/10

Date: 12/22/10

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 11<sup>th</sup> day of December, 2010, before me personally came ~~Ken Bevis~~ **DAVID BALBIERZ**, to me known who, being by me duly sworn, did depose and say that he/she is the Area Vice President of Waste Management Inc., the Company described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed and that he signed his name hereto by authority as Vice President of the company.

  
Notary Public

SUSAN M. BRACE  
Notary Public, State of New York  
No. 01BR5032814  
Qualified in Erie County  
Commission Expires September 6, 2011 *14*

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 22<sup>nd</sup> day of December, 2010 before me personally came Paula A. Mahan, to me known who, being by me duly sworn, did depose and say that she resides in the Town of Colonie, that she is the Town Supervisor of the municipality described in and which executed the above instrument; that she knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Town Board of said municipality; and that she signed her name hereto by order of the Town Board of said municipality.

  
Notary Public

SUSAN L. PELLEGRINI  
Notary Public, State of New York  
No. 01PE6119881  
Qualified in Albany County  
Commission Expires December 6, 2012



## SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT

**THIS AGREEMENT** made this 30<sup>th</sup> day of December, 2010, by and between the TOWN OF COLONIE, a municipal corporation duly organized and existing under the laws of the State of New York (hereinafter called the "TOWN") and COUNTY WASTE AND RECYCLING INC. (hereinafter called "COUNTY") having its principal place of business at 1927 Route 9, P.O. Box 431, Clifton Park, New York 12065.

**WHEREAS**, the TOWN operates an integrated system for the management of municipal solid waste; and

**WHEREAS**, the integrated system for the management of municipal solid waste consists of the following facilities:

- a. Town Landfill
- b. Town Yard Waste Compost Facility
- c. Town Materials Recycling Facility
- d. Town Residential Recycling Drop Off Station
- e. Town Refuse Transfer Station; and

**WHEREAS**, the TOWN'S integrated system for the management of municipal solid waste offers incentives for waste reduction, recycling, and disposal of the various categories of municipal solid waste collected from waste generators by implementing a fee structure in a manner that protects public health and promotes waste reduction and sound environmental protection; and

**WHEREAS**, the TOWN and COUNTY understand that the TOWN'S integrated system is of significant benefit to the citizens of the TOWN and Capital Region, the municipalities within the Capital Region, and the customers served by COUNTY and the TOWN; and

**WHEREAS**, the TOWN and COUNTY recognize the value of a dependable and predictable volume of all categories of municipal solid waste to the TOWN'S Solid Waste system and agree to meet at least annually to discuss matters of concern pertaining to this Agreement; and

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained in this Agreement, the Parties hereto do hereby covenant and agree as follows:

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- H. ***“Major Appliances”*** - any large and/or bulky household mechanism, including but without limitation a refrigerator, washer, dryer, stove, etc. ordinarily operated by gas or electric current.
- I. ***“Municipality(ies)”*** - any village, town or city.

- J. **"Person"** – any individual, partnership, association, firm, corporation or any and all combinations thereof whereby individuals act in concert.
- K. **"Recyclable Material(s)"** – any material designated, from time to time, which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value. It shall mean those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, cardboard, flat paper, plastic, yard waste, engine oil, tires and vehicle batteries
- L. **"Recyclers"** – those persons who deal with recyclable material as collectors, separators and/or marketers. This definition shall include not-for-profit corporations and charitable corporations that collect recyclables for fund raising purposes.
- M. **"Select Solid Wastes"** – Solid Waste which does not contain construction or demolition debris or rigid items longer than two (2) feet.
- N. **"Solid Waste"** – Materials or substances which are discarded or rejected by the owner at the time of such discard or rejection and shall include garbage, yard waste, recyclable rubbish, household hazardous waste, major appliances, large household furnishings and nonrecyclable rubbish generated by any person. The term shall not include sewage, sludge or water-diluted material.
- O. **"Source Separation"** – the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.
- P. **"Tires"** – shall mean tires from motor vehicles, cars, trucks, farm equipment, construction equipment and their casings, but shall not include rims.

The terms "solid waste", "recyclable material", "construction and demolition debris" and "major appliances" shall not be construed to include "yard waste".

**ARTICLE 2. REPRESENTATIONS OF THE TOWN**

- A. The TOWN agrees that at its Landfill it shall receive, recycle and dispose of all separated Solid Waste, Garbage, Non-Hazardous Commercial and Industrial Waste, Non-Hazardous Construction and Demolition Debris generated by any and all of the customers of COUNTY in the amounts herein agreed upon. The TOWN reserves the right to refuse any material it deems unacceptable or necessary to protect public health or the environment.
- B. The TOWN landfill shall be available to receive said solid wastes for disposal under this contract Monday through Friday, 7:00 a.m. to 3:00 p.m., and Saturdays, 7:00 a.m. to 1:00 p.m.

**ARTICLE 3. REPRESENTATIONS OF COUNTY**

- A. Throughout the term of this Agreement, COUNTY shall deliver to the TOWN Landfill Facilities a minimum of 40,000 tons annually of Solid Waste, as defined by Article 1(N) above. COUNTY shall deliver a minimum of 3,000 tons of Solid Waste per month, but shall not exceed a maximum of 5,000 tons in any month. In no event, shall COUNTY deliver more than 600 tons of Solid Waste to the Landfill Facilities in any given day.
- B. COUNTY may offer the TOWN the right of first refusal for the disposal of any quantities of Solid Wastes in excess of 40,000 tons at the contract rate. The TOWN does not guarantee the availability of disposal capacity for such excess wastes.
- C. COUNTY shall provide and assure that a minimum of 85% of the Solid Waste delivered to the TOWN under this Agreement shall be "Select Solid Waste" as defined in Article 1(M) above. The TOWN has the right to reject any solid waste that it deems unacceptable.
- D. COUNTY shall maintain in good standing its current Collection and the Disposal Permit issued by the TOWN and any other permits as may be required by State or Federal law.

**ARTICLE 4. CONTRACT RATE SCHEDULE**

- A. Based upon the representations of COUNTY, the TOWN agrees that it shall continue to maintain the Contract Rate below the gate rates, as provided for in the below Contract Rate Schedule, which reflects COUNTY's participation in the integrated system, and which is designed and intended to encourage waste reduction and recycling.
- B. The contract rates for COUNTY, commencing on January 1, 2011 and continuing through the end of this Agreement, December 31, 2012, shall be in accordance with the following schedule:

**Contract Rate Schedule**<sup>1,2,3</sup>

<u>Waste Category</u>	<b>2011</b>	<b>2012</b>
Select Solid Waste (includes household garbage, commercial/industrial waste, and construction demolition debris)	<b>55.00</b>	<b>55.00</b>

<sup>1</sup> All rates are stated in dollars per ton (\$/ton) as determined by weight at Town of Colonie landfill scale.

<sup>2</sup> One Dollar of tipping fee is dedicated to fund a Division property purchase fund.

<sup>3</sup> Contract Tipping Fee Rates shall not apply to any wastes in excess of contract tonnage maximums per month or per year.

- C. In the event that COUNTY is not able to deliver the specified minimum solid waste in as specified under Article 3, the TOWN may, at its option, if such default or defaults are continued for a period of ten (10) business days following written notice to COUNTY of such default, terminate this Agreement without prejudice to such other remedies as the TOWN may have for collection of any sum or sums due to the TOWN from COUNTY. The Town shall have the right to terminate this agreement upon written notice to COUNTY of its intention to do so, and upon such termination, all of COUNTY's rights hereunder, shall cease and the entire unpaid balance shall be immediately due and payable. In addition, as liquidated damages and not as a penalty, COUNTY agrees to pay to the TOWN the value of such default, which represents the balance of the minimum quantity of solid waste due under this Agreement but not delivered under Article 3, in addition to all other sums due and payable.
- D. In the event that the TOWN, by resolution, revises the Gate Rate for disposal of each specific waste commodity that would result in the Gate Rate for the specific waste commodity being lower than the rate identified in the Article 4 Contract Rate Schedule, COUNTY shall be afforded the lower of the Gate Rate or the Contract Rate for the term that the Gate Rate is lower than the Contract Rate for the specific waste commodity. Any increase in the TOWN's cost for disposal resulting from the addition of new regulatory requirements or capital expenditures required as a result of regulatory changes shall be passed along on a 1:1 basis. The TOWN shall notify COUNTY as soon as any increase or decrease in the rates is anticipated.
- E. The TOWN retains the right to terminate this Agreement, without financial or legal recourse to COUNTY, in the event that the TOWN enacts or implements Solid Waste Flow Control within Planning Units.
- F. All monthly charges are due and payable within thirty (30) days of the date of the invoice. COUNTY agrees to pay a charge for all past due amounts in an amount equal to one and one half percent (1.5 %) of such past due amount for each month or part thereof during which such payments remain unpaid. Should any portion of this account remain unpaid for more than sixty (60) days from the date of the invoice, the TOWN shall have the option to suspend service under this Agreement until and unless payment has been made for all services performed by the TOWN under this Agreement.

#### **ARTICLE 5. TERM OF AGREEMENT**

The Agreement shall be effective as of January 1, 2011 ("Effective Date") and continue through the 31st day of December, 2012.

