



**TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY
REQUEST FOR PROPOSALS
FOR
SOLID WASTE TRANSPORT AND DISPOSAL**

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**Issue Date: May 13, 2020
Proposals Due: July 8, 2020**

RFP No. SWMA-003-2020

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TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY
REQUEST FOR PROPOSALS

I. INTRODUCTION

A. General Information

The Town of North Hempstead Solid Waste Management Authority (the "Authority") is issuing this Request for Proposals ("RFP") for solid waste transport and disposal or beneficial reuse starting January 1, 2021. In conformance with the Authority's Procurement Policy, the Authority will accept Proposals for solid waste transport and disposal or beneficial reuse, on or before 3:00 PM on July 8, 2020. Proposers shall propose pricing for a term of five (5) years with two five (5) year renewal options to be exercised in the sole discretion of the Authority.

A firm may be selected from among responding firms based on a thorough analysis of each firm's ability to provide the Town with the highest quality product and consistently reliable services at the most cost-effective fees.

The following conditions apply to this RFP:

- There is no express or implied obligation for the Town to reimburse responding firms for any expenses incurred in preparing proposals in response to this request, and the Town will not reimburse such expenses.
- The sole authorized contact regarding this Request for Proposals is listed below. Any attempt to contact other Town or Authority parties concerning this solicitation may result in the Company that has initiated such an inquiry having their Proposal disqualified. Any and all inquiries concerning this RFP must be in writing by email and should be addressed to:

Michael J. Kelly
Executive Director

Town of North Hempstead
Solid Waste Management Authority
Email: kellym@northhempsteadny.gov

- **To be considered, three (3) hard copies of a proposal and one (1) USB format copy must be received by:**

Town of North Hempstead

Town Hall

Purchasing Division (located on the lower level)

220 Plandome Road

Manhasset, New York 11030

No later than 3:00 PM, July 8, 2020. The Authority reserves the right to reject any or all proposals submitted.

- During the evaluation process, the Authority reserves the right, where it may serve the Authority's best interest, to request additional information or clarification from a proposer, or to allow corrections on non-material errors or omissions or waive non-material requirements. At the discretion of the Authority, firms submitting proposals may be requested to make oral presentations as part of the evaluation process. If conducted, oral presentations will be scheduled with each proposer being considered.
- The Authority reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected.
- Submission of a proposal indicates full unequivocal acceptance by the firm of the terms and conditions contained in this RFP, including the draft contract attached as an Exhibit to the RFP.
- It is anticipated the selection of a firm will be completed in August of 2020. Following notification of the selected firm it is expected an agreement will be executed between both parties in October 2020.

- The Authority reserves the right, as best serves its interest, to change any of the projected dates set forth in this RFP, including, but not limited, to the due date for receipt of proposals.

The Authority reserves the right to reject all proposals.

All questions shall be sent by email directed to the following address and shall be delivered no later than 5:00 p.m. on June 5, 2020: kellym@northhempsteadny.gov.

It is each Proposers responsibility to confirm the receipt of the email containing any questions by the Authority.

SECTION I. DEFINITIONS

Capitalized terms used in this RFP shall have the following meanings:

"Applicable Law" means any law, rule, regulation, requirement, guideline, action, determination or order of, or Legal Entitlement issued by, any Governmental Body having jurisdiction, applicable from time to time to the Contract Services or matter contemplated hereby (including any of the foregoing which concern procurement contracting, health, safety, fire, environmental protection, compost processing, quality and use, labor relations, mitigation monitoring plans, building codes, nondiscrimination, and the payment of minimum or prevailing wages).

"Acceptable Materials" means of (1) Solid Waste disposed (a) by individual residents of the Town, or (b) in the course of normal municipal and private collection of Solid Waste, including Residential Waste and Commercial Waste; and excluding (i) tires which have been substantially segregated from other waste prior to delivery to the Transfer Station, (ii) Unacceptable Waste and (iii) Hazardous Waste; (2) Recyclables; (3) Yard Waste; and (4) Construction and Demolition Waste.

"Authority" means the Town of North Hempstead Solid Waste Management Authority.

"Commercial Waste" means that portion of Acceptable Waste that originates or is derived from non-residential properties which is composed of trash, paper, cardboard, plastics, wood furniture, glass, miscellaneous metal cans and shapes, and Acceptable Waste of similar nature (exclusive of Acceptable Waste containing Residential Waste, Yard Waste, Tires, Construction and Demolition Waste, or Commingled Residential Recyclables).

"Construction and Demolition Waste" or **"C&D"** means unprocessed recognizable rocks, concrete, rubble, timbers, structural steel, sheet metal and materials of a similar nature resulting from construction and demolition work.

"Contract Services" means everything required to be furnished and done for and relating to the transportation and disposal of Acceptable Materials pursuant to the terms of the Service Contract.

"Contract Standards" means the standards, terms, conditions, methods, techniques and practices imposed or required by: (1) Applicable Law, (2) Good Industry Practice, (3) the Transfer Station operation and maintenance manual, (4) applicable equipment manufacturers' specifications, (5) applicable Service Contract insurance requirements, and (6) perform any other standard, term, condition or requirement specifically provided in this the Service Contract to be observed by the Company.

"Governmental Body" means any federal, State, County, authority or regional legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court, or other body.

"Good Industry Practice" means those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally accepted as good in the solid waste management industry.

"Hazardous Waste" means any material or substance which (a) appears on a list, satisfies criteria or is otherwise now or hereafter classified as toxic or hazardous was or special nuclear or by-products material under any local, State or federal Environmental Laws including, without limitation, Article 27-0903 of the Environmental Conservation Law, the Federal Resource and Recovery Act of 1976, the Atomic Energy Act of 1954, all as amended from time to time, or under regulations issued thereunder, or (b) any governmental agency or unit having appropriate jurisdiction shall determine to be ineligible for delivery to the Transfer Station for processing or (c) presents a substantial endangerment to health or safety.

"Legal Entitlement" means all permits, licenses, registrations, approvals, authorizations, consents, and entitlements of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Contract Services.

"Letter of Credit" means the letter of credit issued by the selected Proposer pursuant to Section V(G)(2).

"Participating Firm" means all firms, in addition to the Proposer, that will be significant participants, including, as applicable, (1) new entity being formed for the purpose of executing

and performing the Service Contract, (2) the entity that will provide any of the Contract Services, (3) joint venture, including all participating firms, and (4) any other significant participant.

"Performance Bond" means the surety bond which guarantees the performance of the Contract Services in accordance with the Contract Standards and which shall be provided for in accordance with Section V(G)(2) hereof.

"Proposer" means the party or parties submitting proposals to provide the Contract Services.

"Recyclables" means source-separated plastics, glass, aluminum, ferrous and bimetal beverage containers and material of a similar nature (plastic, metal and glass containers may have lids and labels on), wood furniture, paper, cardboard newspapers, magazines, junk mail, catalogues, construction paper, envelopes, index cards, greeting cards, corrugated containers, paperback books and non-metallic wrapping paper, or other materials designated by the Authority which are economically suitable for recycling or reclamation.

"Residential Waste" means that portion of Acceptable Waste that originates or is derived from households, including, without limitation, single and multiple residences (exclusive of Acceptable Waste containing Commercial Waste, Yard Waste, Tires, Construction and Demolition Waste, Commingled Residential Recyclables, and Newspapers).

"RFP" means the Authority's request for proposals for transportation and disposal of solid waste issued on May 6, 2020.

"Service Contract" means the agreement for solid waste transport and disposal to be entered into by the Authority and the selected Proposer.

"Solid Waste" means all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, as being accumulated, stored or physically, chemically or biologically treated prior to being discarded, has served its intended use, or is a manufacturing or mining by-product, including but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, mining and agricultural operations and from community activities,

sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal.

"**Town**" means the Town of North Hempstead, New York.

"**Unacceptable Waste**" means Solid Waste (other than Hazardous Waste) that, is (a) inherently unsuitable for processing, including, but not limited to, explosives, pathological and biological wastes, radioactive materials, contained gaseous waste, sewage sludge, cesspool and other human waste, human and animal remains, liquid wastes, and sludges from air or water pollution control facilities or water supply treatment facilities or (b) not customarily collected in the course of normal municipal or private collection of Solid Waste in the Authority and by reason of its size, composition or character cannot be processed.

"**Yard Waste**" means waste, whether bagged (plastic or paper bags) or un-bagged, which is composed of source separated grass, leaves, brush and tree limbs and materials of similar nature.

SECTION II. PROCUREMENT CONTACT, AUTHORITY RIGHTS AND RESPONSIBILITIES, AND LEGAL AUTHORITY

A. OBJECTIVE

The Town of North Hempstead Solid Waste Management Authority ("Authority") seeks to solicit proposals from qualified entities (including private companies, corporate entities, individuals, municipal corporations and other municipal entities) for the Contract Services as set forth in Section IV herein beginning on January 1, 2021.

Pursuant to the Authority's procurement policy, the Authority seeks proposals for Service Contract(s) for the transportation disposal or beneficial reuse of all of the Authority's Acceptable Waste.

Proposals are sought for a term of five (5) years with two five (5) year renewal options to be exercised in the sole discretion of the Authority. All proposers must submit a proposal based upon the term of five (5) years with two five (5) year renewal options to be exercised in the sole

discretion of the Authority. The Authority reserves the right to award one single contract for all services described herein or multiple contracts for these services.

B. PROJECT CONTACT

Proposals will be received at the office of:

**Town of North Hempstead
Purchasing Division (located on the lower level)
220 Plandome Road
Manhasset, New York 11030
Telephone #: (516) 869-2403
No later than 3:00 PM, July 8, 2020.**

The Authority reserves the right to reject any or all proposals submitted.

C. AUTHORITY RESPONSIBILITIES, RIGHTS, AND OPTIONS

The RFP constitutes only an invitation to make a proposal to the Authority. This section describes the Authority's responsibilities, rights, and options as they relate to various business, legal, and financial aspects of the procurement effort.

The Authority reserves, holds, and may exercise, at its sole discretion, the following rights and conditions with regard to the RFP. By responding to the RFP, Proposers acknowledge and consent to the following conditions relative to the procurement process and the selection of a Proposer to negotiate a Service Contract with the Authority.

- This RFP does not obligate the Authority to procure or contract for any services whatsoever.
- All costs incurred by a Proposer in connection with responding to this RFP, the evaluation and selection process undertaken in connection with this procurement, and any negotiations entered into in connection with developing the Service Contract will be borne by the Proposer.
- All proposals become the property of the Authority and will not be returned.

