INTERMUNICIPAL AGREEMENT FOR WASTE-TO-ENERGY FACILITY ASH RESIDUE DISPOSAL

THIS AGREEMENT, made this 10th day of June, 2015, by and between

THE COUNTY OF MADISON, a municipal corporation of the State of New York, having its address at P.O. Box 27, Buyea Road, Wampsville, New York 13163, the County,

- and -

ONONDAGA COUNTY RESOURCE RECOVERY AGENCY, a public benefit corporation of the State of New York, having its address at 100 Elwood Davis Road, North Syracuse, NY 13212, OCRRA.

RECITALS

A. The County currently operates solid waste management facilities including an active landfill (the “Landfill”) pursuant to a permit issued by the New York State Department of Environmental Conservation (“Department”). The Landfill requires alternative daily cover material (“ACM”) for operation of the landfill and has previously used ash from municipal solid waste energy and resource recovery facilities pursuant to Beneficial Use Determinations (“BUD”) issued by the Department and the County has requested a BUD from the Department for use of the OCRRA ash.

B. OCRRA operates a solid waste resource recovery facility serving Onondaga County that produces ash, which the County desires to beneficially reuse and such material is of a quality and quantity suitable to meet the County’s need for ACM for the foreseeable future.

C. The County has the capacity to reuse approximately 10,000 tons per year of ash as ACM and reasonably expects the Department to issue a BUD for use of OCRRA’s ash as ACM.

D. The County and OCRRA hereby declare it to be in their mutual interests to enter into this intermunicipal agreement pursuant to Article 5G of the New York State General Municipal Law to establish that the County will provide beneficial reuse of up to 10,000 tons per year of ash delivered to the Landfill by OCRRA for a period of five (5) years with an option to renew for an additional five (5) year term in exchange for a total fee of Fourteen Dollars per ton ($14/ton) of conforming material.

Madison County – OCRRA Ash Reuse Agreement
To that end, the parties agree as follows:

1. **ASH DISPOSAL**

The County agrees, subject to terms of this Contract, to receive from OCRRA and reuse in the active landfill or future expansion landfills, up to 10,000 tons per year of ash generated by OCRRA that conform to the specifications set forth in this agreement. It is agreed that the estimated quantity of ash shall be reviewed on an annual basis for possible adjustments and that OCRRA is not guaranteeing delivery of any minimal amount of ash.

2. **ASH TRANSPORTATION**

OCRRA shall provide for transportation of ash residue to the Landfill and the parties shall mutually agree to the transportation and delivery schedule for ash residue that will be reused in the landfill. OCRRA agrees, subject to the terms of this Contract, to test and verify conformance with the applicable regulations of the Department and any applicable BUD of all ash to be reused in the landfill.

OCRRA shall arrange for delivery in accordance with reasonable specifications provided by the County.

Title to the ash contained in a trailer shall pass to the County upon delivery of the ash to the County’s facility.

3. **NON-CONFORMING MATERIALS**

The parties acknowledge that beneficial reuse services contemplated under the Contract are provided in accordance with federal, state and municipal laws, rules, regulations, permits and orders (collectively “Environmental Regulations”). Any ash residue which, due to its physical character, chemical composition or regulatory classification, cannot be reused or disposed in compliance with applicable permits or other requirements set forth in the Environmental Regulations shall be deemed “non-conforming material.” OCRRA shall not offer non-conforming material for transportation to the Landfill and the County shall not be required to transport, store, handle or dispose of non-conforming material. OCRRA shall provide the analytical test data specified in Schedule A, attached hereto and incorporated into this Agreement, and upon request, shall provide any representative samples, documentation or certification as may reasonably be required to demonstrate that all ash complies with applicable Environmental Regulations.

4. **TRANSPORTATION AND DISPOSAL FEES**

OCRRA shall pay the County Fourteen Dollars per ton ($14/ton) for reused or disposal of ash residue delivered to the Landfill. The County will render its invoices to OCRRA on a monthly basis for charges incurred the previous month. Payment terms are net 45 days from the
date of invoice. If OCRRA makes such payment in full within fifteen (15) days of billing, the County will provide OCRRA with a 2% prompt payment discount.

5. **TERM AND TERMINATION**

   (a) The term of the Agreement by and between the parties shall be **June 11, 2015 through June 10, 2020**.

   (c) **Renewal.** This Contract may be renewed by mutual agreement of the parties for an additional five (5) year period unless either party provides at least two (2) months prior written notice to the other of its intent to terminate this Agreement upon its expiration date.