## **ARTICLE 6. INSURANCE**

COUNTY shall procure and maintain insurance in the form and amounts set forth below for the entire term of this Agreement.

- A. Workers' Compensation or Workers' Compensation Waiver;
- B. Comprehensive General Liability including Contractual Liability with a limit of \$1,000,000;
- C. Automobile liability with a Combined Single Limit of \$1,000,000.

COUNTY shall furnish to the TOWN proof of any and all insurance policies as required and set forth above. Each policy of insurance required under the Agreement shall be in form and content satisfactory to the TOWN and its Attorney, shall provide that the TOWN is named as an additional insured and that the policy shall not be changed or canceled without thirty (30) days prior written notice to the TOWN

## **ARTICLE 7. INDEMNIFICATION**

COUNTY shall agree, to the fullest extent permitted by law, to indemnify and hold harmless the TOWN, and its respective officers, agents and employees, from any and all losses, costs, damages, harms, claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, penalties, fees and expenses of every name and description, including attorneys' fees, arising out of or relating in any way to: (a) any acts, errors, omissions or negligence of COUNTY, and their respective agents, employees, contractors and subcontractors, in or about the TOWN'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon; (b) the performance of the Agreement or any acts, errors, omissions or negligence relating thereto, including those of COUNTY, its tenants, subtenants and licensees and their respective agents, employees, contractors and subcontractors; (c) any failure on the part of COUNTY to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions of the Agreement or any exercise by the TOWN of any remedy provided for in the Agreement; and (d) any accident, injury, including death, or damage to any person or property, from any cause whatsoever, occurring in, on or about the TOWN's property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon. Reason or enumeration of any insurance coverage shall not limit such indemnity.

## **ARTICLE 8. ASSIGNMENT**

In accordance with the provisions of Section 109 of the New York State General Municipal Law, COUNTY is hereby prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of his/her/its rights, title, or interest in this Agreement, or his/her/its power to execute this Agreement, to any other person or entity without the prior written consent of the Town. In the event the TOWN transfers management and operations of the Landfill to a third party during the term of this Agreement, COUNTY may, upon actual transfer, give thirty days (30) written notice to said third party to cancel this Agreement.

**ARTICLE 9. APPLICABLE LAW**

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

**ARTICLE 10. MODIFICATION**

This Agreement represents the entire Agreement between the parties and no modifications thereto, or additions thereto, have been agreed to or will be binding hereafter, unless evidenced in writing by the parties hereto.

**ARTICLE 11. NOTICES**

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereinafter be designated in writing.

To Town:

Town of Colonie  
Environmental Services Division  
Department of Public Works  
Attn: Matthew McGarry  
1319 Loudon Road  
Cohoes, NY 12047  
518-783-2827

To Contractor:

County Waste and Recycling Inc.  
Attn: Scott Earl, President/CEO  
1927 Route 9  
P.O. Box 431  
Clifton Park, NY 12065-1417  
518-877-0079

Any and all payments required hereunder shall be submitted as follows, or to such other address as may hereinafter be designated in writing.

To Town:

All payments required hereunder shall be addressed as follows:

Town of Colonie  
Comptrollers Office  
P. O. Box 508  
Newtonville, New York 12128  
518-783-2708  
518-783-2877 facsimile

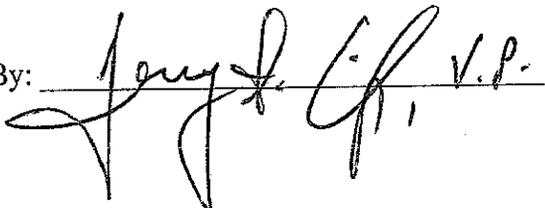
**ARTICLE 12. SAVINGS CLAUSE**

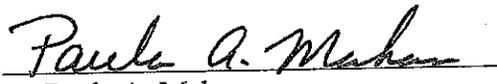
In the event any part or parts of this Agreement is found to be void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same force and effect as though the void or unenforceable part or parts were deleted.

*IN WITNESS WHEREOF*, the parties hereto have executed this agreement the date and year hereinafter written.

COUNTY WASTE AND RECYCLING INC.

TOWN OF COLONIE

By: 

By:   
Paula A. Mahan  
Town Supervisor

Date: 12/30/2010

Date: 12/30/10

STATE OF NEW YORK)  
COUNTY OF Saratoga ss.:

On this 30 day of December, 2010, before me personally came James Cifer, to me known who, being by me duly sworn, did depose and say that he/~~she~~ is the Vice President of County Waste and Recycling Inc., the Company described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed and that he signed his name hereto by authority as Vice President of the company.

  
Notary Public

BRIDGET COTUGNO  
Notary Public, State of New York  
No. 01CO4990274  
Qualified in Saratoga County  
Commission Expires Dec. 30, 2013

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 30<sup>th</sup> day of December, 2010 before me personally came Paula A. Mahan, to me known who, being by me duly sworn, did depose and say that she resides in the Town of Colonie, that she is the Town Supervisor of the municipality described in and which executed the above instrument; that she knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Town Board of said municipality; and that she signed her name hereto by order of the Town Board of said municipality.

  
Notary Public

JAN M. NEIL  
Notary Public, State of New York  
No. 01NE4893911  
Qualified in Albany County  
Commission Expires May 11, 2011



## SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT

Agreement made as of <sup>January 10</sup> ~~9th~~ day of ~~December~~, 2009, between the TOWN OF COLONIE, a municipal corporation duly organized and existing under the laws of the State of New York (here after called the "COLONIE") and having its principal address at Memorial Town Hall, Newtonville, New York 12128 and the City of Cohoes, a municipal corporation duly organized and existing under the laws of the State of New York, (here after called "COHOES") and having its principal address of Cohoes City Hall, 97 Mohawk Street, Cohoes, N.Y. 12047,

WHEREAS, COLONIE operates an integrated system for the management of municipal solid waste; and

WHEREAS, the integrated system for the management of municipal solid waste consists of the following facilities:

- a. Town of Colonie Landfill
- b. Town of Colonie Yard Waste Compost Facility
- c. Town of Colonie Materials Recycling Facility
- d. Town of Colonie Residential Recycling and Refuse Transfer Station; and

WHEREAS, COLONIE'S integrated system for the management of municipal solid waste offers incentives for waste reduction, recycling, and disposal of the various categories of municipal solid waste collected from waste generators by implementing a fee structure in a manner that protects public health and promotes waste reduction and sound environmental protection; and

WHEREAS, COLONIE and COHOES understand that COLONIE'S integrated system is of significant benefit to the citizens of the COLONIE and Capital Region, the municipalities within the Capital Region, and the residents of COHOES and COLONIE and

WHEREAS, COLONIE and COHOES recognize the value of a dependable and predictable volume of all categories of municipal solid waste to COLONIE'S Solid Waste system and agree to meet at least annually to discuss matters of concern pertaining to this agreement; and

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the Parties hereto do hereby covenant and agree as follows:

7/6/2009

**Article 1. Definitions.** The terms set forth in this Agreement shall have the meanings ascribed to them herein, for all purposes of this Agreement, unless context clearly indicates some other meaning.

- A. "Commercial and Industrial Waste" - include all non-hazardous and non-toxic solid wastes generated by commercial and industrial sources exclusive of commercial and industrial by-products. [See 6 NYCRR 360].
- B. "Construction and Demolition Debris" - discarded building material, concrete, stones, earth from excavations or grading and all other matter resulting from the erection, repair or demolition of buildings, structures, or other improvements of property, tree parts over three (3) inches in diameter. Wood waste shall be separated from "Construction and demolition debris".
- C. "Customers" - parties from whom the City of Cohoes collects non-hazardous solid waste.
- D. "Yard Waste" - grass clippings, leaves, cuttings and other debris from shrubs, hedges, tree branches less than three inches in diameter and four foot in length, and other vegetation. Garbage, recyclable material, construction and demolition debris, sod or soil shall not be construed to include "yard waste."
- E. "Garbage" - kitchen and house refuse and table cleanings, fruits and vegetable parings, decaying vegetable, animal and fruit matter and fallen fruit and other putrescible solid waste including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. Garbage shall not include "yard waste."
- F. "Household Hazardous Wastes" - materials which are exempt from State and Federal regulations; for the purpose of this Agreement, household hazardous waste shall include pesticides, pesticide residue and all containers containing the same, used motor oil and automobile batteries.
- G. "Household Metal Container" - any empty metal food containers including aluminum, bimetal and steel cans.
- H. "Large Household Furnishings" - all other large and/or bulky articles actually used in the home and which equip it for living (as chairs, sofas, tables, beds, carpets, etc.)
- I. "Major Appliances" - a large and/or bulky household mechanism, including but without limitation a refrigerator, washer, dryer, stove, etc. ordinarily operated by gas or electric current.
- J. "Municipality (ies)" - any village, town or city.
- K. "Person" - any individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert.