- The Authority has the right to cancel this RFP without issuing another RFP or to amend, supplement, or otherwise modify the RFP, including the scope of services, or otherwise request additional information without prior notice.
- The Authority may reject and return unopened any responses not received by the deadline for receipt of proposals or may extend the deadline date for submission of proposals and modify schedule dates.
- The Authority has the right to eliminate any Proposer who submits an incomplete and inadequate response or is not responsive to the requirements of the RFP.
- The Authority has the right to waive any technicalities or immaterial irregularities in the proposals.
- The Authority has the right to reject, for any reason, any and all proposals and components thereof and to eliminate any and all Proposers responding to the RFP from further consideration for this procurement.
- The Authority has the right to select the Proposer(s) who best satisfy the interests of the Authority and is most responsive to the RFP, and not necessarily on the basis of price or any other single factor.
- The Authority reserves the right to enter into concurrent or sequential negotiations with two or more Proposers.
- The Authority reserves the right to enter into agreements for only portions (or not to enter into agreements for any) of the services solicited in this RFP with one or more of the Proposers based upon the Authority's judgment of the best single proposal or combination of proposals to address the Authority's objectives.
- The Authority, in its sole discretion, has the right to discontinue negotiations with any selected Proposer at any time prior to the execution of the Service Contract.
- The Authority reserves the right to conduct investigations of the Proposers (including visits and examination of any of the facilities referenced in each proposal and to observe and investigate the services provided at such facilities) and their responses to the RFP and to request additional evidence to support the information included in any such response.

- Neither the Authority, its staff, its representatives, nor any of its consultants will be liable for any claims or damages resulting from the solicitation, collection, review, or evaluation of responses to this RFP.
- Notwithstanding any other provision set forth herein, no contract, agreement, bid or proposal awarded by the Authority shall be binding and valid until a complete Service Contract is executed by the parties.

D. LEGAL AUTHORITY AND LIMITATION

This RFP was prepared, issued, and circulated by the Authority pursuant to the provisions set forth in the Authority’s procurement policy and in accordance with Section 120-w of the General Municipal Law.

The selected Proposer shall comply with all the current and final regulations, provisions, and special conditions set forth in the registrations, permits, and approvals. The selected Proposer shall be responsible for any fines, penalties, or other regulatory actions imposed for failure to comply with applicable regulations. In particular, the Proposer's attention is directed to Appendix 2, containing a copy of the facilities' NYSDEC operating permit. It is strongly recommended that Proposers closely review the permit and its conditions to insure the proper compliance with the terms of the permit.

E. SCHEDULE

Issue RFP	May 13, 2020
Pre-Proposal Conference	May 21, 2020, 11:00am
Final Date to Submit Clarification Questions	June 5, 2020, 5:00pm
Proposals Due*	July 8, 2020, 3:00pm
Proposal Interviews/Presentations (if needed)	July 13, 2020 – July 27, 2020
Selection of Successful Proposer(s)	On or About August 14, 2020
Contract Execution	On or About October 15, 2020
Contract Services Begin	January 1, 2021

- * One original, two hard copies and one USB copy of each proposal shall be submitted in a single envelope, bearing on the outside the name of the Proposer and the name of the RFP.

A Pre-Proposal Conference for potential proposers will be held by telephone conference call on May 21, 2020 at 11:00am. The purpose of the conference is to discuss the requirements of the RFP and address questions the proposers may have. Questions asked during this conference will be recorded and responded to in writing as well. Potential proposers that would like to attend the call should email kellym@northhempsteadny.gov prior to the call to inform the Authority that they will be on the call. The call-in information for the call is (425) 436-6369, Participant Code: 748613.

SECTION III. BACKGROUND INFORMATION ON TRANSFER STATION

A. TRANSFER STATION

The Town of North Hempstead Transfer Station is located at 999 West Shore Road in Roslyn, New York. The site is situated on an 8.7 acre parcel of land that formerly housed the Authority's old garbage incinerator and baler facilities. In the mid 1990's, parts of the incinerator buildings and stack were demolished in order to construct the current transfer station now located there. Please see Exhibit A, for a site plan of the current Transfer Station facility. Proposers should note that as part of another RFP (TNH196-2018) released by the Authority in 2018, the Transfer Station is undergoing a complete evaluation. As that evaluation is completed, the Authority will share any improvements the Authority has determined will be made as a result of those findings.

As identified in Exhibit A, the main features of the transfer station include the following facilities:

- A scalehouse and two weigh scales. Each scale has a seventy foot length and has a maximum capacity of 80 tons. Adjacent to the two scales, is a bypass lane to pass through the scale area unweighed if necessary.
- A resident drop off area, currently open only on Sundays 7:30 AM to 2:30 PM for use by residents of the Town to dispose of rubbish, e-waste and recyclables.

- A yard waste transfer area which consists of an approximately 10,000 sq. ft. asphalt pad area surrounded by a U-shaped push wall enclosure.
- An asphalt parking area for trailer staging/storage of approximately 13,284 sq. ft. Note: This area may be expanded in response to the site evaluation currently being performed.
- A Transfer Station building consisting of a tipping floor of approximately 28,221 sq. ft. total with an area for 22,523 sq. ft. dedicated for residential and commercial waste and 5,698 sq. ft. dedicated for C&D. A drive through tunnel runs along the entire west side of the building allowing for the loading of multiple trailers simultaneously; at the end of the tunnel, an elevated tarping station is positioned to cover trailers before they leave the site. The building has seven 26 feet high doors for the offloading of waste. The building is equipped with an odor control system consisting of an overhead spray bar and nozzles. Lastly, an office suite is provided with two private offices, administrative area, locker rooms, lunch room and rest rooms. Currently, the facility does not have any processing equipment in the building such as balers, trommels, sorting conveyors or picking stations. However, as part of an evaluation being conducted by an outside consulting firm on the Transfer Station's present and future operation, the possibility of installing balers for baling MSW in plastic bales is being conducted to allow for longer storage and greater options for transport vehicles and distance traveled. Proposers shall therefore be prepared as part of their Proposal's operational and financial plans to include future transport of plastic encased bales.

B. DESCRIPTION OF ACCEPTABLE MATERIALS STREAM

The Transfer Station receives Solid Waste collected from within the Town and a minimal amount of Solid Waste from outside of the Town. The information provided here is to assist Proposers in responding to this RFP. The Authority makes no representations or guarantees regarding the quantities of Solid Waste, which will be delivered to the Transfer Station during the term of the Service Contract.

The table below shows the amount of Acceptable Materials processed at the Transfer Station

between 2002 and 2019, inclusive.

YEAR	TOTAL SOLID WASTE TONNAGE RECEIVED AT TRANSFER STATION
2002	188,570.90
2003	208,759.92
2004	192,915.05
2005	182,566.53
2006	171,397.47
2007	135,522.16
2008	142,860.84
2009	135,429.26
2010	166,610.13
2011	166,810.13
2012	157,852.35
2013	155,882.21
2014	194,748.06
2015	187,230.74
2016	177,976.56
2017	165,014.29
2018	178,874.43
2019	170,750.32

The current New York State Department of Environmental Conservation ("NYSDEC") permit limit for Solid Waste to the Transfer Station is 1,090 tons per day; a copy of the current permit is included in Appendix 2. Please see permit condition No. 3 for full details on tonnage permit limits. Please note that a new permit application has been submitted by the Authority. A new permit is expected to be issued by the NYSDEC in May 2020. Per the State Administrative Procedures Act and the DEC's regulations, the Authority will be operating off of its current permit until the new application is approved.

C. TRANSFER STATION OPERATIONS CONTRACTOR

In 2009, the Authority entered into an agreement with Omni Recycling of Westbury, Inc. ("Omni") to operate the transfer station on behalf on the Authority. Generally, Omni is responsible for the day-to-day operations of the transfer station including the loading of all waste

into transfer trailers for disposal. Omni is also responsible for the transport and disposal of C&D, Yard Waste and Recyclables.

SECTION IV. SCOPE OF WORK - SOLID WASTE TRANSPORT AND DISPOSAL OR BENEFICIAL REUSE SERVICES

The scope of services sets forth a summary of the terms and conditions pertaining to the performance of the Contract Services. Section IV(A) below provides the Service Contract term, Section IV(B) details the requirements of hauling services and Section IV(C) details the requirements of disposal or beneficial reuse services. In the event of a conflict between the scope of services in this RFP and the Service Contract, the Service Contract shall govern.

A. TERM

Proposers must submit a Proposal that includes pricing for a term of five (5) years with two renewal options of five (5) years each to be exercised in the sole discretion of the Authority. All proposers must submit a proposal based upon the term of five (5) years with two five (5) year renewal options to be exercised in the sole discretion of the Authority.

B. HAULING

The Proposal shall provide hauling of Residential Waste and Commercial Waste from the Transfer Station to a designated permitted disposal or beneficial reuse facility proposed by the Proposer. For purposes of this subsection B, "Proposer" shall refer to entity selected by the Authority to provide the services described in this RFP, unless otherwise implied by context. The Proposer shall furnish all labor, insurance, and equipment necessary to haul all Residential Waste and Commercial Waste to the designated facility as set forth below at no additional charge to the Authority and in compliance with the Contract Standards:

1. Hours of Operation. The Transfer Station permit allows for waste to be accepted from 6:00 a.m. to 4:30 p.m. Monday through Saturday. Loads may enter or exit the Transfer Station outside of the scale operating hours with the Authority's written consent. However, this exception may only be given in demonstrably exigent circumstances.

2. **Damage.** The Proposer is solely responsible for damage to its (or other successful Proposer's) equipment and rolling stock, except where caused by the Authority's fault or through the fault of the Transfer Station Operator (documented timely and in writing with costs verified by the Proposer as being fair market value).

3. **Permits.** The Proposer shall obtain all permits and licenses required for provision of hauling services. All trucks, trailers, flatbeds, and trailer bodies must be licensed and properly permitted. Copies of all permits and registrations, including overweight permits must be provided prior to commencement of Contract Services.

4. **Quantity/Permit Requirements.** Quantities of Residential Waste and Commercial Waste fluctuate depending on the day, month of the year, the occurrence of holidays, and other reasons. One of the primary reasons for the fluctuation in generation is the general level of collection services received town-wide. Between Monday and Saturday, each community receives a minimum of three trash collections per week. For this reason the heaviest two days each week are usually Monday and Tuesday, the remainder of the week the set out decreases as the week draws to a conclusion. During peak waste generating times, extended hours for Residential Waste and Commercial Waste receipt and shipment will be required for permit compliance. The Authority makes no guarantees regarding the minimum or maximum quantities of Residential Waste and Commercial Waste that will be delivered to the Transfer Station throughout the Term of this Service Contract. The Proposer is required to provide for hauling all Residential Waste and Commercial Waste delivered to the Transfer Station on a daily basis, regardless of variations in waste quantity. The Proposer must provide daily a sufficient number of transfer trailers and drivers to haul and dispose or beneficially reuse all Residential Waste and Commercial Waste received daily, to ensure that the tipping floor is clear of all Residential Waste and Commercial Waste by the close of each business day.

5. **Route for Hauling.** In delivering transport trailers to the Transfer Station, the Proposer's vehicles shall primarily use the NYSDOT designed truck routes. LIE to Mineola Avenue, Mineola Avenue to Old Northern Boulevard, and Old Northern Boulevard to West Shore Road. In removing Residential Waste and Commercial Waste from the Transfer Station, the Proposer vehicles shall primarily use the following access routes: Upon exiting the Site, turn left onto

West Shore Road and proceed South until reaching Old Northern Boulevard, turn right on Old Northern Boulevard and proceed West to Mineola Avenue, make left on Mineola Avenue, proceed South until reaching the Long Island Expressway.