6. **HOLD HARMLESS**

   To the fullest extent permitted by law, the parties hereto shall defend, indemnify and hold harmless each other and their respective representatives, agents, servants, employees, officers, departments and authorities, firm and against all claims, injuries, demands, judgments, settlements, damages, losses, liabilities, costs and expenses of any kind or nature, including but not limited to litigation costs and attorney’s fees, whether arising in law or in equity, all without any limitation whatsoever, arising out of or resulting from the indemnifying party’s performance of the work and/or duties and/or the transactions contemplated by this agreement and which are caused, in whole or in part, by or because of any negligent, culpable and/or wrongful act or omission of the indemnifying party, directly or indirectly, and/or by the indemnifying party’s agents, servants, employees, subcontractors and/or any person or entity employed by the indemnifying party or for whose conduct or action the indemnifying party may be found or held liable, directly or indirectly. It is the intention of the parties that the right and entitlement to a defense; the right and entitlement to be held harmless; and the right and entitlement to indemnification shall be as broad as permitted under applicable law. Further, the parties agree to indemnify each other in like regard in an action upon the contract between the parties and claims between the parties, including counsel fees and litigation costs and expenses. The terms of this agreement shall not be construed to negate, abridge or otherwise reduce any other right or obligation of contribution or indemnity, which would otherwise exist as to any party or person subject to this agreement. This agreement and paragraph shall be liberally construed so as to afford both parties the fullest possible protection and indemnity. In the event that either party shall fail or refuse to defend, hold harmless and/or indemnify the other against any such claim, loss, damage, judgment, settlement or action, the party so refusing shall be liable to the other for all expense, expenditure and cost incurred or to be incurred by the other in defending, resolving and/or satisfying any such claim, loss, damage, judgment, settlement or action, together with all cost and expense incurred by the indemnified party, including all attorney’s fees, incurred in the indemnified party pursuing claim or suit or action against or recovering fees, costs and expense from the other.

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7. INSURANCE

The County and OCRRA shall procure and maintain insurance of the kinds and limits enumerated hereunder and on terms and with an A-rated or better insurance carrier. Certificates of such insurance issued by the insurance carrier shall be filed with the other party and shall name the other party as an additional insured under the policy:

(A) Worker’s Compensation Insurance
The County and OCRRA’s possession of Worker’s Compensation Insurance in accordance with the statutory limits set forth in the laws of the State of New York.

(B) Comprehensive General Liability Insurance
Bodily Injury $5,000,000 – Per Incident or $10,000,000 – Combined Single Limit

(C) Comprehensive Automobile Liability Insurance
$1,000,000 Combined Single Limit

(D) Environmental Insurance
$10,000,000 Pollution Liability

(E) Notice of Termination Liability
That the foregoing insurance coverage shall not be terminated or cancelled unless the other party is given thirty (30) days prior written notice by the insurance carrier.

The required insurance policies shall be endorsed to include the other party, its representatives, agents, servants, employees, officers, departments and authorities as additional insureds, with such policies to provide that the additional insured coverage is primary and non-contributory. Also, to include the provision that the issuing company(s) will notify the Certificate of Insurance Holder, who shall be James A. Zecca, located in the County Office Building, P.O. Box 27, Wampsville, NY 13163, on behalf of the County and the Executive Director of OCRRA, located at 100 Elwood Davis Road, North Syracuse, NY 13212 by certified mail thirty (30) days prior to any change diminishing coverage, limits, cancellation or non-renewal of the insurance policies. For the duration of this contract, the issuing company(s) shall notify the Certificate of Insurance Holder upon renewal of the policies.

Upon request of the Certificate of Insurance Holder or the respective County Attorney or OCRRA Agency Counsel, certified copies of the policies shall be delivered upon request, with evidence satisfactory to the Certificate Holder or County Attorney or OCRRA Agency Counsel of the payment of the full premiums on the policies.
8. **STATUTORY COMPLIANCE**

In acceptance of this Agreement, the each party covenants and agrees to comply in all respects with all Federal, State and County laws, rules, regulations and ordinances which pertain hereto and to the performance hereof, including but not limited to those regarding services for municipalities, including but not limited to Workers' Compensation and Employers' Liability Insurance, hours of employment, wages and human rights.

9. **CERTIFICATE OF INSURANCE**

Prior to commencing operations under this Agreement the parties shall exchange Certificates of Insurance (and, if requested pursuant to Paragraph 7, certified policies and proof of payment) which shall evidence all of the above requirements of insurance, including Workers' Compensation and Employers' Liability Insurance. Said Certificate must contain specific language so as to adequately advise the receiving party of the other's compliance with the aforesaid requirements of insurance, including but not limited to specifically detailing the types, amount and duration of the insurance coverages and verifying that the issuing company(s) endorsed such policies as hereinabove required so as to include the recipient, its representatives, agents, servants, employees, officers, departments and authorities as additional insureds and to notify the certificate holder of any change diminishing coverage, limits, cancellation or non-renewal of the insurance policies. Upon any and all renewals of the subject insurances during the duration of this contract, a new Certificate of Insurance shall immediately be sent to the Certificate of Insurance Holder.

10. **LICENCES AND PERMITS**

The parties hereby agree that each will obtain at its own expense all licenses or permits for the work to be performed under this contract, if any are necessary, prior to the commencement of work.