7/6/2009

- L. "Recyclable Material (s)" - any material designated, from time to time, which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value. It shall mean those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, cardboard, flat paper, plastic, yard waste, engine oil, tires and vehicle batteries
- M. "Recyclers" - Those persons who deal with recyclable material as collectors, separators and/or marketers. This definition shall include not-for-profit corporations and charitable corporations that collect recyclables for fund raising purposes.
- N. "Select Solid Wastes" - Solid Waste which does not contain construction or demolition debris or rigid items longer than 2 feet.
- O. "Solid Waste" - Materials or substances which are discarded or rejected by the owner at the time of such discard or rejection and shall include garbage, yard waste, recyclable rubbish, household hazardous waste, major appliances, large household furnishings and non-recyclable rubbish generated by any person. The term shall not include sewage, sludge or water-diluted material.
- P. "Source Separation" - the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.
- Q. "Tires" shall mean tires from motor vehicles, cars, trucks, farm equipment, construction equipment and their casings, but shall not include rims.

The terms "solid waste", "recyclable material", "construction and demolition debris" and "major appliances" shall not be construed to include "yard waste".

## Article 2. Representations of COLONIE.

- A. COLONIE agrees that at its solid waste management facilities it shall receive, and dispose of all separated solid waste, garbage, non-hazardous commercial waste, non-hazardous construction and demolition debris generated by COHOES. COLONIE reserves the right to refuse any material that it deems unacceptable or necessary to protect public health or the environment.
- B. The Town of COLONIE landfill shall be available to receive said solid wastes for disposal under this contract Monday through Friday, 7:00 a.m. to 3:00 p.m., and Saturdays, 7:00 a.m. to 1:00 p.m.
- C. Use of the Town of COLONIE Landfill shall be allowed for Residents of the City of COHOES for disposal of Non-Hazardous Solid Wastes allowed to be accepted from Non-Residential customers under the current Town of COLONIE Solid Waste Management Regulations, Rules and Fee Schedule.

7/6/2009

**Article 3. Representations of COHOES.**

- A. Throughout the term of this Agreement COHOES or its agents shall deliver to COLONIE facilities a minimum of 5,500 tons annually of solid waste annually but at no time should it exceed 700 tons in a given month in reaching the 5,500 tonnage cap.
- B. COHOES may offer COLONIE the right of first refusal for the disposal of any quantities of solid wastes in excess of the 5,500 tons per year.
- C. COHOES shall provide and assure that Residential Solid Waste as defined in Article I herein, shall comprise at least 85 % of the solid waste delivered to COLONIE for each year's wastes from 2010 through 2013. COLONIE has the right to reject or reclassify and correctly charge for any non-select solid waste that it deems unacceptable or exceeds 10% of the total waste quantity to be accepted either per load or per year.
- D. COHOES shall maintain in good standing the current Collection and the Disposal Permit issued by COLONIE and any other permits required by State or Federal law. No Fee shall be required for the permit.

**Article 4. Contract Rate Schedule.**

- A. Based upon the above representations of COHOES, COLONIE agrees to the Contract Rate Schedule below, which reflects COHOES participation in the COLONIE Solid waste disposal system, and which is designed and intended to encourage waste reduction and recycling.
- B. The contract rates for COHOES, commencing January 1, 2010 and continuing through the end of this Agreement shall be in accordance with the following schedule:

**Contract Rate Schedule<sup>1</sup>**

<u>Waste Category</u>	2010	2011	2012	2013
Residential Solid Waste (includes household garbage, light commercial waste)	55 <sup>2</sup>	55	56	56
Construction and Demolition debris, household non-metal furniture	60	60	60	60

<sup>1</sup> All rates are stated in dollars per ton (\$/ton) as determined by weight at Town of Colonie landfill scale.

<sup>2</sup> Rate includes a \$1.00 per ton contribution to the Town of Colonie Property Acquisition Fund.

- C. Any reduction to the COLONIE'S cost for disposal shall be immediately passed along on a 1:1 basis to COHOES. Any increase in the COLONIE'S cost for disposal resulting from the addition of new regulatory requirements or capital expenditures required as a result of regulatory changes or changes in solid waste flow control laws shall be passed

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along on a 1:1 basis, but no sooner than January 1, 2011. COLONIE shall notify COHOES as soon as any increase or decrease in the rates is anticipated.

- D. All monthly charges are due and payable within thirty (30) days of the date of the invoice. COHOES agrees to pay a charge for all past due amounts in an amount equal to one and one half percent (1.5 %) of such past due amount for each month or part thereof during which such payments remain unpaid. Should any portion of this account remain unpaid for more than sixty (60) days from the date of the invoice, COLONIE shall have the option, with notice to COHOES, to suspend service under this Agreement unless and until payment has been made for all services performed by the COLONIE under this Agreement. Notwithstanding the above, COLONIE agrees that COHOES disposal rate shall be adjusted downward so that COHOES shall be charged the lowest rate charged to other similarly situated municipalities, with respect to a range of waste generation of 5,000 to 8,000 tons annually, located outside of the Town of Colonie who have negotiated multi-year term agreements for disposal with COLONIE subsequent to the execution of this agreement.
- E. The Town and City retains the right to void this solid waste agreement if either of the parties proposes to implement Solid Waste Flow Control within Planning Units or if the Town or City chooses to leave the Solid Waste Planning Unit without financial or legal recourse to Town or City. A minimum of 6 months notice by the Town to the City or the City to the Town shall be required if either elects to execute this clause.

**Article 5. Term of Agreement.**

The term of this Agreement shall commence as of the 1st day of JANUARY, 2010 and continue through the 31st day of December, 2013.

**Article 6. Insurance.**

COHOES shall provide COLONIE with a certificate of insurance naming the TOWN OF COLONIE as additional insured showing proof of the following coverage's in connection with this agreement:

- A. Workers' Compensation or Workers' Compensation Waiver;
- B. Comprehensive General Liability including Contractual Liability with a limit of \$1,000,000;
- C. Automobile liability with a Combined Single Limit of \$1,000,000.

7/6/2009

**Article 7. Indemnification.**

COHOES shall agree, to the fullest extent permitted by law, to indemnify and hold harmless COLONIE and its respective officers, agents and employees, from any and all losses, costs, damages, harms, claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, penalties, fees and expenses of every name and description, including attorneys' fees, arising out of or relating in any way to: (a) any acts, errors, omissions or negligence of COHOES, and their respective agents, employees, contractors and subcontractors, in or about the COLONIE'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon; (b) the performance of the Agreement or any acts, errors, omissions or negligence relating thereto, including those of COHOES, its tenants, subtenants and licensees and their respective agents, employees, contractors and subcontractors; (c) any failure on the part of COHOES to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions of the Agreement or any exercise by COLONIE of any remedy provided for in the Agreement; and (e) any accident, injury, including death, or damage to any person or property, from any cause whatsoever, occurring in, on or about the Town of COLONIE'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon. Reason or enumeration of any insurance coverage shall not limit such indemnity.

**Article 8. Assignment.**

In accordance with the provisions of Section 109 of the New York State General Municipal Law, COHOES and COLONIE are hereby prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or Town Landfill, or of his/her/its rights, title, or interest in this Agreement or Town Landfill, or his/her/its power to execute this Agreement, to any other person or entity without the prior written consent of the other party.

**Article 9. Applicable Law.**

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

**Article 10. Modification.**

This Agreement represents the entire Agreement between the parties and no modifications thereto, or additions thereto, have been agreed to or will be binding hereafter, unless evidenced in writing by the parties hereto.

**Article 11. Prevailing Wages.**

The parties hereto, in accordance with the provisions of Section 220(3) and 220(d) of the New York State Labor Law, hereby agree that there shall be paid each employee engaged in work under this contract not less than the prevailing hourly wage rate and supplements, if any, set for the trade and occupation engaged in.

7/6/2009

**Article 12. Notices.**

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereinafter be designated in writing.

To COLONIE:

Town of Colonie  
Environmental Services Division  
Department of Public Works  
Attn: F. Joseph Stockbridge  
1319 Loudon Road  
Cohoes, NY 12047  
518-783-2827

To COHOES:

City of Cohoes  
Attn: Ken Radliff  
Cohoes City Hall  
97 Mohawk Street  
Cohoes, New York 12047

Any and all payments required hereunder shall be addressed and submitted as follows, or to such other address as may hereafter be designated in writing.

Town of Colonie  
Town Supervisors Office  
P.O. Box 508  
Newtonville, New York 12128

**Article 13. Savings Clause.**

In the event any part or parts of this Agreements are found to be void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same force and effect as though the void or unenforceable part or parts were deleted.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year hereinafter written.