6. **Vehicles/Rolling Stock Used for Long-Haul Delivery.** The Proposal must include sufficient hauling vehicles and transfer trailers for the transportation of Residential Waste and Commercial Waste, loose and/or baled. The proposal must include a contingency capacity of hauling vehicles to address any potential spikes in deliveries due to emergencies or failures of any kind of the proposer's main proposed hauling vehicle capacity.

The Proposer shall, at its own expense and cost, comply with all Applicable Laws, rules and regulations, including, but not limited to, those governing the inspection and licensing of equipment used in the performance of the Service Contract. All Proposer hauling vehicles and transfer trailers must be fully permitted and appropriate documentation made available to the Authority for all transfer vehicles. Rolling stock and equipment provided by the Proposer for this service remains the property of the Proposer at the end of the Service Contract.

7. **Maintenance of Vehicles/Rolling Stock.** The Proposer shall be responsible for maintenance and repair of rolling stock and shall, as part of its monthly reporting obligations, certify that all vehicles are maintained in accordance with the New York State Department of Transportation, the New York State Department of Motor Vehicles, and manufacturer's specifications and requirements. Transport trailer used to haul loose Residential Waste and Commercial Waste shall be maintained to ensure that all seals are working properly and no transport trailers are leaking swill while on site awaiting transport or during transport to the disposal or beneficial reuse location. Impacts, if any, to the Transfer Station's storm water collection and dispersion system caused by faulty leaking trailers shall be the responsibility of the Proposer.

8. **Hauling Personnel.** The Proposer shall provide sufficient labor and experienced and qualified personnel to provide the hauling services. Drivers must be licensed for the appropriate application and class of vehicle and have required medical certifications as to fitness to operate the designated class of vehicle. The Proposer shall conduct a check of driver's license and background of individuals to verify qualifications and experience. The proposal shall include a

detailed description of the staffing levels proposed and the number, capacity and type of vehicles that will be utilized by the Proposer. The Proposer shall comply with Applicable Law, including without limitation, requirements regarding minimum wages, hours, workmen's compensation, and equal employment opportunity.

9. **Tolls.** The Proposer shall pay all tolls and transportation costs associated with the Contract Services.

10. **Prevailing Wages.** The New York State Department of Labor has previously advised the Authority that Articles 8 and 9 of the New York State Labor Law do not apply to any labor provided in connection with the performance of the long-haul disposal and/or or beneficial reuse services to be provided hereunder. However, it is the Proposer's responsibility to verify that that information is correct and to comply with whatever Prevailing wage requirement may apply, if any.

C. **DISPOSAL OR BENEFICIAL REUSE**

All Residential Waste and Commercial Waste leaving the Transfer Station shall be disposed of at a designated facility proposed by the Proposer and designated by the Authority. Any designated facilities proposed by the Proposer, and any subsequent changes to the selection of a designated facility by the Proposer, shall be subject to the advance approval of the Authority in its sole discretion. The Authority does not have disposal restrictions on the type of disposal facility used for the disposal of solid waste (i.e., either a landfill or waste-to-energy or beneficial reuse facility). In this instance a beneficial reuse facility shall be defined as follows: A facility which ultimately converts MSW into a marketable product or products in accordance with the Department of Environmental Conservation's Part 360 regulations. Proposers shall provide all labor, material, and equipment required for the disposal or beneficial reuse of Residential Waste and Commercial Waste in conformance with the Contract Standard as set forth below:

Proposal of Disposal Facilities. Proposers are required to submit proposals identifying designated disposal facilities which are proposed for the disposal of Residential Waste and Commercial Waste. Proposer must obtain advanced written approval from the Authority before any Residential Waste and Commercial Waste is transported to a proposed disposal or beneficial

reuse facility for disposal. The Proposer shall provide documentation of the ability to secure permitted disposal or beneficial reuse capacity sufficient to dispose or beneficial reuse all Residential Waste and Commercial Waste from the Transfer Station for the entire Term of the Agreement. Proposers must complete Proposal Form H for each disposal or beneficial reuse facility proposed for waste disposal or beneficial reuse.

Coordination Transfer Station/Disposal Hours/Inspection. The Proposer shall be responsible for coordination between the Transfer Station and disposal or beneficial reuse facility hours to ensure smooth and efficient disposal of Residential Waste and Commercial Waste and that the Transfer Station is clean and in compliance with the Contract Standards at the end of each working day. The Authority may inspect the Proposer's disposal or beneficial reuse facilities and equipment as part of its Proposal evaluation. The Proposer shall fully cooperate with all informational requests.

D. LEGAL COMPLIANCE

The Proposer will be expected to be familiar with and to comply with all requirements of Applicable Law and shall be required to perform the Contract Services in full compliance with such Applicable Law and the Contract Standards. The Proposer shall possess all necessary permits and licenses and shall submit, with their proposal, copies of all applicable permits, registrations and other necessary government authorizations that demonstrate it is capable of performing the Contract Services.

E. SUBCONTRACTORS - USE AND REQUIRED PROPOSAL INFORMATION

If the Proposer intends to use one or more subcontractors to provide the Contract Services, the Proposer must state so in its proposal. The Authority requires that subcontractors be identified and their relevant experience and qualifications must be submitted with the proposal. The proposed business arrangement between the Proposer and each subcontractor must be described in the proposal. Subcontractors, including the sole source designated subcontractors, shall fill out and sign Proposal Form G. The Proposer will not be permitted to award work to any subcontractor without the approval of the Authority. The Proposer will be fully responsible for the acts and omissions of its subcontractors and of persons directly or indirectly employed by

them. Subcontractors will be subject to all applicable obligations, requirements, and limitations under the Service Contract. There will be no direct contractual relation between any subcontractor and the Authority.

F. CERTIFICATE OF AUTHORITY

Any corporation not incorporated under the laws of the State of New York must furnish a copy of its certificate of authority from the New York State Secretary of State to do business in New York in accordance with Article 13 of the New York Business Corporation Law.

G. HOLIDAYS

The following are Authority-observed holidays ("Authorized Holidays"), subject to change and proper advance notification. The weigh scale will be closed on such Authorized Holidays unless the Authority advises the Proposer otherwise.

- New Year's Day
- Martin Luther King, Jr.
- Lincoln's Birthday
- Washington's Birthday (Presidents' Day)
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day

H. LIQUIDATED DAMAGES

The Proposer shall be subject to liquidated damages payable to the Authority in the event of a breach of the terms of the Service Contract, in amounts reasonably related to the damage expected to be suffered by the Authority, and in instances where the calculation of actual damage is likely to be difficult or impossible. The amounts and causes of such liquidated damages are

set forth in the attached draft Service Contract (Form K).

I. INSURANCE

The selected Proposer shall procure and maintain at its own expense, throughout the term of the Service Contract and any extensions thereof, at a minimum, the following insurance:

1. Commercial General Liability coverage for bodily injury and property damage, including death with limits of at least \$1,000,000 per occurrence; \$2,000,000 aggregate, aggregate limits to apply per property/location, including contractual liability extending to hold harmless with endorsement showing the policy is considered primary and non-contributory. Policy must have waiver of subrogation in favor of additional insured;
2. Commercial Automobile Liability with a combined single limit of at least \$1,000,000 per occurrence;
3. Environmental Impairment Liability with limits of at least \$10,000,000 on a claims made basis;
4. Contractor's Pollution Liability Policy with limits of at least \$10,000,000 per occurrence and transportation coverage.
5. Excess or Umbrella Liability coverage with limits of at least \$15,000,000, Umbrella or Excess Form providing excess of General Liability and Automobile Liability;
6. Workers' Compensation and Disability Benefits Insurance as required by Applicable Law.

All policies must be underwritten by insurers licensed to sell insurance in New York State and maintaining an A.M. Best rating of "A-XI" or better. The Town of North Hempstead and the Town of North Hempstead Solid Waste Management Authority, all elected and appointed officials, employees and volunteers shall be listed as Additional Insured on all policies except Workers Compensation and NYS Disability, and Proposer shall annually provide the Authority

with valid certificates of insurance and additional insured endorsements for all policies required herein. The Proposer shall also be required to provide 30 days' written notice for cancellation of any insurance policies. All subcontractors must adhere to the same insurance requirements set forth above.

The selected Proposer will be required in the Service Contract to defend, indemnify and hold harmless, the Town of North Hempstead and its agents and employees against any and all claims, suits or liability which might arise in connection with the Service Contract. The Proposer shall be required in the Service Contract to further defend, indemnify and hold harmless, the Authority and its agents, employees from any and all claims, suits, or liabilities that might arise as a result of depositing, disposing, processing, transporting, storing, or use of the Authority's solid waste as defined herein.

SECTION V. PROPOSAL SUBMISSION REQUIREMENTS

A. GENERAL PROVISIONS

This section contains instructions regarding the required content and organization of the proposals. All Proposers must provide all required information in the order set forth below. The Authority reserves the right to add or delete specific items from the final award or to negotiate modifications to specific items prior to such award. One (1) original and two (2) hard copies and one (1) USB copy of the proposal shall be submitted to the Purchasing Department as set forth in Section I (A) above.

One copy must be clearly marked "original" and must contain all original executed copies and documents. Late proposals will be considered non-responsive and may be returned to the Proposer unopened.

- 1. Expenses of Proposal Preparation.** Each Proposer will prepare all required materials and submittals and participate in the proposal and the final negotiation process at its own risk and expense without reimbursement from the Authority.
- 2. Confidential Information.** The New York State Freedom of Information Law, Public Officers Law, Article 6, Sections 84 through 90 provides for public access to government

records. However, proposals may contain trade secrets and other technical, financial, or administrative data whose public disclosure could cause substantial injury to the Proposer's competitive position. Proposer must specifically identify and mark the pages of its proposal that it believes should be exempted from disclosure due to containing such information and insert the following notice in the front of its proposal:

NOTICE

The data on pages _____ of this proposal identified by an asterisk (*) contain technical or financial information, which are trade secrets and/or whose disclosure would cause substantial injury to the (Proposer's) competitive position. The (Proposer) requests that such data be used only for the evaluation of the proposal, but understands that the disclosure will be limited to the extent that the Authority considers proper under the law. If an agreement is entered into with this (Proposer), the Authority shall have the right to use or disclose the data as provided in the Agreement, unless otherwise obligated by law.

The Authority does not assume any responsibility for disclosure or use of marked data for any purpose. In the event properly marked data are requested pursuant to the State Freedom of Information Law, the Proposer will be advised of the request and may expeditiously submit to the Authority a detailed statement indicating the reasons it has for believing that the information is exempt from disclosure under the law. This statement will be used by the Authority in making its determination as to whether disclosure is proper under the law. Neither the inclusion of the Notice, nor any subsequent statement in support of an exclusion from disclosure, shall be determinative of whether the pages must be disclosed under the statute.

3. Requests For Clarification. The Authority may, at its sole discretion, conduct discussions with Proposers to clarify any information submitted in the proposal or assure that the Proposers fully understood and responded to the requirements of the RFP.