11. **CONTRACT MODIFICATIONS**

This Contract represents the entire agreement of the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be assigned or amended only by written instrument signed by both parties.

12. **CLAUSES REQUIRED BY LAW**

The parties hereto understand and agree that each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to have been inserted herein and if through mistake or inadvertence such provision is not inserted, said clause shall be deemed to have been inserted and shall have the full force and affect of law.
13. **FORCE MAJEURE**

If a force, event or circumstance beyond the reasonable control of either party interrupts, delays or prevents performance of the obligations set forth in this Contract, such party's nonperformance shall be excused provided, however, that a party seeking relief under this paragraph shall immediately notify the other party of the force majeure event and make reasonable efforts to accommodate the needs of the other party.

14. **CONSTRUCTION**

This Contract shall be construed in accordance with the laws of the State of New York.

15. **NOTICES**

All notices required under this Contract shall be in writing and shall be served personally with an acknowledgement of receipt, by overnight courier, or by certified mail, return receipt requested, addressed to the parties' addresses as set forth in this Contract or to any other address which a party may later designate by written notice.

<table>
<thead>
<tr>
<th>Attn: Director</th>
<th>Attn: Executive Director</th>
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<tbody>
<tr>
<td>Madison County Department of Solid Waste and Sanitation</td>
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<tr>
<td>PO Box 27</td>
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<td>Wampsville, NY 13163</td>
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<tr>
<td>Telephone: (315) 361-8408</td>
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<td>Facsimile: (315) 361-1524</td>
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<td>OCRA</td>
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<td>100 Elwood Davis Road</td>
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<tr>
<td>North Syracuse, NY 13212</td>
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<tr>
<td>Telephone: (315) 453-2866</td>
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<tr>
<td>Facsimile: (315) 453-2872</td>
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</tbody>
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16. **SEPARATE STATUS**

The parties covenant and agree that they will conduct themselves consistent with their respective status as independent and separate municipal/public benefit corporations and that they, their employees and agents will neither hold themselves out as, nor claim to be an officer, employee, agent, or representative of the other, including, but not limited to, worker's compensation coverage, medical or unemployment benefits, social security or retirement membership benefits.

17. **SEVERABILITY**

If any provision or term of this Contract shall be deemed invalid or unenforceable, the remainder of the Contract shall not be affected thereby and every other term and provision shall be valid and enforceable to the fullest extent permitted by law.

*Signature Page Follows.*

Madison County – OCRRA Ash Reuse Agreement
IN WITNESS WHEREOF, the parties hereto have executed this Contract the date and year hereinafter written.

MADISON COUNTY

STATE OF NEW YORK )
COUNTY OF MADISON ) ss:

On this 9th day of June 2015, before me personally came John M. Becker, to me known who, being by me duly sworn, did depose and say that he resides in Sullivan, New York; that he is the Chairman of the Board of Supervisors of Madison County, the municipal corporation 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 Board of Supervisors of said corporation; and that he signed his name hereto by order of the Board of Supervisors of same.

By:

[Signature]
John M. Becker, Chairman
Board of Supervisors

Notary Public

ONONDAGA COUNTY RESOURCE RECOVERY AGENCY

STATE OF NEW YORK )
COUNTY OF ONONDAGA ) ss:

On this 10th day of June, 2015, before me personally came Mark A. Donnelly, to me known who, being by me duly sworn, did depose and say that he resides in Jamesville, New York; that he is the Executive Director of the Onondaga County Resource Recovery Agency, the public benefit corporation described in and which executed the above instrument; that he knows the seal of said public benefit corporation; that the seal affixed to said instrument is such public benefit corporate seal; that it was so affixed by order of the Board of Directors of said public benefit corporation; and that he signed his name hereto by order of the Board of Directors of same.

By:

[Signature]
Mark A. Donnelly, Executive Director
Onondaga County Resource Recovery Agency

APPROVED AS
TO LEGAL FORM

[Initials] [Date]

Notary Public

[Signature]

Madison County – OCRRA Ash Reuse Agreement
SCHEDULE A
TESTING REQUIREMENTS

1. Prior to the delivery of ash and annually thereafter, OCRRA shall provide to the County a copy of its semi-annual ash testing results.

2. In the event the Department or the United States Environmental Protection Agency requires additional test data in connection with providing the disposal service under this Contract, OCRRA shall perform the required tests and provide the County with a copy of the test report.
CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By entering into this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor agrees that after the list is posted on the OGS website, should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before Madison County may approve a request for Assignment of Contract.

During the term of the Contract, should Madison County receive information that a person is in violation of the above-referenced certification, Madison County will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then Madison County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

Madison County reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Signed

[Signature]

Executive Director

Title

[Name]

Company Name

Sworn to before me this

[Date]

[Notary Public]

[Name]

[Title]

[Notary Public]

[Notary Public]

[State]

[Notary Public]

[State]

[Notary Public]

[State]