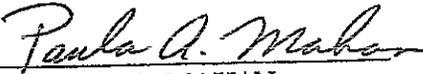
CITY OF COHOES

TOWN OF COLONIE

By

  
JOHN T. MCDONALD III  
MAYOR

By

  
PAULA A. MAHAN  
SUPERVISOR



**INTERMUNICIPAL SOLID WASTE  
COLLECTION AND DISPOSAL  
AGREEMENT**

**THIS AGREEMENT** made as of this 30<sup>TH</sup> day of April, 2010, between the TOWN OF COLONIE, a municipal corporation duly organized and existing under the laws of the State of New York (hereinafter called "**COLONIE**") and having its principal address at Memorial Town Hall, P.O. Box 508, Newtonville, New York 12128 and the TOWN OF SCHODACK, a municipal corporation duly organized and existing under the laws of the State of New York, (hereinafter called "**SCHODACK**") and having its principal address at Schodack Town Hall, 265 Schuurman Road, Castleton, New York 12033,

**WHEREAS**, Colonie owns a Solid Waste Management Facility located in the Town of Colonie, County of Albany, State of New York; and

**WHEREAS**, Colonie operates an integrated system for the management of municipal solid waste at its Solid Waste Management Facility; and

**WHEREAS**, the integrated system for the management of municipal solid waste consists of the following facilities:

- a. Town of Colonie Landfill
- b. Town of Colonie Yard Waste Compost Facility
- c. Town of Colonie Materials Recycling Facility
- d. Town of Colonie Residential Recycling Drop Off Station
- e. Town Refuse Transfer Station; and

**WHEREAS**, Colonie's integrated system for the management of municipal solid waste offers incentives for waste reduction, recycling, and disposal of the various categories of municipal solid waste collected from waste generators by implementing a fee structure in a manner that protects public health and promotes waste reduction and sound environmental protection; and

**WHEREAS**, Colonie and Schodack understand that Colonie's integrated waste management system is of significant benefit to the Town of Colonie, the Capital Region, the municipalities within the Capital Region, and the residents of Colonie and Schodack and

**WHEREAS**, Colonie and Schodack recognize the value of a predictable and dependable and source of all categories of municipal solid waste to Colonie's Waste Management Facility and agree to meet at least annually to discuss matters of concern pertaining to this agreement; and

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein, the Parties do hereby agree as follows:

## ARTICLE 1. *Definitions*

The terms set forth in this Agreement shall have the meanings ascribed to them herein for all purposes of this Agreement, unless context clearly indicates some other meaning.

- A. "Commercial and Industrial Waste" - include all non-hazardous and non-toxic solid wastes generated by commercial and industrial sources exclusive of commercial and industrial by-products. [See 6 NYCRR 360].
- B. "Construction and Demolition Debris" - discarded building material, concrete, stones, earth from excavations or grading and all other matter resulting from the erection, repair or demolition of buildings, structures, or other improvements of property and tree parts over three (3) inches in diameter. Wood waste shall be separated from "Construction and demolition debris".
- C. "Customers" - parties from whom the Town of Schodack collects non-hazardous solid waste.
- D. "Yard Waste" - grass clippings, leaves, cuttings and other debris from shrubs, hedges, tree branches less than three inches in diameter and four foot in length, and other vegetation. Garbage, recyclable material, construction and demolition debris, sod or soil shall not be construed to include "yard waste."
- E. "Garbage" - kitchen and house refuse and table cleanings, fruits and vegetable parings, decaying vegetable, animal and fruit matter and fallen fruit and other putrescible solid waste including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. Garbage shall not include "yard waste."
- F. "Household Hazardous Wastes" - materials which are exempt from State and Federal regulations; for the purpose of this Agreement, household hazardous waste shall include pesticides, pesticide residue and all containers containing the same, used motor oil and automobile batteries.
- G. "Household Metal Container" - any empty metal food containers including aluminum, bimetal and steel cans.
- H. "Large Household Furnishings" - all other large and/or bulky articles actually used in the home and which equip it for living (as chairs, sofas, tables, beds, carpets, etc.)
- I. "Major Appliances" - a large and/or bulky household mechanism, including but without limitation a refrigerator, washer, dryer, stove, etc. ordinarily operated by gas or electric current.
- J. "Municipality (ies)" - any village, town or city.

- K. "Person" - any individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert.
- L. "Recyclable Material (s)" - any material designated, from time to time, which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value. It shall mean those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, cardboard, flat paper, plastic, yard waste, engine oil, tires and vehicle batteries
- M. "Recyclers" - Those persons who deal with recyclable material as collectors, separators and/or marketers. This definition shall include not-for-profit corporations and charitable corporations that collect recyclables for fund raising purposes.
- N. "Select Solid Wastes" - Solid Waste which does not contain construction or demolition debris or rigid items longer than 2 feet.
- O. "Solid Waste" - Materials or substances which are discarded or rejected by the owner at the time of such discard or rejection and shall include garbage, yard waste, recyclable rubbish, household hazardous waste, major appliances, large household furnishings and non-recyclable rubbish generated by any person. The term shall not include sewage, sludge or water-diluted material.
- P. "Source Separation" - the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.
- Q. "Tires" shall mean tires from motor vehicles, cars, trucks, farm equipment, construction equipment and their casings, but shall not include rims.

The terms "solid waste", "recyclable material", "construction and demolition debris" and "major appliances" shall not be construed to include "yard waste".

**ARTICLE 2. *Representations of the Town of Colonie***

- A. Colonie agrees that at its solid waste management facilities it shall receive, and dispose of all separated solid waste, garbage, non-hazardous commercial waste, non-hazardous construction and demolition debris generated by Schodack. Colonie reserves the right to refuse any material that it deems unacceptable or necessary to protect public health or the environment.
- B. The Town of Colonie landfill shall be available to receive said solid wastes for disposal under this contract Monday through Friday, 7:00 a.m. to 3:00 p.m., and Saturdays, 7:00 a.m. to 1:00 p.m.
- C. Use of the Town of Colonie Landfill shall be allowed for Residents of the Town of Schodack for disposal of Non-Hazardous Solid Wastes, as permitted by Non-Residential

customers under the current Town of Colonie Solid Waste Management Regulations, Rules and Fee Schedule.

**ARTICLE 3. Representations of Schodack.**

- A. Throughout the term of this Agreement Schodack, its agents or employees shall deliver to Colonie Landfill facilities a minimum of 1,000 tons annually of municipal solid waste and Construction and Demolition Debris, but at no time shall it exceed 250 tons in a given month in reaching the 1,000 tonnage cap. Schodack's guaranteed solid waste may be pro-rated on a monthly basis during the 2010 contract year.
- B. Schodack shall offer Colonie the right of first refusal for the disposal of any quantities of solid wastes in excess of the 1,000 tons per year.
- C. Schodack shall provide and assure that Residential Solid Waste as defined in Article I herein, shall comprise at least 85% of the solid waste delivered to Colonie for each year's wastes from 2010 through 2014. Colonie has the right to reject or reclassify and correctly charge for any non-select solid waste that it deems unacceptable or exceeds 10% of the total waste quantity to be accepted either per load or per year.
- D. Schodack shall maintain in good standing the current Collection and the Disposal Permit issued by Colonie and any other permits required by State or Federal law. No Fee shall be required for the permit.

**ARTICLE 4. Contract Rate Schedule.**

- A. Based upon the above representations of Schodack, Colonie agrees to the Contract Rate Schedule set forth below, which reflects Schodack's participation in the Colonie Solid waste disposal system, and which is designed and intended to encourage waste reduction and recycling.
- B. The contract rates for Schodack, commencing May 1, 2010 and continuing through the end of this Agreement shall be in accordance with the following schedule:

**Contract Rate Schedule<sup>1</sup>**

<u>Waste Category</u>	<b>May 1 2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Residential Solid Waste (includes household garbage, light commercial waste)	55	55 <sup>2</sup>	55	56	56
Construction and Demolition debris, household non-metal furniture	60	60	60	60	60

<sup>1</sup> All rates are stated in dollars per ton (\$/ton) as determined by weight at Town of Colonie landfill scale.

<sup>2</sup> Rate includes a \$1.00 per ton contribution to the Town of Colonie Property Acquisition Fund.

- C. Any reduction to the Colonie's cost for disposal shall be immediately passed along on a 1:1 basis to Schodack. Any increase in the Colonie's cost for disposal resulting from the addition of new regulatory requirements or capital expenditures required as a result of regulatory changes or changes in solid waste flow control laws shall be passed along on a 1:1 basis, but no sooner than January 1, 2011. Colonie shall notify Schodack as soon as any increase or decrease in the scheduled rate(s) is proposed.
- D. All monthly charges are due and payable within thirty (30) days of the date of the invoice. Schodack agrees to pay a charge for all past due amounts in an amount equal to one and one half percent (1.5 %) of such past due amount for each month or part thereof during which such payments remain unpaid. Should any portion of this account remain unpaid for more than sixty (60) days from the date of the invoice, Colonie shall have the option, with notice to Schodack, to suspend service under this Agreement unless and until payment has been made for all services performed by Colonie under this Agreement. Notwithstanding the above, Colonie agrees that the Schodack disposal rate shall be adjusted downward so that Schodack shall be charged the lowest rate charged to other similarly situated municipalities, with respect to a range of waste generation of 1,000 to 3,000 tons annually, located outside of the Town of Colonie who have negotiated multi-year term agreements for disposal with Colonie subsequent to the execution of this agreement.
- E. Colonie and Schodack retain the right to terminate this solid waste agreement if either of the parties proposes to implement Solid Waste Flow Control within Planning Units or if the Town's chooses to leave the Solid Waste Planning Unit without financial or legal recourse to either Town. A minimum of 6 months notice by shall be required by either Colonie or Schodack should either elect to execute this clause.

**ARTICLE 5. *Term of Agreement.***

The term of this Agreement shall commence as of the 1st day of May 2010 and continue through the 31st day of December, 2014.

**ARTICLE 6. *Insurance.***

Schodack shall provide Colonie with a certificate of insurance naming the Town of Colonie as an additional insured showing proof of the following coverage's in connection with this agreement:

- A. Workers' Compensation or Workers' Compensation Waiver;
- B. Comprehensive General Liability including Contractual Liability with a limit of \$1,000,000;
- C. Automobile liability with a Combined Single Limit of \$1,000,000.