Once proposals have been reviewed, the Authority may request that the Proposer submit additional information or clarify certain aspects of the proposal. Such requests from the Authority will be made via written request for clarifications. Timely responses to such requests will be required before the Authority can continue to evaluate the proposal.

Similarly, should the Proposer need clarification from the Authority on any aspect of the RFP,

the Proposer can make such requests in the form of written comments submitted by email to kellym@northhempsteadny.gov no later than the date set forth in Section II(E).

4. **Proposer Interviews.** The Authority may conduct Proposer interviews as set forth in Section II(E). Key members of a Proposer's team will be expected to attend such interview.

5. **Proposer Inspection and Acceptance of Conditions.** The submission of a proposal in response to this RFP shall be considered a representation that the Proposer has carefully inspected all conditions which affect or may, at some future date, affect the performance covered by the proposal, and that the Proposer is fully informed concerning the Authority's operations and the conditions to be encountered, character, quality, and quantity of work to be performed. In addition, a submission shall indicate that the Proposer is familiar with all federal, state, and local laws which in any way affect the performance of the Contract Services.

6. **Continuing Obligation. ANY PROPOSER THAT IS SELECTED TO NEGOTIATE WITH THE AUTHORITY HAS A CONTINUING OBLIGATION DURING SUCH NEGOTIATION PERIOD TO PROVIDE THE AUTHORITY WITH ANY INFORMATION THAT WAS REQUESTED IN THIS RFP WHICH REQUIRES UPDATING DUE TO CIRCUMSTANCES THAT HAVE CHANGED OR OCCURRED SINCE THE SUBMISSION OF ITS PROPOSAL.****PROPOSAL ORGANIZATION**

Proposers are required to submit their proposals in the format below:

- I. COVER LETTER AND EXECUTIVE SUMMARY
- II. PROPOSAL OUTLINE
 - A. PLAN OF SERVICE
 - Hauling
 - Disposal or Beneficial Reuse
 - B. QUALIFICATIONS
 - C. SERVICE FEE
 - D. PROPOSAL SECURITY
- III. EXCEPTIONS/MARK-UP TO SERVICE CONTRACT
- IV. PROPOSAL FORMS

B. COVER LETTER AND EXECUTIVE SUMMARY

The cover letter is the Proposer's official letter transmitting the complete proposal to the Authority. The cover letter will designate the individuals who will be the key technical and business negotiators. This letter is to be typed on the Proposer's letterhead and is to be signed by an officer of the Proposer who is empowered to sign such material and to commit the Proposer to the obligations contained in the proposal. If the Proposer is a joint venture, an authorized representative of each of the participating firms is required to sign the letter.

The executive summary must be presented as a separate document summarizing in clear and concise language, the information contained in all other parts of the proposal and shall include an introduction and overview section and a conclusion. The executive summary shall also summarize the information contained in the Proposal Forms. This shall include, for each Participating Firm, the form of business organization, ownership and firm description; proposed role in the transaction; and information as to any criminal conviction, regulatory violations, bankruptcies, lawsuits and contract disputes.

The executive summary should be drafted so that it may be easily understood by persons not having a technical background. In addition, the executive summary shall be limited to 5 pages, including tables and graphs. The Authority may distribute the executive summary to public officials, representatives of public interest groups, and other major project participants; therefore, the Proposer should not include any data in the executive summary that the Proposer judges to be confidential. The executive summary should not contain any price, cost, or economic data. The Authority assumes no liability for disclosure or use of any data presented in the executive summary.

C. PLAN OF SERVICE

Proposers shall submit details on how the Contract Services shall be addressed. In particular, focusing upon the Proposer's sufficiency of the Proposer's resources to guarantee that the Residential Waste and Commercial Waste received daily are removed by the Proposer or its subcontractor(s) daily to ensure a clean tip floor at the end of each operating day, and that the

Proposer's proposed outlets for the Residential Waste and Commercial Waste removed daily are sufficiently adequate and resilient enough to accept the Residential Waste and Commercial Waste removed daily without disruption.

D. PROPOSER'S QUALIFICATIONS

This section describes the required information regarding the experience and qualifications of the Proposer, including joint ventures, that must be set forth in proposals submitted to the Authority. Failure to submit the required information may result in a Proposer's disqualification from further consideration. Any knowingly false statement shall be grounds for deeming the proposal as non-responsive and terminating any evaluations or negotiations, in addition to any right or remedy to which the Authority may be entitled or any criminal penalty to which the violator may be liable.

1. Experience.

(a) Hauling Services. Proposers shall provide:

(i) a list of contracts for hauling services of a similar nature to that requested in this RFP in the last five years. The list shall include the name of the owner, the location of the building/structure/property from which solid waste was loaded, the date of start/completion of the contract, the approximate value of the contract, whether the contract was terminated prior to the expiration and the reason, type and quantities of waste and regulatory agency contact; and

(ii) the contact information of one reference for each contract listed in item (i) above.

(b) Disposal or Beneficial Reuse Services. Proposers to provide the same information described above, including:

(i) a list of contracts for disposal or beneficial reuse services of a similar nature to that requested in this RFP in the last five years. The list shall include the name of owner, the location of the building/structure/property where solid waste was disposed of, the date of start/completion of the contract, the approximate

value of the contract, whether the contract was terminated prior to the expiration and the reason, type and quantities of waste and regulatory agency contact; and
(ii) the contact information of one reference for each contract listed in item (i) above.

2. **Proposer's Equipment.** Proposers must submit an inventory and description of equipment to be used in the performance of the Contract Services. The description shall also include the intended purpose of the equipment.

3. **Key Personnel Staffing Charts and Organization.** Proposers must submit resumes of management, supervisory, and maintenance personnel assigned to the performance of the Contract Service as well as organization charts to identify the functions of such key personnel.

4. **Financial Information.**

(a) **Required Information.** The Proposer shall provide the financial information referenced herein, as applicable. Failure to provide any of the above information may be sufficient cause for rejection of the proposal.

- Audited financial reports for the last three years (Income Statement, Balance Sheet, and Statement of Changes in Financial Position). Financial reports shall be provided by an independent Certified Public Accountant. If a Proposer does not have audited financial reports, the Authority reserves the right to request additional financial information from the Proposer.
- Most recent Securities and Exchange Commission Forms 10-K, and the 10-Qs subsequent to the most recent financial report submitted, if applicable. If the Proposer is not a public company, it shall provide independently audited financial statements and may request that the information be treated confidentially by the Authority. If the Proposer has been in existence less than three (3) years, the information shall be provided for the period of its existence.

- Copy of the latest prospectus and Official Statement for company's latest securities offering and/or project financing utilizing tax-exempt debt, if applicable.
- Evidence of the ability of the Proposer to meet the funding needs of this project.
- Evidence of the ability to provide the performance bond set forth in Section V(G).
- Evidence of the required insurance set forth in Section IV(I), or evidence of the Proposer's ability to obtain the required insurance.
- Description of any material adverse changes in financial position within the past five years; any material changes in the mode of conducting business and any bankruptcy proceedings, mergers, acquisitions, takeovers, joint ventures, or divestitures within the past five years. In addition, provide a clear and definitive statement of the number of years in the business of providing similar contract services and any predecessor organization, and of whether or not the Proposer or any predecessor organization has declared bankruptcy within the last five years.
- Description of the financial impact of any past or pending legal proceedings and judgments that could materially affect the Proposer's financial position or ability to provide services to the Authority. This information will be reviewed and assessed in accordance with the information provided by the Proposer.
- All credit reports, credit bulletins, and any other published statements by the most recognized rating agencies (Standard and Poor's Rating Services, Moody's Investor Services, Dunn and Bradstreet, Fitch and Value Line) that have been issued or published within the past five years, if available.
- The name, contact person, telephone number, e-mail, and fax number of at least two references from bank or institutional lenders which have extended credit in the past five years; or if the Proposer has not applied for credit in the past five years, the name, contact person, telephone number, e-mail, and fax number of at least two references from banks with which the Proposer conducts business.

- The name, contact person, telephone number, e-mail, and fax number of at least two references from suppliers/subcontractors.
- Any additional information which is appropriate to fully reflect the financial strength of the Proposer.

Under a joint venture or other partnership arrangement, all of the above information shall be provided for all parties to the arrangement whose whole proportionate share of the fees constituting the total amount of fees to be paid to the Proposer by the Authority is fifteen (15) percent or more. The Proposer shall provide binding letters from each party in the joint venture or other partnership arrangement stating its role and its willingness to meet the requirements of this RFP and any contract that will be executed. The partners shall be jointly and severally liable to meet the Proposer's obligations.

5. Regulatory Experience and Compliance. The proposal shall describe the Proposer's experience and effectiveness in dealing with governmental agencies regulating solid waste hauling and disposal services. This description should highlight experience working with environmental regulatory agencies, such as the NYSDEC, NYSDOT, and the USEPA. The proposal shall describe the Proposer's experience and record of compliance with permits, licenses, approvals, and other regulatory actions applicable to the performance of solid waste hauling disposal and or beneficial reuse services. The proposal shall identify any major incidents of non-compliance. A description of corrective action taken for such incidents, the present status of compliance, and whether regulatory agency sanctions were imposed shall be included. The Proposer shall disclose any litigation, pending or complete, that relates directly to its provision of the Contract Services, as applicable. Documentation should be provided evidencing the Proposer's authority to do business in New York. Each proposer shall also include in their proposal, for informational purposes, an outline as to how the proposer's service proposal and plan for disposal or beneficial reuse advances the goals of the Climate Leadership and Community Protection Act.

E. SERVICE FEE

Commencing on the date of initiation of the Contract Services, the Authority will pay the

Proposer a service fee per ton for the Contract Services. The service fee payment will be based upon the Proposer's price set forth in Proposal Form J. The service fee shall be Authority's sole payment obligation to the selected Proposer for the Contract Services. The Proposer agrees that it will hold its price proposal firm for a minimum of 180 days after the submission date of the RFP. The Authority reserves the right to request that Proposers extend the time for which the prices will remain valid for an additional 90 day period.

F. PROPOSAL BOND AND SECURITY INSTRUMENTS FOR THE SERVICE CONTRACT

1. Proposal Bond. The proposal must be accompanied by a proposal bond in the amount of \$50,000 (fifty thousand dollars), plus evidence satisfactory to the Authority that the Proposer will be able to obtain a performance bond, as set forth in Section V(G)(2)(a) below. All such proposal bonds, except those of the Proposer selected for final negotiations, will be returned as soon as practicable after Proposer selection. The proposal security of the successful Proposer shall be returned to the successful Proposer upon execution of the Service Contract by both parties, receipt by the Authority of satisfactory proof of required insurance, and filing and approval by the Authority of the performance bond or letter of credit. In the event the successful Proposer fails or refuses to execute and deliver the Service Contract, insurance and Performance Bond or Letter of Credit required within 30 days of the date of notice of the award of a contract, or on a subsequent date specified in writing by the Authority, at no fault of the Authority, then Proposer shall, at the option of the Authority, forfeit to the Authority, as liquidated damages for such failure or refusal, the proposal security deposited by Proposer.

2. Security for Performance.

(a) Performance Bond. As of the effective date of the Service Contract and throughout the initial and renewal term of the Service Contract, the Proposer shall provide and maintain a performance bond for the Contract Services in the amount of \$5,000,000 (five million dollars) for each year of the Service Contract. The performance bond shall be for a one year period commencing on the effective date of the Service Contract, said performance bond shall be renewed annually no later than 30 days prior to the expiration of the then current bond throughout the term of the Service Contract and any extensions thereof.

The failure by the Proposer to provide such bond by such date shall constitute an immediate event of default. The performance bond underwriter or surety must appear on the United States Treasury's listing of approved sureties (Department Circular 570), have a Best's Key Rating of A-IV or better, and all sureties must be licensed to transact business in New York as a surety company and shall be approved by the Authority. The expenses of meeting and maintaining this bond requirement are the sole responsibility of the Proposer.

The Proposer shall provide a letter from a surety evidencing its ability to obtain a Performance Bond in the amount required herein. Refer to Proposal Form F.

The bond must provide that in the event of a default by the Proposer in payment of compensation due to the Authority or in the event of other loss to the Authority, arising from the Company's performance of the Service Contract, the Authority may draw down such sums immediately upon presentation of the instrument without notice to the Proposer. Presentable in a New York bank.

(b) Letter of Credit. In lieu of the performance bond set forth in Section V(G)(2)(a) above, the Proposer may provide an irrevocable letter of credit issued by a bank authorized to do business in the State of New York and approved by the Authority in the amount of \$1,000,000 (one million dollars) (the "Letter of Credit").

(c) Corporate Guarantee. The Authority may request that the Proposer provide a parent guaranty to ensure the performance of the selected Proposer's obligations under the Service Contract.

G. MARK-UP/EXCEPTIONS TO SERVICE CONTRACT

A draft Service Contract is being distributed to the Proposers with this RFP. The draft Service Contract will be the definitive statement of mutual responsibilities and liabilities of the Authority and the Proposer. In the event of a conflict between the Service Contract and other sections of the RFP, the Service Contract shall govern. Proposers must review and provide a markup of the draft Service Contract. To the extent that any Proposer wishes to modify (or amplify) any such provision, the specific text of the proposed modification either should be clearly marked on the document or appended to the document in clearly typed riders. Proposer shall include in its proposal all comments to the draft Service Contract. Modifications to the draft Service Contract

are subject to review and negotiation by the Authority and the extent of Proposer deviation from such terms shall be considered as an evaluation criteria, as set forth below.

SECTION VI. EVALUATION OF PROPOSALS

A. EVALUATION CRITERIA

This section describes the Authority's proposal evaluation team (the "Team") and the criteria for the evaluation of the proposals. The Team will determine the proposals' degree of completeness and responsiveness to this RFP, particularly with respect to the scope of services described in Section IV and the instructions for preparing proposals described in Section V.

The Authority will evaluate the technical aspects and economic impacts of each proposal and the Proposer's demonstrated ability and willingness to perform the services set forth in this RFP. Each section of each proposal will be evaluated in terms of the reasonableness of the claims and/or commitments made, the completeness of the data provided, the reliability of the approach taken and conformance with the requirements, and the instruction provided in the RFP. The Proposer selection will not be determined solely on the basis of lowest cost, although cost will be an important factor in the evaluation process.

1. Evaluation Team. The proposal evaluation and selection process described in this section of the RFP will be conducted by an evaluation team led by the Authority. The Team will be comprised of personnel from the Authority and the Town of North Hempstead, and assisted by its consultants. The Team will review and evaluate proposals, meet to discuss the various aspects of the proposals, and develop a short list of Proposers with whom the Authority will conduct contract negotiations.

2. Proposal Evaluation. After determining the overall completeness and responsiveness of the proposals, the Team will conduct an evaluation of responsive proposals based on the following criteria:

- | | | |
|----|---|-----------|
| a. | Qualifications and Relevant Experience. | 15 Points |
| b. | Service Plan and Viability of Proposed Services. | 25 Points |
| c. | Ability to Comply with Environmental Regulations. | 20 Points |

- | | | |
|----|----------------------------------|-----------|
| d. | Proposer's Financial Capability. | 20 Points |
| e. | Fee and Fee Structure | 20 Points |
| f. | MWBE or SDVOB | +5 Points |

The following is a description of the factors to be considered for each technical evaluation criterion listed above. It is incumbent upon the Proposer to address all of these factors, as applicable.

(a) Qualifications and Relevant Experience. The Authority requires that prospective Proposers have qualifications and previous experience in similar projects and in performing services similar to the Contract Services. The adequacy of staffing and the training/experience of key management and technical personnel will be evaluated based on review of resumes submitted by the Proposer.

(b) Service Plan and Viability of Proposed Services. The Authority will evaluate the provider's service plan to determine compliance with the requirements of this RFP and the provider's plan for disposal or beneficial reuse to determine whether the proposed solution meets the Authority's goals. In addition, the technical viability of the hauling and disposal or beneficial reuse elements of the proposal will be evaluated. The plans required to be submitted pursuant to Section V(D) will be evaluated to determine their reliability, operability, and flexibility. Additionally, the Authority will evaluate the appropriateness, adequacy, and flexibility of the Proposer's organizational structure for managing the project and will also determine whether the proposal demonstrates the Proposer's ability to procure necessary equipment and provide services by the dates shown in the schedule in Section II(E).

(c) Ability to Comply with Environmental Regulations. Proposers must demonstrate knowledge of, and intent to comply with federal, State, and local environmental laws, regulations, and standards that are applicable to the hauling and disposal or beneficial reuse activities associated with the Contract Services. The Proposer will be responsible for complying with conditions set forth in any permit, registration, or approval issued by federal, State, or local jurisdictions.

(d) Financial Capabilities. Financial soundness of the Proposer or any Participating Firm, as applicable, will be an important criterion in the evaluation process. The Authority requires that Proposers demonstrate the ability to secure or provide the necessary financial resources to perform the Contract Services.

(e) Fee and Fee Structure. The Authority will evaluate the quality of the services proposed as compared to the total fee. Additionally, the Authority will review the fee structure for the structure that is most advantageous to the Authority.

(f) MWBE or SDVOB. In an effort to fulfill the Authority's mission to ensure that Minority and Women Owned Business, as well as Service Disabled Owned Businesses, have an opportunity to work with the Authority, the Authority will grant such vendors who are certified by New York State or Nassau County an additional Five (5) Points on the overall scoring structure for the proposals.

3. Cost Evaluation. Cost proposals will be compared using total annual costs and net present value methods discounted at a universally applied discount rate or rates selected by the Authority. Each Proposer's price proposal will be evaluated separately from its technical proposal.

SECTION VII. PROPOSALS FORMS

Proposers shall submit the following forms with their proposals:

	Proposer's Verification
FORM A	Statement of Non-Collusion
FORM B	Proposer's Background Information
FORM C	Identification of Corporate Officers
FORM D	Tax/Litigation Certification
FORM E	Representation & Certification

FORM F	Surety Identification/Certification
FORM G	Subcontractor Identification
FORM H	Disposal Site Information
FORM I	Compliance with General Municipal Law
FORM J	Cost Proposal
FORM K	Service Contract

PROPOSER'S VERIFICATION

_____, the Proposer herein have reviewed all of the information supplied in the attached Proposal Forms A through K and affirm that all such information is true and accurate to the best of my knowledge.

I understand that this information is submitted as part of a Request for Proposals issued pursuant to the Authority's Procurement Policy and applicable law, and may be relied upon by the Authority in awarding a Contract for solid waste hauling and disposal services pursuant to this RFP. As such, any knowingly or willfully false statement contained herein, in addition to providing grounds for disqualification of the proposal, may subject me to criminal penalty pursuant to Penal Law § 210.45.

Dated: _____

Proposer's Business Name: _____

Signed by: _____

Title: _____

FORM A
Statement of Non-Collusion

All proposals and contracts awarded or accepted by a municipality must contain a statement of non-collusion.

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- A) The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- B) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and
- C) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

I, hereby certify under the penalties of perjury that the foregoing statement is true.

By: _____
Proposer's Signature

Date

Print Name

Title

Legal Name of Individual or Business Name of
Company/Partnership/Corporation

Proposer's State Tax Identification # (Do Not
Use SS#)

Address

mail Address E

[MANDATORY ACKNOWLEDGMENT APPEARS ON FOLLOWING PAGE]

FORM B
Proposer's Background Information

The following is information on the undersigned. Proposer's office locations:

Proposer's Main Office

Proposer's Parent Corporation Main Offices

Manager's Name (Contact)

Manager's Name (Contact)

Firm's Legal Name

Parent Firm's Legal Name

Street Address (Box Numbers)

Street Address (Box Numbers)

City State Zip

City State Zip

Telephone Number

Telephone Number

The Proposer herein certifies that the _____
Firm

is partially/wholly owned subsidiary of _____
Parent Firm

That _____ is owned _____ %
Parent Firm

by _____

or is a public/private stock.

Name of Proposer: _____

By: _____ Date: _____

*Corporate Seal

Note: (1) Any attachments or modifications to this form shall be labeled and be properly integrated into the Proposal Form.

(2) If blank not applicable, fill in with N/A.

FORM C
Identification of Corporate Officers

The Proposer herein certifies that the below named individuals are the current registered corporate officers, along with their current corporate addresses, and designates their authority to execute an Agreement on behalf of the firm.

Officer's Name: _____
Subsidiary _____
Corporate Title: _____
Address: _____
City: _____
State, Zip: _____

Officer's Name: _____
Parent _____
Corporate Title: _____
Address: _____
City: _____
State, Zip: _____

Officer's Name: _____
Subsidiary _____
Corporate Title: _____
Address: _____
City: _____
State, Zip: _____

Officer's Name: _____
Parent _____
Corporate Title: _____
Address: _____
City: _____
State, Zip: _____

Officer's Name: _____
Subsidiary _____
Corporate Title: _____
Address: _____
City: _____
State, Zip: _____

Officer's Name: _____
Parent _____
Corporate Title: _____
Address: _____
City: _____
State, Zip: _____

*Corporate Seal

Date:

Name of Proposer

By

Note: If blank not applicable, fill with N/A

FORM D
Tax/Litigation Certification

Proposer certifies that it does not currently owe delinquent taxes or other outstanding funds, or have pending or is currently involved in any litigation involving the Town of North Hempstead or the Town of North Hempstead Solid Waste Management Authority.

Name of Proposer:

By: _____
(Authorized Signature)

Date: _____

Note: (1) If blank not applicable, fill in with N/A

(2) If Proposer owes the Town taxes or is involved in any litigation with the Town or the Authority, a statement of explanation must be attached hereto.

FORM E
Representation & Certification

The Proposer herein certifies that it is qualified to perform the work covered by this proposal, and that it is not acting as a broker on the behalf of others. To substantiate these qualifications, the Proposer offers the following related information and references in order that the Authority may evaluate the Proposer's qualifications and experience.