**ARTICLE 7. *Indemnification.***

Schodack shall agree, to the fullest extent permitted by law, to indemnify and hold harmless Colonie and its respective officers, agents and employees, from any and all losses, costs, damages, harms, claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, penalties, fees and expenses of every name and description, including attorneys' fees, arising out of or relating in any way to: (a) any acts, errors, omissions or negligence of Schodack, their respective agents, employees, contractors or subcontractors, in or about Colonie's property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon; (b) the performance of the Agreement or any acts, errors, omissions or negligence relating thereto, including those of Schodack, its tenants, subtenants and licensees and their respective agents, employees, contractors and subcontractors; (c) any failure on the part of Schodack to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions of the Agreement or any exercise by Colonie of any remedy provided for in the Agreement; and (d) any accident, injury, including death, or damage to any person or property, from any cause whatsoever, occurring in, on or about the Town of Colonie's property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon. Reason or enumeration of any insurance coverage shall not limit such indemnity.

**ARTICLE 8. *Assignment.***

In accordance with the provisions of Section 109 of the New York State General Municipal Law, Schodack and Colonie are hereby prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or Town Landfill, or of his/her/its rights, title, or interest in this Agreement or Town Landfill, or his/her/its power to execute this Agreement, to any other person or entity without the prior written consent of the other party.

**ARTICLE 9. *Applicable Law.***

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

**ARTICLE 10. *Modification.***

This Agreement represents the entire Agreement between the parties and no modifications thereto, or additions thereto, have been agreed to or will be binding hereafter, unless evidenced in writing by the parties hereto.

**ARTICLE 11. *Prevailing Wages.***

The parties hereto, in accordance with the provisions of Section 220(3) and 220(d) of the New York State Labor Law, hereby agree that there shall be paid each employee engaged in work under this contract not less than the prevailing hourly wage rate and supplements, if any, set for the trade and occupation engaged in.

**ARTICLE 12. Notices.**

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereinafter be designated in writing.

To COLONIE:

Town of Colonie  
Environmental Services Division  
Department of Public Works  
Attn: Matt McGarry  
1319 Loudon Road  
Cohoes, NY 12047  
518-783-2827

To SCHODACK:

Town of Schodack  
Attn: Bruce Goodall  
265 Schuurman Road  
Castleton, New York 12033

Town of Schodack  
Attn: Supervisor Dennis Dowds  
Schodack Town Hall  
265 Schuurman Road  
Castleton, New York 12033

Any and all payments required hereunder shall be addressed and submitted as follows, or to such other address as may hereafter be designated in writing.

Town of Colonie  
Town Supervisors Office  
P.O. Box 508  
Newtonville, New York 12128

**ARTICLE 13. Savings Clause.**

In the event any part or parts of this Agreement is found to be void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same force and effect as though the void or unenforceable part or parts were deleted.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year hereinafter written.

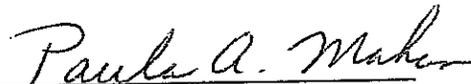
TOWN OF SCHODACK

By

  
DENNIS DOWDS  
SUPERVISOR

TOWN OF COLONIE

By

  
PAULA A. MAHAN  
SUPERVISOR

STATE OF NEW YORK )  
Rensselaer )ss.:  
COUNTY OF ALBANY )

On the 5<sup>th</sup> day of May in the year 2010, before me, the undersigned, personally appeared DENNIS DOWD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

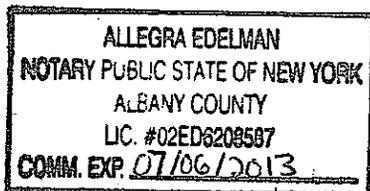
Dawne M. Kelly  
NOTARY PUBLIC

DAWNE M. KELLY  
Notary Public, State of New York  
No. 01KE6124794  
Qualified in Rensselaer County  
My Commission Expires April 4, 2013

STATE OF NEW YORK )  
 )ss.:  
COUNTY OF ALBANY )

On the 6<sup>th</sup> day of May in the year 2010, before me, the undersigned, personally appeared PAULA A. MAHAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Allegra Edelman  
NOTARY PUBLIC



INTER-MUNICIPAL AGREEMENT

THIS AGREEMENT, made on September 4, 2009, between the Town of Colonie,  
(Date)  
a municipal corporation of the State of New York, with its primary offices located at Memorial  
Town Hall, Newtonville, New York, 12128 (hereinafter the "Town") and the Town of Guilderland, a  
municipal corporation or district, with offices at P.O. Box 339, 5209 Western Turnpike, Guilderland, New  
York 12084 (hereinafter "Municipality or District").

The subject of this Agreement is as follows: allow the Town of Guilderland to dispose of Sewer  
Grit at \$41.50 per ton at the Town of Colonie Landfill pursuant to the same terms as found in a certain  
solid waste agreement dated July 22, 2009.

This Agreement is being entered into pursuant to General Municipal Law § 119-o and Colonie  
Town Board Resolution No. 163 for 2009.

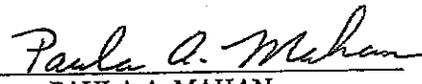
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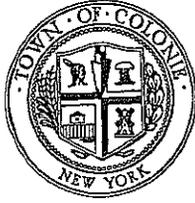
IN WITNESS WHEREOF, the Municipality or District and Town have executed this Agreement on the  
date written above.

Town of Guilderland  
(Municipality or District)

BY   
Printed Name: Kenneth D. Cunion  
Title: Supervisor

TOWN OF COLONIE

BY   
PAULA A. MAHAN  
SUPERVISOR



## SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT

Agreement made as of <sup>JULY</sup> ~~22nd~~ day of ~~December~~, 2009, between the TOWN OF COLONIE, a municipal corporation duly organized and existing under the laws of the State of New York (hereinafter called "COLONIE") and having its principal address at Memorial Town Hall, NYS Route 9, Newtonville, New York 12128 and the Town of Guilderland, a municipal corporation duly organized and existing under the laws of the State of New York, (hereinafter called "GUILDERLAND") and having its principal address Guilderland Town Hall, P.O. Box 339, 5209 Western Turnpike, Guilderland, N.Y. 12084,

WHEREAS, COLONIE operates an integrated system for the management of municipal solid waste; and

WHEREAS, the integrated system for the management of municipal solid waste consists of the following facilities:

- a. Town of Colonie Landfill
- b. Town of Colonie Yard Waste Compost Facility
- c. Town of Colonie Materials Recycling Facility
- d. Town of Colonie Residential Recycling and Refuse Transfer Station; and

WHEREAS, COLONIE'S integrated system for the management of municipal solid waste offers incentives for waste reduction, recycling, and disposal of the various categories of municipal solid waste collected from waste generators by implementing a fee structure in a manner that protects public health and promotes waste reduction and sound environmental protection; and

WHEREAS, COLONIE and GUILDERLAND understand that COLONIE'S integrated system is of significant benefit to the citizens of the COLONIE and Capital Region, the municipalities within the Capital Region, and the residents of GUILDERLAND and COLONIE and

WHEREAS, COLONIE and GUILDERLAND recognize the value of a dependable and predictable volume of all categories of municipal solid waste to COLONIE'S Solid Waste system and agree to meet at least annually to discuss matters of concern pertaining to this agreement; and

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the Parties hereto do hereby covenant and agree as follows:

7/8/2009

**Article 1. Definitions.** The terms set forth in this Agreement shall have the meanings ascribed to them herein, for all purposes of this Agreement, unless context clearly indicates some other meaning.

- A. "Commercial and Industrial Waste" - include all non-hazardous and non-toxic solid wastes generated by commercial and industrial sources exclusive of commercial and industrial by-products. [See 6 NYCRR 360].
- B. "Construction and Demolition Debris" - discarded building material, concrete, stones, earth from excavations or grading and all other matter resulting from the erection, repair or demolition of buildings, structures, or other improvements of property and tree parts over three (3) inches in diameter. Wood waste shall be separated from "Construction and demolition debris".
- C. "Customers" - parties from whom the Town of Guilderland collects non-hazardous solid waste.
- D. "Yard Waste" - grass clippings, leaves, cuttings and other debris from shrubs, hedges, tree branches less than three inches in diameter and four foot in length, and other vegetation. Garbage, recyclable material, construction and demolition debris, sod or soil shall not be construed to include "yard waste."
- E. "Garbage" - kitchen and house refuse and table cleanings, fruits and vegetable parings, decaying vegetable, animal and fruit matter and fallen fruit and other putrescible solid waste including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. Garbage shall not include "yard waste."
- F. "Household Hazardous Wastes" - materials which are exempt from State and Federal regulations; for the purpose of this Agreement, household hazardous waste shall include pesticides, pesticide residue and all containers containing the same, used motor oil and automobile batteries.
- G. "Household Metal Container" - any empty metal food containers including aluminum, bimetal and steel cans.
- H. "Large Household Furnishings" - all other large and/or bulky articles actually used in the home and which equip it for living (as chairs, sofas, tables, beds, carpets, etc.)
- I. "Major Appliances" - a large and/or bulky household mechanism, including but without limitation a refrigerator, washer, dryer, stove, etc. ordinarily operated by gas or electric current.
- J. "Municipality (ies)" - any village, town or city.

7/8/2009

- K. "Person" - any individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert.
- L. "Recyclable Material (s)" - any material designated, from time to time, which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value. It shall mean those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, cardboard, flat paper, plastic, yard waste, engine oil, tires and vehicle batteries
- M. "Recyclers" - Those persons who deal with recyclable material as collectors, separators and/or marketers. This definition shall include not-for-profit corporations and charitable corporations that collect recyclables for fund raising purposes.
- N. "Select Solid Wastes" - Solid Waste which does not contain construction or demolition debris or rigid items longer than 2 feet.
- O. "Solid Waste" - Materials or substances which are discarded or rejected by the owner at the time of such discard or rejection and shall include garbage, yard waste, recyclable rubbish, household hazardous waste, major appliances, large household furnishings and non-recyclable rubbish generated by any person. The term shall not include sewage, sludge or water-diluted material.
- P. "Source Separation" - the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.
- Q. "Tires" shall mean tires from motor vehicles, cars, trucks, farm equipment, construction equipment and their casings, but shall not include rims.

The terms "solid waste", "recyclable material", "construction and demolition debris" and "major appliances" shall not be construed to include "yard waste".

## **Article 2. Representations of COLONIE.**

- A. COLONIE agrees that at its solid waste management facilities it shall receive, and dispose of all separated solid waste, garbage, non-hazardous commercial waste, non-hazardous construction and demolition debris generated by GUILDERLAND. COLONIE reserves the right to refuse any material that it deems unacceptable or necessary to protect public health or the environment.
- B. The Town of COLONIE landfill shall be available to receive said solid wastes for disposal under this contract Monday through Friday, 7:00 a.m. to 3:00 p.m., and Saturdays, 7:00 a.m. to 1:00 p.m.

7/8/2009

- C. Use of the Town of COLONIE Landfill shall be allowed for Residents of the TOWN of GUILDERLAND for disposal of Non-Hazardous Solid Wastes allowed to be accepted from Non-Residential customers under the current Town of COLONIE Solid Waste Management Regulations, Rules and Fee Schedule.

**Article 3. Representations of GUILDERLAND.**

- A. Throughout the term of this Agreement GUILDERLAND or its agents shall deliver to COLONIE facilities a minimum of 3,000 tons annually of municipal solid waste and Construction and Demolition Debris annually but at no time should it exceed 500 tons in a given month in reaching the 3,000 tonnage cap.
- B. GUILDERLAND may offer COLONIE the right of first refusal for the disposal of any quantities of solid wastes in excess of the 3,000 tons per year.
- C. GUILDERLAND shall provide and assure that Residential Solid Waste as defined in Article I herein, shall comprise at least 85 % of the solid waste delivered to COLONIE for each year's wastes from 2009 through 2013. COLONIE has the right to reject or reclassify and correctly charge for any non-select solid waste that it deems unacceptable or exceeds 10% of the total waste quantity to be accepted either per load or per year.
- D. GUILDERLAND shall maintain in good standing the current Collection and the Disposal Permit issued by COLONIE and any other permits required by State or Federal law. No Fee shall be required for the permit.

**Article 4. Contract Rate Schedule.**

- A. Based upon the above representations of GUILDERLAND, COLONIE agrees to the Contract Rate Schedule below, which reflects GUILDERLAND's participation in the COLONIE Solid waste disposal system, and which is designed and intended to encourage waste reduction and recycling.
- B. The contract rates for GUILDERLAND, commencing September 1, 2009 and continuing through the end of this Agreement shall be in accordance with the following schedule:

**Contract Rate Schedule<sup>1</sup>**

<u>Waste Category</u>	<u>Sept 1 2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Residential Solid Waste (includes household garbage, light commercial waste)	55	55 <sup>2</sup>	55	56	56
Construction and Demolition debris, household non-metal furniture	60	60	60	60	60

<sup>1</sup> All rates are stated in dollars per ton (\$/ton) as determined by weight at Town of Colonie landfill scale.

<sup>2</sup> Rate includes a \$1.00 per ton contribution to the Town of Colonie Property Acquisition Fund.

7/8/2009

- C. Any reduction to the COLONIE'S cost for disposal shall be immediately passed along on a 1:1 basis to GUILDERLAND. Any increase in the COLONIE'S cost for disposal resulting from the addition of new regulatory requirements or capital expenditures required as a result of regulatory changes or changes in solid waste flow control laws shall be passed along on a 1:1 basis, but no sooner than January 1, 2011. COLONIE shall notify GUILDERLAND as soon as any increase or decrease in the rates is anticipated.
- D. All monthly charges are due and payable within thirty (30) days of the date of the invoice. GUILDERLAND agrees to pay a charge for all past due amounts in an amount equal to one and one half percent (1.5 %) of such past due amount for each month or part thereof during which such payments remain unpaid. Should any portion of this account remain unpaid for more than sixty (60) days from the date of the invoice, COLONIE shall have the option, with notice to GUILDERLAND, to suspend service under this Agreement unless and until payment has been made for all services performed by COLONIE under this Agreement. Notwithstanding the above, COLONIE agrees that GUILDERLAND disposal rate shall be adjusted downward so that GUILDERLAND shall be charged the lowest rate charged to other similarly situated municipalities, with respect to a range of waste generation of 3,000 to 5,000 tons annually, located outside of the Town of Colonie who have negotiated multi-year term agreements for disposal with COLONIE subsequent to the execution of this agreement.
- E. The Town's retain the right to void this solid waste agreement if either of the parties proposes to implement Solid Waste Flow Control within Planning Units or if the Town's chooses to leave the Solid Waste Planning Unit without financial or legal recourse to either Town. A minimum of 6 months notice by COLONIE to GUILDERLAND or GUILDERLAND to COLONIE shall be required if either elects to execute this clause.

**Article 5. Term of Agreement.**

The term of this Agreement shall commence as of the 1st day of SEPTEMBER 2009 and continue through the 31st day of December, 2013.

**Article 6. Insurance.**

GUILDERLAND shall provide COLONIE with a certificate of insurance naming the TOWN OF COLONIE as additional insured showing proof of the following coverage's in connection with this agreement:

- A. Workers' Compensation or Workers' Compensation Waiver;
- B. Comprehensive General Liability including Contractual Liability with a limit of \$1,000,000;
- C. Automobile liability with a Combined Single Limit of \$1,000,000.

7/8/2009

**Article 7. Indemnification.**

GUILDERLAND shall agree, to the fullest extent permitted by law, to indemnify and hold harmless COLONIE and its respective officers, agents and employees, from any and all losses, costs, damages, harms, claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, penalties, fees and expenses of every name and description, including attorneys' fees, arising out of or relating in any way to: (a) any acts, errors, omissions or negligence of GUILDERLAND, and their respective agents, employees, contractors and subcontractors, in or about the COLONIE'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon; (b) the performance of the Agreement or any acts, errors, omissions or negligence relating thereto, including those of GUILDERLAND, its tenants, subtenants and licensees and their respective agents, employees, contractors and subcontractors; (c) any failure on the part of GUILDERLAND to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions of the Agreement or any exercise by COLONIE of any remedy provided for in the Agreement; and (d) any accident, injury, including death, or damage to any person or property, from any cause whatsoever, occurring in, on or about the Town of COLONIE'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon. Reason or enumeration of any insurance coverage shall not limit such indemnity.

**Article 8. Assignment.**

In accordance with the provisions of Section 109 of the New York State General Municipal Law, GUILDERLAND and COLONIE are hereby prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or Town Landfill, or of his/her/its rights, title, or interest in this Agreement or Town Landfill, or his/her/its power to execute this Agreement, to any other person or entity without the prior written consent of the other party.

**Article 9. Applicable Law.**

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

**Article 10. Modification.**

This Agreement represents the entire Agreement between the parties and no modifications thereto, or additions thereto, have been agreed to or will be binding hereafter, unless evidenced in writing by the parties hereto.

**Article 11. Prevailing Wages.**

The parties hereto, in accordance with the provisions of Section 220(3) and 220(d) of the New York State Labor Law, hereby agree that there shall be paid each employee engaged in work under this contract not less than the prevailing hourly wage rate and supplements, if any, set for the trade and occupation engaged in.

7/8/2009

**Article 12. Notices.**

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereinafter be designated in writing.

To COLONIE:

Town of Colonie  
Environmental Services Division  
Department of Public Works  
Attn: F. Joseph Stockbridge  
1319 Loudon Road  
Cohoes, NY 12047  
518-783-2827

To GUILDERLAND:

Town of Guilderland  
Attn: Tim Spawn  
6363 French's Mill Road  
P.O. Box 154  
Guilderland Center, New York 12085

Town of Guilderland  
Attn: Supervisor Ken Runion  
Guilderland Town Hall  
P.O. Box 339  
5209 Western Turnpike  
Guilderland, New York 12084

Any and all payments required hereunder shall be addressed and submitted as follows, or to such other address as may hereafter be designated in writing.

Town of Colonie  
Town Supervisors Office  
P.O. Box 508  
Newtonville, New York 12128

**Article 13. Savings Clause.**

In the event any part or parts of this Agreements are found to be void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same force and effect as though the void or unenforceable part or parts were deleted.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year hereinafter written.