1. Proposer's Legal Name: _____

2. Business Address: _____

Street

City

State

Zip

3. State of incorporation: _____ Year Incorporated: _____

4. New York State; Business License No.: _____

5. Number of years in contracting business under above name _____ yrs.

6. Has firm ever defaulted on a contract? _____ (Yes, or No)

7. Gross Value of work under current contract: \$ _____

8. Number of current contracts: _____

9. Brief description of general work performed by firm: _____

10. Has firm ever failed to complete work awarded? _____ (Yes or No)

If yes, attach support statement as to circumstances.

11. Has the Proposing firm, or any officer or director thereof, or any affiliate or related company, been convicted of any criminal violation within the last five years? _____ (Yes or No).

If yes, please provide details for all such instances: _____

12. List any and all civil penalties, judgments, consent decrees, or other sanctions within the last five years involving the proposing firm, any officer or director thereof, or affiliate or related company.

13. List any and all current investigations, indictments or pending litigation by any Federal, State, or local jurisdiction involving the proposing firm, any officer or director thereof, or affiliate or related company.

14. List any and all actions occurring within the last five years which have resulted in revocation or suspension of any permit or authority to do business in any Federal, State or local jurisdiction involving the proposing firm, any officer or director thereof, or affiliate or related company.

15. List any and all actions occurring in the last five years that have resulted in the barring from public bidding of the proposing firm, any officer or director thereof, or affiliate or related company.

16. List any and all bankruptcy proceedings in the last five years involving the proposing firm, any officer or director thereof, or affiliate or related company.

17. Related Experience Reference (within previous five years)

17.1

Project Title: _____

Owners Name: _____

Address: _____

Engineer: _____

Address: _____

Project Initial Start Date: _____

Project Acceptance Date: _____

Initial Bid Value: \$ _____

Final Complete Project Value: \$ _____

Brief Project Description: _____

17.2

Project Title: _____

Owners Name: _____

Address: _____

Engineer: _____

Address: _____

Project Initial Start Date: _____

Project Acceptance Date: _____

Initial Bid Value: \$ _____

Final Complete Project Value: \$ _____

Brief Project Description: _____

17.3

Project Title: _____

Owners Name: _____

Address: _____

Engineer: _____

Address: _____

Project Initial Start Date: _____

Project Acceptance Date: _____

Initial Bid Value: \$ _____

Final Complete Project Value: \$ _____

Brief Project Description: _____

18 Principal Firm Member's Background/Experience (3 member minimum). Please attach current resumes. Supplement or give concise description by individual.

Name of Proposer: _____

By: _____
Authorized Signature

Date: _____

Note: (1) If not applicable, fill in with N/A.

FORM F
Surety Identification/Certification

This is identification that _____

will be the Surety Company for _____,

the Proposer, on this project and that the named Surety Company herein provides written certification that the named Surety Company will provide the Performance Bond, specified in the RFP, in the event the Proposer enters into a Contract with the Authority to provide the services requested herein. The Surety Company herein certifies that it is licensed by the State of New York Insurance Department to provide Surety bonds in the State of New York, that it has a current Best's Key Rating of A-IV or better, and is capable of writing bonds in the amount required as determined by the United States Government Circular 570: Department of Treasury's Listing of Approved Sureties.

Name of Surety Company

Name of Authorized Signatory

(Seal)

Signature

Title

FORM G
Subcontractor Identification

If awarded a Contract for the services contained in the proposal, the Proposer anticipates that the following subcontractors will be utilized in some capacity:

Subcontractor/ Contract Individual	Address	Phone	Trade/Specialties
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____

Name of Proposer: _____

By: _____

Authorized Signature

Date: _____

Note: If blank not applicable, fill in with N/A.

FORM H
Disposal or Beneficial Reuse Site Information

NOTE: AN INFORMATION SCHEDULE MUST BE COMPLETED FOR EACH DISPOSAL OR BENEFICIAL REUSE SITE.

The following is information on the undersigned Proposer's Solid Waste Disposal Site:

I. GENERAL

A. Disposal or Beneficial Reuse Site Location

Name: _____

Address: _____

Phone: _____

B. Disposal Beneficial Reuse Site Mailing Address (If different than above)

Address: _____

II. CURRENT OPERATIONS

A. OPERATIONS PERMIT

1. Permittee: _____
2. No. : _____
3. State: _____
4. Issuing Entity: _____
5. Date of Issue: _____
6. Date of Expiration: _____
7. Copy Enclosed? _____ (Yes or No)

B. HOURS OF OPERATION

1. What are the PERMITTED operating hours of the disposal or beneficial reuse location?

DAY	AM	to	PM
Monday	_____	to	_____
Tuesday	_____	to	_____
Wednesday	_____	to	_____
Thursday	_____	to	_____
Friday	_____	to	_____

Saturday _____ to _____
 Sunday _____ to _____

2. Are there any PERMITTED closure periods stipulated? _____ (Yes or No)
 3. What are the ACTUAL operating hours?

DAY	AM	to	PM
Monday	_____	to	_____
Tuesday	_____	to	_____
Wednesday	_____	to	_____
Thursday	_____	to	_____
Friday	_____	to	_____
Saturday	_____	to	_____
Sunday	_____	to	_____

4. What holiday or other period is the disposal or beneficial reuse site typically closed?

DAY	AM	to	PM
New Year's Day	_____	to	_____
Memorial	_____	to	_____
Independence	_____	to	_____
Labor	_____	to	_____
Thanksgiving	_____	to	_____
Christmas	_____	to	_____
Other (Specify)	_____	to	_____

5. Will the ACTUAL operating hours in Question II.B.3 be extended up to the PERMITTED operating hours in Question II.B.1 in order to accommodate Town of North Hempstead Municipal Solid Waste? _____ (Yes or No)
 6. Are there any local agreements, ordinances, etc. which would prohibit extending the ACTUAL operating hours in Question II.B.3 up to the PERMITTED operating hours in Question II.B. 1 ? _____ (Yes or No)

C. What is the PERMITTED annual capacity in tons?
 For the Year 2014 _____

D. At the PERMITTED levels in Question II.C, what is the projected useful life in years? _____ yrs.

E. What is the annual RECEIVING level today? _____

F. At the RECEIVING levels in Question II.E., what is the projected useful life in years?

G. How much of the RECEIVING level in Question II.E. is committed to under contract in tons?

For the Year 2019 _____

How much, if any, of the RECEIVING level in Question II.E is anticipated to be committed under contract in 2020? _____ tons.

H. Does the Disposal Site have special waste restrictions for:

	<u>YES</u>	<u>NO</u>
1. Construction/Demolition	_____	_____
2. Asbestos	_____	_____
3. Wastewater Treatment Sludge	_____	_____
4. Hazardous Waste	_____	_____

I. Are there any existing Agreements with local municipalities, which prohibit or require;

<u>ITEM</u>	<u>YES</u>	<u>NO</u>
Routing to Site	_____	_____
Weight limits between state roads and site	_____	_____
Number of Vehicles	_____	_____
Vehicle Size	_____	_____
Municipal Solid Waste importation outside jurisdictional area	_____	_____
Host Community Benefits	_____	_____

III. ENVIRONMENTAL INSURANCE

- A. Amount: _____
- B. Name of Surety: _____
- C. Expiration Date: _____
- D. Are Other Municipal Entities listed as additional insured? _____ (Yes or No)

IV. EXPANSION PLANS

A. APPLICATION PERMIT

1. Permittee: _____
2. No.: _____
3. State: _____
4. Date of Submissions: _____
5. Copy enclosed: _____
6. Submission Status: _____
- a. Expansion of current site or new site. _____
- b. Local Citizenry reaction. _____
- c. Regulatory agency. _____
- d. Litigation. _____
- e. Likelihood of success. _____

B. If you are successful in Question IV.A., what is the additional annual DESIGN capacity in tons (do not include figures from Question II.C.)?

For the year 2020 - 2025 _____
For the year 2025 - 2030 _____
For the year 2030 - 2035 _____
For the year 2035 - 2040 _____

C. At the annual DESIGN levels in Question IV.B., what would be the projected useful life in years?

D. Would you be willing to share with the Town of North Hempstead Solid Waste Authority engineering reports utilized for the preparation of the Operating Permits on Expansion Application?

Yes: _____ No: _____

E. Proposer's Disposal Site(s) Engineer of Record

Firm's Name: _____
Firm's Address: _____
Project Engineer: _____

IV. ATTACHMENTS

Attach copies of all permits required of the disposal site(s) and a copy of agreement, performance bond and insurance between Proposer and permit holder to use the disposal site(s) during the term of this Agreement.

Are you willing to meet with the Town of North Hempstead Solid Waste Management Authority to discuss your short and long-term disposal capabilities?

Yes: _____ No: _____

The undersigned hereby certifies that services, material, or equipment to be furnished as a result of this proposal will be in full accordance with Town of North Hempstead Solid Waste Management Authority specifications applying thereto unless exceptions are indicated above and an explanation attached.

Proposing Company: _____

Address: _____

City State Zip

By: _____

(Please print or type) Name and Title

Signature _____

Phone No. _____

Date: _____

CORPORATE SEAL

FORM J
Cost Proposal

Pricing is for the Transportation and Disposal or Beneficial Cost to Haul the Authority’s Acceptable Materials to Designated Disposal or Beneficial Reuse Facility on a per ton basis. All Proposers shall supply pricing on a per ton basis for transport via open top loading trailers as are currently used, as well as transport via flatbed transfer trailers should the Authority install and begin baling Acceptable Materials.

Five (5) Year Initial Term with two (5) Year Renewal Terms to be exercised at the sole discretion of the Authority.

I. Initial Five (5) Year Term*

Provide guaranteed fixed pricing per ton for each year of the initial Five (5) Year Term below:

	Year 1 – 2021	Year 2 – 2022	Year 3 – 2023	Year 4 – 2024	Year 5 – 2025
Open Top Loading Trailers					
Flatbed Transfer Trailers					

II. First Five (5) Year Renewal Term*

Provide guaranteed fixed pricing per ton for each year of the Five (5) Year Renewal Term below (years 6-10):

	Year 1 – 2026	Year 2 – 2027	Year 3 – 2028	Year 4 – 2029	Year 5 – 2030
Open Top Loading Trailers					
Flatbed Transfer Trailers					

III. Second Five (5) Year Renewal Term*

Provide guaranteed fixed pricing per ton for each year of the Five (5) Year Renewal Term below (years 11-15):

	Year 1 – 2031	Year 2 – 2032	Year 3 – 2033	Year 4 – 2034	Year 5 – 2035
Open Top Loading Trailers					
Flatbed Transfer Trailers					

* Pricing begins on January 1st of stated year.

Please note: Proposers must provide pricing for both the long haul transport of Acceptable Waste loose in over-the-top transport vehicles or contained in bales and transported on flatbed trucks as described herein.

The Authority will also consider alternative Price Proposals for Transportation and Disposal Cost to haul the Authority’s Acceptable Materials to Proposed disposal or beneficial reuse facilities on a per ton basis. In submitting an alternative Price Proposal, proposers must maintain the same per ton price for the first five years of the initial five year term. After which, Proposers shall supply a proposed index price adjustment such as the CPI or other alternative acceptable to both the Authority and the Proposer, for tracking changes in operating costs and making adjustments starting in Year 6 of the contract to the price per ton.