TOWN OF GUILDERLAND

TOWN OF COLONIE

By

  
KEN RUNION  
SUPERVISOR

By

  
PAULA A. MAHAN  
SUPERVISOR

7/8/2009

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 16<sup>th</sup> day of JULY \_\_\_\_\_, 2009 before me personally came Kenneth D. Renshaw, to me known who being me duly sworn, did depose and say that he resides in the Town of Guilderland, that he is the Town Supervisor of the municipality described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Town Board of said municipality; and that he signed his name hereto by order of the Town Board of said municipality.

STACIA SMITH-BRIGADIER  
Notary Public, State of New York  
No. 4760401  
Qualified in Albany County  
Commission Expires 3/30/10

Stacia Smith-Brigadier  
Notary Public-State of New York  
Appointed in \_\_\_\_\_ Albany County  
My Commissioner Expires 3/30/2010

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 22<sup>nd</sup> day of JULY \_\_\_\_\_ 2009, before me personally came Paula A. Mahan, to me known who being me duly sworn, did depose and say that she resides in the Town of Colonie, that she is the Town Supervisor of the municipality described in and which executed the above instrument; that she knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Town Board of said municipality; and that she signed her name hereto by order of the Town Board of said municipality.

Phyllis A. Shamus  
Notary Public-State of New York  
Appointed in \_\_\_\_\_ Albany County  
My Commission Expires 8/15/10

PHYLLIS A. SHAMUS  
Notary Public, State of New York  
No. 4931298  
Qualified in Albany County  
Commission Expires August 15, 2010



## SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT

**THIS AGREEMENT** ("AGREEMENT") made this 21<sup>st</sup> day of April, 2011, by and between the TOWN OF COLONIE, a municipal corporation duly organized and existing under the laws of the State of New York (hereinafter called the "TOWN") and ALLIED WASTE SERVICES OF NORTH AMERICA, LLC d/b/a ALLIED WASTE SERVICES OF ALBANY (hereinafter called "ALLIED") having its principal place of business at 136 Sicker Road, Latham, New York 12110.

**WHEREAS**, the TOWN operates an integrated system for the management of municipal solid waste; and

**WHEREAS**, the integrated system for the management of municipal solid waste consists of the following facilities:

- a. Town Landfill (also referred herein as "Landfill")
- b. Town Yard Waste Compost Facility
- c. Town Materials Recycling Facility
- d. Town Residential Recycling Drop Off Station
- e. Town Refuse Transfer Station; and

**WHEREAS**, the TOWN'S integrated system for the management of municipal solid waste offers incentives for waste reduction, recycling, and disposal of the various categories of municipal solid waste collected from waste generators by implementing a fee structure in a manner that protects public health and promotes waste reduction and sound environmental protection; and

**WHEREAS**, the TOWN and ALLIED understand that the TOWN'S integrated system is of significant benefit to the citizens of the TOWN and Capital Region, the municipalities within the Capital Region, and the customers served by ALLIED and the TOWN; and

**WHEREAS**, the TOWN and ALLIED recognize the value of a dependable and predictable volume of all categories of municipal solid waste to the TOWN'S Solid Waste system; and

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained in this Agreement, the Parties hereto do hereby covenant and agree as follows:

## ARTICLE 1. DEFINITIONS

The terms set forth in this Agreement shall have the meanings ascribed to them herein, for all purposes of this Agreement, unless context clearly indicates some other meaning.

- A. ***“Commercial and Industrial Waste”*** - include all non-hazardous and non-toxic solid wastes generated by commercial and industrial sources exclusive of commercial and industrial by-products. [See 6 NYCRR 360].
- B. ***“Construction and Demolition Debris”*** - discarded building material, concrete, stones, earth from excavations or grading and all other matter resulting from the erection, repair or demolition of buildings, structures, or other improvements of property, or tree parts over three (3) inches in diameter (“Wood Waste”). Wood waste shall be separated from Construction and demolition debris, Solid Waste and Select Solid Waste.
- C. ***“Yard Waste”*** - grass clippings, leaves, cuttings and other debris from shrubs, hedges, tree branches less than three inches in diameter and four foot in length, and other vegetation. Garbage, recyclable material, construction and demolition debris, sod or soil shall not be construed to include “yard waste.”
- D. ***“Garbage”*** - kitchen and house refuse and table cleanings, fruits and vegetable parings, decaying vegetable, animal and fruit matter and fallen fruit and other putrescible solid waste including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. Garbage shall not include “yard waste.”
- E. ***“Household Hazardous Wastes”*** - materials which are exempt from State and Federal regulations; for the purpose of this Agreement, household hazardous waste shall include pesticides, pesticide residue and all containers containing the same, used motor oil and automobile batteries.
- F. ***“Household Metal Container”*** - any empty metal food containers including aluminum, bimetal and steel cans.
- G. ***“Large Household Furnishings”*** - all other large and/or bulky articles actually used in the home and which equip it for living (as chairs, sofas, tables, beds, carpets, etc.)
- H. ***“Major Appliances”*** - any large and/or bulky household mechanism, including but without limitation a refrigerator, washer, dryer, stove, etc. ordinarily operated by gas or electric current.
- I. ***“Municipality(ies)”*** - any village, town or city.

- J. **“Person”** – any individual, partnership, association, firm, corporation or any and all combinations thereof whereby individuals act in concert.
- K. **“Recyclable Material(s)”** – any material designated, from time to time, which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value. It shall mean those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, cardboard, flat paper, plastic, , engine oil, tires and vehicle batteries
- L. **“Recyclers”** – those persons who deal with recyclable material as collectors, separators and/or marketers. This definition shall include not-for-profit corporations and charitable corporations that collect recyclables for fund raising purposes.
- M. **“Select Solid Wastes”** – Solid Waste which does not contain construction or demolition debris or rigid items longer than two (2) feet.
- N. **“Solid Waste”** – Materials or substances which are discarded or rejected by the owner at the time of such discard or rejection and shall include garbage, yard waste, recyclable materials, household hazardous waste, major appliances, commercial and industrial waste, construction and demolition debris, large household furnishings and nonrecyclable materials generated by any person as defined in this Article. The term shall not include sewage-sludge or water-diluted material. Yard Waste and Wood Waste shall be separated from Solid Waste and Select Solid Waste prior to disposal.
- O. **“Source Separation”** – the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.
- P. **“Tires”** – shall mean tires from motor vehicles, cars, trucks, farm equipment, construction equipment and their casings, but shall not include rims.

The terms “solid waste”, “recyclable material”, “construction and demolition debris” and “major appliances” shall not be construed to include “yard waste”.

## **ARTICLE 2. REPRESENTATIONS OF THE TOWN**

- A. The TOWN agrees that at its Landfill it shall receive, recycle and dispose of all separated Solid Waste, Garbage, Non-Hazardous Commercial and Industrial Waste, Non-Hazardous Construction and Demolition Debris generated by any and all of the customers of ALLIED in the amounts herein agreed upon. The TOWN reserves the right to refuse any material it deems unacceptable or necessary to protect public health or the environment.

- B. The TOWN Landfill shall be available to receive said solid wastes for disposal under this contract Monday through Friday, 7:00 a.m. to 3:00 p.m., and Saturdays, 7:00 a.m. to 1:00 p.m.

**ARTICLE 3. REPRESENTATIONS OF ALLIED**

- A. As of the effective date of this Agreement through December 31, 2011, ALLIED shall deliver to the TOWN Landfill a minimum of 20,000 tons of Solid Waste/Select Solid Waste, as set forth in this Agreement below and defined by Article 1(M) and 1(N) above. ALLIED shall deliver a minimum of 1,500 tons of Solid Waste per month, but shall not exceed a maximum of 3,000 tons per month. In no event, shall ALLIED deliver more than 600 tons of Solid Waste to the Landfill in any given day.
- B. ALLIED may offer the TOWN the right of first refusal for the disposal of any quantities of Solid Wastes in excess of 20,000 tons at the contract rate. The TOWN does not guarantee the availability of disposal capacity for such excess wastes.
- C. ALLIED shall provide and assure that a minimum of 85% of the waste delivered to the TOWN under this Agreement shall be "Select Solid Waste" as defined in Article 1(M) above. The TOWN has the right to reject any waste that it deems unacceptable.
- D. ALLIED shall maintain in good standing its current Collection and the Disposal Permit issued by the TOWN and any other permits as may be required by State or Federal law.

**ARTICLE 4. CONTRACT RATE SCHEDULE**

- A. Based upon the representations of ALLIED, the TOWN agrees that it shall continue to maintain the Contract Rate below the gate rates, as provided for in the below Contract Rate Schedule, which reflects ALLIED's participation in the integrated system, and which is designed and intended to encourage waste reduction and recycling.
- B. The contract rates for ALLIED, commencing on the effective date and continuing through the end of this Agreement, December 31, 2011, shall be in accordance with the following schedule:

**Contract Rate Schedule**<sup>1,2,3</sup>

Waste Category	2011
Select Solid Waste/Solid Waste (includes household garbage, commercial/industrial waste, and construction demolition debris as set forth herein)	51.00

<sup>1</sup> All rates are stated in dollars per ton (\$/ton) as determined by weight at Town of Colonie landfill scale.

<sup>2</sup> One Dollar of tipping fee is dedicated to fund a Division property purchase fund.

<sup>3</sup> Contract Tipping Fee Rates shall not apply to any wastes in excess of contract tonnage maximums per month or per year.

- C. In the event that ALLIED is not able to deliver the specified minimum solid waste in as specified under Article 3, the TOWN may, at its option, if such default or defaults are continued for a period of ten (10) business days following written notice to ALLIED of such default, terminate this Agreement without prejudice to such other remedies as the TOWN may have for collection of any sum or sums due to the TOWN from ALLIED. Upon such termination, all of ALLIED's rights hereunder, shall cease and the entire unpaid balance for waste delivered by ALLIED to the Landfill shall be immediately due and payable. In addition, as liquidated damages and not as a penalty, ALLIED agrees to pay to the TOWN the value of such default, which represents the balance of the minimum quantity of solid waste due under this Agreement but not delivered under Article 3, in addition to all other sums due and payable.
- D. In the event that the TOWN, by resolution, revises the Gate Rate for disposal of each specific waste commodity that would result in the Gate Rate for the specific waste commodity being lower than the rate identified in the Article 4 Contract Rate Schedule, ALLIED shall be afforded the lower of the Gate Rate or the Contract Rate for the term that the Gate Rate is lower than the Contract Rate for the specific waste commodity. Any increase in the TOWN's cost per ton for disposal resulting from the addition of new regulatory requirements or capital expenditures required as a result of regulatory changes shall be passed along on a 1:1 basis. The TOWN shall notify ALLIED as soon as any increase or decrease in the rates is anticipated.
- E. The TOWN retains the right to terminate this Agreement, without financial or legal recourse to ALLIED, in the event that the TOWN enacts or implements Solid Waste Flow Control within Planning Unit.
- F. All monthly charges are due and payable within thirty (30) days of the date of the invoice. ALLIED agrees to pay a charge for all past due amounts in an amount equal to one and one half percent (1.5 %) of such past due amount for each month or part thereof during which such payments remain unpaid. Should any portion of this account remain unpaid for more than sixty (60) days from the date of the invoice, the TOWN shall have the option to suspend service under this Agreement until and unless payment has been made for all services performed by the TOWN under this Agreement.

#### **ARTICLE 5. TERM OF AGREEMENT**

The Agreement shall be effective as of January 1, 2011 ("Effective Date") and continue through the 31st day of December, 2011.

#### **ARTICLE 6. INSURANCE**

ALLIED shall procure and maintain insurance in the form and amounts set forth below for the entire term of this Agreement.

- A. Workers' Compensation or Workers' Compensation Waiver;

- B. Comprehensive General Liability including Contractual Liability with a limit of \$1,000,000;
- C. Automobile liability with a Combined Single Limit of \$1,000,000.

ALLIED shall furnish to the TOWN proof of any and all insurance policies as required and set forth above. Each policy of insurance required under the Agreement shall be in form and content reasonably satisfactory to the TOWN and its Attorney, shall provide that the TOWN is named as an additional insured and that the policy shall not be reduced or canceled without thirty (30) days prior written notice to the TOWN

#### **ARTICLE 7. INDEMNIFICATION**

ALLIED shall agree, to the fullest extent permitted by law, to indemnify and hold harmless the TOWN, and its respective officers, agents and employees, from any and all losses, costs, damages, harms, claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, penalties, fees and expenses of every name and description, including attorneys' fees, arising out of or relating in any way to: (a) any acts, errors or omissions by ALLIED resulting from the negligence or willful misconduct of ALLIED, and their respective agents, employees, contractors and subcontractors, in or about the TOWN'S property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon; (b) ALLIED's performance under the Agreement or any negligence or willful misconduct relating thereto, including those of ALLIED, its tenants, subtenants and licensees and their respective agents, employees, contractors and subcontractors; (c) any failure on the part of ALLIED to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions of the Agreement or any exercise by the TOWN of any remedy provided for in the Agreement; and (d) any accident, injury, including death, or damage to any person or property, caused by the negligence or willful misconduct of ALLIED, occurring in, on or about the TOWN's property covered by the Agreement, including any structures, facilities, improvements and equipment located thereon. Reason or enumeration of any insurance coverage shall not limit such indemnity.

#### **ARTICLE 8. ASSIGNMENT**

In accordance with the provisions of Section 109 of the New York State General Municipal Law, ALLIED is hereby prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of his/her/its rights, title, or interest in this Agreement, or his/her/its power to execute this Agreement, to any other person or entity without the prior written consent of the TOWN. In the event the TOWN transfers management or operations of the Landfill to a third party during the term of this Agreement, ALLIED may, upon actual transfer and upon thirty (30) days written notice to said third party, cancel this Agreement with no liability or obligation other than for the unpaid balance for waste delivered by ALLIED to the Landfill.

**ARTICLE 9. APPLICABLE LAW**

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

**ARTICLE 10. MODIFICATION**

This Agreement represents the entire Agreement between the parties and no modifications or additions thereto, have been agreed to or will be binding hereafter, unless evidenced in writing and signed by the parties hereto.

**ARTICLE 11. NOTICES**

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereinafter be designated in writing.

To Town:

TOWN OF COLONIE  
Environmental Services Division  
Department of Public Works  
Attn: Matthew McGarry  
1319 Loudon Road  
Cohoes, NY 12047  
518-783-2827

To Contractor:

ALLIED WASTE SERVICES OF ALBANY  
Attn: Bob Griffin  
136 Sicker Road  
Latham, New York 12110  
518-785-7030

Any and all payments required hereunder shall be submitted as follows, or to such other address as may hereinafter be designated in writing.

Town of Colonie  
Comptroller's Office  
P. O. Box 508  
Newtonville, New York 12128  
518-783-2708  
518-783-2877 facsimile

**ARTICLE 12. SAVINGS CLAUSE**

In the event any part or parts of this Agreement is found to be void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same force and effect as though the void or unenforceable part or parts were deleted.

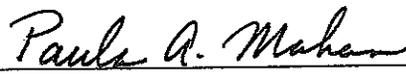
*IN WITNESS WHEREOF*, the parties hereto have executed this agreement the date and year first written above.

ALLIED WASTE SERVICES OF NORTH AMERICA, LLC

By:  \_\_\_\_\_

Date: 4-21-11

TOWN OF COLONIE

By:  \_\_\_\_\_  
Paula A. Mahan  
Town Supervisor

Date: 4/20/11

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 21 day of April, 2011, before me personally came Robert Griffin, to me known who, being by me duly sworn, did depose and say that he is the General Manager of Allied Waste Services of North America, LLC d/b/a Allied Waste Services of Albany, the Company described in and which executed the above instrument; that he knows the seal of said LLC; that the seal affixed to said Instrument is such corporate seal; that it was so affixed and that he signed his name hereto by authority as General Manager of the company.

REBEKAH NELLIS KENNEDY  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 02KE6184448  
QUALIFIED IN ALBANY COUNTY  
COMMISSION EXPIRES 3/31/14

  
Notary Public

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

On this 21st day of April, 2011 before me personally came Paula A. Mahan, to me known who, being by me duly sworn, did depose and say that she resides in the Town of Colonie, that she is the Town Supervisor of the municipality described in and which executed the above instrument; that she knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Town Board of said municipality; and that she signed her name hereto by order of the Town Board of said municipality.

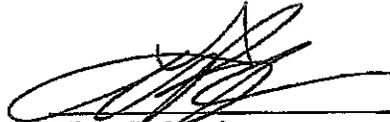
  
Notary Public

SUSAN A. CAFONERA  
Notary Public, State of New York  
No. 489676  
Qualified in Albany County  
Commission Expires Nov. 30, 2013

## CERTIFICATE

The undersigned certifies that (i) she is the duly elected, qualified and acting Secretary of **ALLIED WASTE SERVICES OF NORTH AMERICA, LLC**, a Delaware limited liability company (the "Company"); (ii) attached hereto as Schedule A is a true and correct copy of resolutions duly adopted by **BROWNING-FERRIS INDUSTRIES, LLC**, a Delaware limited liability company, the sole member of the Company (the "Member") by written consent of the Member; and (iii) such resolutions have not been amended, rescinded, modified or revoked, and are in full force and effect on the date hereof.

Dated: April 15, 2011.



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Eileen B. Schuler  
Secretary

## SCHEDULE A

**RESOLVED**, that the Company is hereby authorized to enter into that certain Solid Waste Collection and Disposal Agreement (the "**Agreement**"), with the Town of Colonie (the "**Town**") in the State of New York, substantially in the form presented to the Company, with such changes as may be approved by the officers or such other persons authorized to execute same and such actions are hereby approved, adopted, ratified and confirmed;

**FURTHER RESOLVED**, that the Company is hereby authorized and directed to execute and deliver the Agreement, and such other applications, exhibits, agreements or attachments necessary in connection with the Agreement and in connection with the performance of the Company's obligations and agreements as set forth therein;

**FURTHER RESOLVED**, that **ROBERT GRIFFIN**, as an authorized agent for the Company, or any officer of the Company, is hereby authorized and directed to execute and deliver the Agreement to the Town and to execute any and all other documents on behalf of the Company required by the Town in connection with the Agreement and in connection with the performance of the Company's obligations and agreements set forth therein; and

**FURTHER RESOLVED**, that the Secretary, or any other officer of the Company, is hereby authorized to certify to the adoption of the foregoing resolutions as may be required.