The Authority will also consider, as an alternate proposal, Price Proposals that propose a fuel surcharge in addition to a lower per ton fee for each year of the term of the contract, including any renewals. If the proposer chooses to include this alternative proposal, the proposer must clearly state the amount of the fuel surcharge, how and in what circumstances it will be applied, and how the amount of the fuel surcharge has been derived.

FORM K
Service Contract

SOLID WASTE
TRANSPORT AND DISPOSAL AGREEMENT

This Solid Waste Transport and Disposal Agreement (the "Agreement") is made and entered into this 1st day of Janaury, 2021 between _____, a _____ corporation, (the "Contractor"), and the TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY, a public benefit corporation of the State of New York (the "Authority").

RECITALS

(To be entered prior to execution of agreement)

NOW, THEREFORE, in consideration of the mutual premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged the Authority and the Contractor hereby agree as follows:

ARTICLE I

Definitions

1.01 Definitions. For purposes of this Agreement the following words and phrases shall be given the respective interpretations and meanings set forth below.

"Acceptable Waste" means that portion of Solid Waste that is from time to time disposed by and collected from (a) residential and non-residential properties located in the Town of North Hempstead, or (b) in the course of normal municipal and private collection of Solid Waste, including but not limited to Residential Waste and Commercial Waste; and excluding (i) Tires which have been substantially segregated from other waste prior to delivery to the Transfer Station, (ii) Unacceptable Waste and (iii) Hazardous Waste.

"Act" means the Town of North Hempstead Solid Waste Management Authority Act, Title 13-F of Article 8 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York, as amended from time to time.

"Affiliate" means any person, corporation or other entity directly or indirectly controlling or controlled by another person, corporation or other entity or under direct or indirect common control with such person, corporation or other entity.

"Agreement" means this Solid Waste Transport and Disposal Agreement between the Contractor and the Authority, including the Appendices, as the same may be further amended or modified from time to time in accordance herewith.

"Appendix" or "Appendices" means an appendix to this Agreement, as the same may be amended or modified from time to time in accordance with the terms hereof.

"Applicable Law" means any law, rule, code, standard, regulation, requirement, consent decree, consent order, consent agreement, permit, guideline, action, determination or order of, or Legal Entitlement issued by or deemed to be issued by, any Governmental Body having jurisdiction, applicable from time to time to the transfer, handling, hauling, transportation and disposal of Residential Waste and Commercial Waste, Unacceptable Waste, Regulated Medical Waste and Hazardous Waste; or to any other transaction or matter contemplated hereby (including any of the foregoing which concern procurement contracting, health, safety, fire,

environmental protection, solid waste transportation and disposal, materials recovery processing, quality and use, labor relations, mitigation monitoring plans, nondiscrimination and the payment of minimum or prevailing wages).

"Authority" means the Town of North Hempstead Solid Waste Management Authority, a public benefit corporation organized and existing under the Act, and its successors and assigns.

"Authority Breach" means the untruth of any material representation made by the Authority hereunder or any breach, failure, nonperformance or non-compliance by the Authority with respect to its obligations and responsibilities hereunder not attributable to Uncontrollable Circumstances or Contractor Breach, caused by any willful or negligent act, error or omission by the Authority, its officials, agents, employees, representatives, independent contractors or subcontractors of any tier and which materially and adversely affects the Contractor's performance or rights or obligations under this Agreement.

"Authority Engineer" means (1) any engineer employed by the Authority and designated by the Authority to the Contractor in writing.

"Authority Indemnified Parties" has the meaning specified in Section 4.01.

"Billing Period" means a monthly period commencing on the first day of each calendar month in each Contract Year, except that (1) the first Billing Period shall begin on the Commencement Date and shall continue to the last day of the monthly period in which the Commencement Date occurs and (2) the last Billing Period shall end on the last day of the Term. Any computation made on the basis of a Billing Period shall be adjusted on a pro rata basis to take into account any Billing Period of less than the actual number of days in the month to which such Billing Period relates.

"Billing Year" means the twelve consecutive calendar months extending from May 1 through April 30 each year.

"Bulky Scrap Metal" includes, but is not limited to, white goods, outdoor metal furniture, recognizable, uncontaminated metal vehicle parts, metal pipes, bed frames, metal sheds and other large metal objects.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday, Friday and Saturday except for the following legal holidays:

New Year's Day

Presidents' Day

Memorial Day
Independence Day
Labor Day
Columbus Day
Thanksgiving Day
Christmas Day

"Capital Improvement" means any improvement, alteration or addition to the Transfer Station or any part thereof (other than any repair or maintenance of the Transfer Station).

"Change in Law" means any of the following events or conditions which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations):

(A) Inclusions: A "Change in Law" shall include:

(1) the enactment, adoption, promulgation, issuance, modification or written change in administrative or judicial interpretation on or after the Contract Date of any federal, State or local law (except as set forth in the exclusions in (B) below), regulation, rule, requirement, guideline, ruling or ordinance, unless such law, regulation, rule, requirement, ruling or ordinance was, on or prior to the Contract Date, proposed and published in the Federal or New York Register or was duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation;

(2) the order or judgment of any federal, State or local court, administrative agency or Governmental Body, on or after the Contract Date, concerning this Agreement or the Contract Services, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the Contractor or of the Authority, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence;

(3) the denial of an application for, delay in the review, issuance or renewal of, or suspension, termination, interruption, imposition of a term, condition or requirement which is more stringent or burdensome in connection with the issuance, renewal or failure of issuance or renewal on or after the Contract Date of any Legal Entitlement to the extent that such denial, delay, suspension, termination, interruption or imposition materially and adversely affects the

performance of this Agreement, if and to the extent that such denial, delay, suspension, termination, interruption or imposition is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the Contractor or of the Authority, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such denial, delay, suspension, termination, interruption or imposition shall not be construed as such a willful or negligent action, error or omission or lack of reasonable diligence.

(B) Exclusions: A "Change in Law" shall not include:

(1) a change in Applicable Law pertaining to tolls;

(2) a change in Applicable Law in Taxes;

(3) a change in the law of any foreign country;

(4) any Change in Law (including the issuance of any Legal Entitlement, the enactment of any statute, or the promulgation of any regulation) the terms and conditions of which do not impose more stringent or burdensome requirements on the Contractor than those set forth in the obligations contained herein;

(5) any change in interpretation, however stringent, by a Government Body of the meaning of the terms and conditions of the Legal Entitlements in force as of the Contract Date; or

(6) union work rules, demands or requirements, which modifies the number of employees required to be employed by the Contractor and causes an increase in Contractor's projected or actual cost of performing the Contract Services.

"Commencement Date" means January 1, 2021, the date upon which the Contractor shall commence providing the Contract Services to the Authority pursuant to the Agreement.

"Commercial Waste" means that portion of Acceptable Waste that originates or is derived from non-residential properties which is composed of trash, paper, cardboard, plastics, wood furniture, glass, miscellaneous metal cans and shapes, and Acceptable Waste of similar nature (exclusive of Acceptable Waste containing Residential Waste, Yard Waste, Tires, Construction and Demolition Waste, or Commingled Residential Recyclables).

"Commingled Residential Recyclables" means the portion of Acceptable Waste which is composed of source separated plastics, glass, aluminum, ferrous and bimetal beverage containers and material of a similar nature (plastic, metal and glass containers may have lids and labels on).

"Construction and Demolition Waste" or "C&D" means that portion of Acceptable Waste which is composed of uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads; and uncontaminated solid waste resulting from land clearing. Such waste includes, but is not limited to bricks, concrete and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets ten gallons or less in size and having no more than one inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above. Solid waste that is not C&D debris (even if resulting from the construction, remodeling, repair and demolition of utilities, structures and roads and land clearing) includes, but is not limited to asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, fluorescent lights, carpeting, furniture, appliances, tires, drums, containers greater than ten gallons in size, any containers having more than one inch of residue remaining on the bottom and fuel tanks. Specifically excluded from the definition of construction and demolition debris is solid waste (including what otherwise would be construction and demolition debris) resulting from any processing technique, other than that employed at a DEC-approved C&D debris processing facility, that renders individual waste components unrecognizable, such as pulverizing or shredding.

"Contract Date" means the date of execution of this Agreement.

"Contract Representative" has the meaning set forth in Section 11.15.

"Contract Services" means everything required to be furnished and done for and relating to the transportation and disposal of Acceptable Waste by the Contractor pursuant to the express terms of this Agreement during the Term. A reference to "Contract Services" shall mean "any part and all of the Contract Services" unless the context otherwise requires.

"Contract Standards" means the standards, terms, conditions, methods, techniques and practices imposed or required by: (1) Applicable Law, (2) Good Industry Practice, (3) the Loading and Staging Protocol, (4) applicable equipment manufacturers' specifications, (5) applicable Insurance Requirements, and (6) any other standard, term, condition or requirement specifically provided in this Agreement to be observed by the Contractor. Subsection 1.02(F)

shall govern issues of interpretation related to the applicability and stringency of the Contract Standards.

"Contract Year" means the calendar year commencing on January 1 in any year and ending on December 31 of the same year; provided, however, that the last Contract Year shall commence on January 1 prior to the date this Agreement expires or is terminated, whichever is appropriate, and shall end on the last day of the Term or the effective date of any termination, whichever is appropriate. Any computation made on the basis of a Contract Year shall be adjusted on a pro rata basis to take into account any Contract Year of less than 365/366 days.

"Contractor" means _____, and its successors or assigns.

"Contractor Breach" means the untruth of any material representation made by the Contractor hereunder or any breach, failure, non-performance or non-compliance by the Contractor under this Agreement with respect to its obligations and responsibilities hereunder not attributable to Uncontrollable Circumstances or Authority Breach, caused by any willful or negligent act, error or omission by the Contractor, its officials, agents, employees, representatives or independent contractors or Subcontractors of any tier.

"Contractor Insurance" has the meaning specified in Appendix 3 hereto.

"Cost Substantiation" or "Cost Substantiated" means any cost reasonably incurred or to be incurred by the Contractor which is directly or indirectly chargeable in whole or in part to the Authority hereunder, delivery to the Authority of a certificate signed by an authorized officer of the Contractor, setting forth the amount of such cost and the provisions of this Agreement under which such cost is properly chargeable to the Authority, stating that such cost is a fair market price for the service or materials supplied or to be supplied and that such services and materials are reasonably required pursuant to this Agreement, and accompanied by copies of such documentation as shall be necessary to reasonably demonstrate that the cost as to which Cost Substantiation is required has been or will be paid or incurred. Any Cost Substantiation required with respect to costs reasonably incurred by the Authority which are directly or indirectly chargeable in whole or in part to the Contractor hereunder shall include similarly detailed information, and shall be certified by an authorized officer of the Authority.

"DEC" means the Department of Environmental Conservation of the State of New York.

"Designated Disposal Facility" means the facilities listed in Appendix 1.

"Designated Hauler" means any person authorized by and registered with the Authority to deliver Acceptable Waste to the Transfer Station Site.

"Disposal Fee" has the meaning set forth in Article V hereof.

"Encumbrances" means any Lien, lease, mortgage, security interest, charge, judgment, judicial award, attachment or encumbrance of any kind with respect to the Transfer Station.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. §9601 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq.; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601 et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. §1251 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11001 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801 et seq.; and any other now and/or hereafter existing federal, state, or local statute, law, ordinance, code, rule, regulation, permit, license, approval, judgment, injunction, order, decree or requirement (including, without limitation, administrative orders and consent decrees) by any court, administrative agency, tribunal or other governmental office or agency regulating, relating to or imposing liability or standards of conduct concerning public health and safety and protection of the environment as now or any time hereafter may be existing, in effect or amended.

"EPA" means the United States Environmental Protection Agency.

"Event of Default" means, with respect to the Contractor, those items specified in Section 7.02 and with respect to the Authority, those items specified in Section 7.01.

"Fees-And-Costs" means reasonable fees and expenses of attorneys, expert witnesses, consultants and other persons, and costs of transcripts, printing of briefs and records on appeal, copying and other reimbursed expenses, and expenses reasonably incurred in connection with any Legal Proceeding.

"Flow Control Law" shall mean, individually and collectively, (i) the provisions of Chapter 544 of the Laws of 1983 of the State of New York, and (ii) the provisions of Article II of Chapter 46, entitled "Sanitation", of the Code of the Town of North Hempstead, and (iii) any amendment to or successor of any of the foregoing.

"Good Industry Practice" means those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably

believed to exist at such time, are generally accepted as good in the solid waste management industry.

"Governmental Body" means any federal, state, county, Authority or regional legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body.

"Hauling Vehicles" means long-haul tractor and trailers used by the Contractor to transport Acceptable Waste from the Transfer Station to the Designated Disposal Facilities in accordance herewith.

"Hazardous Substance" shall mean those materials designated as a hazardous substance pursuant to CERCLA, 42 U.S.C. § 9601 et. seq., and other Environmental Laws.

"Hazardous Waste" means any material or substance which (a) appears on a list, satisfies criteria or is otherwise now or hereafter classified as toxic or hazardous waste or special nuclear or by-products material under any local, state or federal Environmental Laws including, without limitation, Article 27-0903 of the State Environmental Conservation Law, the Federal Resource Conservation and Recovery Act of 1976 ("RCRA"), the Atomic Energy Act of 1954, all as amended from time to time, or under regulations issued thereunder, or (b) any governmental agency or unit having appropriate jurisdiction shall determine to be ineligible for delivery to the Transfer Station for Processing or (c) presents a substantial endangerment to health or to safety.

"Initial Term" has the meaning specified in Section 9.01.

"Insurance Requirement" means any rule, regulation, code, or requirement issued by any fire insurance rating bureau or any body having similar functions or by any insurance contractor which has issued a policy of Contractor Insurance under this Agreement, as in effect during the Term, compliance with which is a condition to the effectiveness of such policy.

"Legal Entitlement" means all permits, licenses, registrations, approvals, authorizations, consents and entitlements of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Contract Services.

"Legal Proceeding" means every action, suit, litigation, administrative proceeding, and other legal or equitable proceeding arising out of the obligations of the parties under this Agreement.

"Lien" means any and every lien against the Transfer Station or the Transfer Station Site or against any monies due or to become due from the Authority to the Contractor under this Agreement, for or on account of the Contract Services, including without limitation mechanics', materialmen's, laborers' and lenders' liens.

"Loading and Staging Protocol" has the meaning set forth in Section 2.06(m).

"Loss-And-Expense" means any and all loss, liability, forfeiture, obligation, damage, delay, penalty, judgment, cost, or expense, including all Fees-And-Costs, except as expressly excluded or limited by this Agreement.

"Municipality" means any village or other municipal corporation, other agency, school district, district corporation, special district improvement district or public authority located in whole or in part within North Hempstead.

"Newspaper" means that portion of Solid Waste comprised of magazines, junk mail, catalogues, construction paper, envelopes, index cards, greeting cards, corrugated containers, paperback books, non-metallic wrapping paper or other fiber products.

"North Hempstead" means the Town of North Hempstead, New York, a municipal corporation.

"Operator" means Omni Recycling of Westbury, Inc., a New York corporation, and its successors or assigns.

"Overdue Rate" means the maximum rate of interest permitted by the laws of the State, if applicable, or the Prime Rate plus 1%, whichever is lower.

"Party" and "Parties" mean, respectively, the Authority or the Contractor, individually, and both of them, collectively.

"Permit" means the Permit issued by the DEC, a copy of which is attached hereto as Appendix 2.

"Person" means any natural person, and any partnership, corporation, association, joint venture, trust, estate or any other legal entity, including any Municipality.

"Prime Rate" means the interest rate announced from time to time by Bank of America, N.A. or any successor thereto as its "prime rate."

"Process", "Processed" or "Processing" means the receiving, handling, sorting, storing, preparation, removal, transporting, recycling, marketing or other disposition of waste.

"Regulated Medical Waste" means any medical waste that is a solid waste, as defined in subdivision 360-1.2(A) of NYCRR Part 360, generated in the diagnosis, treatment (e.g., provision of medical services) or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that is not excluded or exempted under subparagraph 360-17.2(h)(2) of NYCRR Part 360-17.2, and as further defined therein.

"Recyclables" means any physical material constituting a part or product of Acceptable Waste suitable for collection, extraction, separation or other treatment so as to be usable, in whole or in part, whether for the purpose for which it was originally used or for another purpose, including, but not limited to, Commingled Residential Recyclables, Newspapers and cardboard.

"Renewal Term" has the meaning specified in Section 9.01.

"Resident Drop-off Area" means the designated site at the Transfer Station which contains a resident drop-off area for Acceptable Waste.

"Residential Waste" means that portion of Acceptable Waste that originates or is derived from households, including, without limitation, single and multiple residences (exclusive of Acceptable Waste containing Commercial Waste, Yard Waste, Tires, Construction and Demolition Waste, Commingled Residential Recyclables, and Newspapers).

"RFP" (request for proposals) means the Authority's request for proposals for Solid Waste Transport and Disposal Services dated _____, as may be amended and supplemented.

"Solid Waste" means all putrescible and nonputrescible solid wastes, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, as being accumulated, stored or physically, chemically or biologically treated prior to being discarded, has served its intended use, or is a manufacturing or mining by-product, including but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, mining and agricultural operations and from community activities.

"State" means the State of New York and all of its appropriate administrative, contracting and regulatory agencies and offices.

"Subcontract" means an agreement between the Contractor and a Subcontractor, or between two Subcontractors, as applicable.

"Subcontractor" means every person (other than employees of the Contractor) employed or engaged by the Contractor or any person directly or indirectly in privity with the Contractor (including every sub-subcontractor of whatever tier) for any portion of the Contract Services, whether for the furnishing of labor, materials, equipment, supplies, services, or otherwise.

"Tax" or "Taxes" means any tax, fee, levy, duty, impost, charge, surcharge assessment or withholding, or any payment-in-lieu thereof, and any related interest, penalty or addition to tax.

"Term" has the meaning assigned to it in Section 9.01.

"Termination Date" has the meaning set forth in Section 7.04.

"Tire" means automobile tires and over-the-road tires.

"Ton" means a "short ton" of 2,000 pounds, unless expressly stated otherwise in this Agreement.

"Transfer Station" means the Authority transfer station and Resident Drop-off Area located at 999 West Shore Road, Port Washington, New York, as improved, and all other structures, offices, roadways, appurtenant structures, security systems (sprinklers, fire alarm, fencing and gates), fuel tanks and any other Capital Improvements on the Transfer Station Site, including on-site mobile equipment facilities and equipment installed on the Transfer Station Site for the receiving and transporting of Acceptable Waste delivered to the Transfer Station.

"Transfer Station Site" means the entire parcel of real property owned by the Authority or North Hempstead upon which the Transfer Station is located and identified in Exhibit A attached hereto.

"Unacceptable Waste" means Solid Waste (other than Hazardous Waste) that, is (a) inherently unsuitable for Processing, including, but not limited to, explosives, pathological and biological wastes, radioactive materials, contained gaseous waste, cesspool and other human waste, human and animal remains, liquid wastes, and sludges from air or water pollution control facilities or water supply treatment facilities or (b) not customarily collected in the course of normal municipal or private collection of Solid Waste in North Hempstead and by reason of its size, composition or character cannot be Processed. Unacceptable Waste includes dirt, sewage sludge, Regulated Medical Wastes and large items of machinery and equipment, such as motor vehicles and major components thereof (including oversized tires; e.g.: front-end loader or heavy equipment tires), engines, transmissions, fenders and contaminated parts), agricultural

equipment, trailers, marine vessels and other materials which are likely to cause damage to or adversely affect the operation of the Transfer Station.

"Uncontrollable Circumstance" means, subject to the inclusions and exclusions below, any act, event or condition that is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement, and that materially interferes with or materially increases the cost or time required for performing its obligations hereunder (other than payment obligations), to the extent that such act, event or condition is not the result of the willful or negligent act, error or omission, failure to exercise reasonable diligence, or breach of this Agreement on the part of such party.

(A) Inclusions: Subject to the foregoing, Uncontrollable Circumstances shall include the following:

- (1) a Change in Law;
- (2) naturally occurring events (except weather conditions normal for the northeast region of the United States) such as landslides, underground movement, earthquakes, fires, tornadoes, floods, epidemics, lightning, and other acts of God;
- (3) explosion, sabotage or similar occurrence, acts of a declared public enemy, extortion, war, terrorism, blockade or insurrection, riot or civil disturbance;
- (4) labor disputes, except labor disputes involving employees of the Contractor, its affiliates, or subcontractors which affect the performance of the Contract Services;
- (5) the discovery of Hazardous Material on or at the Transfer Station Site; and
- (6) acts of terror of a public enemy.

(B) Exclusions: It is specifically understood that none of the following acts, events or circumstances shall constitute Uncontrollable Circumstances:

- (1) general economic conditions, interest or inflation rates, or currency fluctuation;
- (2) changes in the financial condition of the Contractor, its Affiliates or any Subcontractor affecting their ability to perform their respective obligations;
- (3) the consequences of error, neglect or omissions by the Contractor, or any of their employees, agents, Subcontractors of any tier, suppliers or Affiliates in the performance of the Contract Services;

(4) the failure of the Contractor to secure patents or licenses or similar authorizations in connection with the technology necessary to perform its obligations hereunder;

(5) the failure of any Subcontractor (other than due to Uncontrollable Circumstances) to furnish labor, services, material, supplies or equipment on the dates agreed to;

(6) union or labor work rules, requirements or demands which have the effect of increasing the number of employees required to perform the Contract Services or otherwise increasing the cost or burden to the Contractor or any Subcontractor of performing the Contract Services;

(7) any increase for any reason in premiums charged by the Contractor's insurers or the insurance markets generally for the Contractor Insurance; and

(8) any impact of prevailing wages, laws or rates on the Contractor's or its Subcontractors' costs with respect to wages and benefits.

"Utilities" means water, sewer, telephone and electricity.

"Weigh Scale" means the Authority's weigh scales, scalehouse and related facilities and systems utilized to weigh Acceptable Waste.

"Yard Waste" means that portion of Acceptable Waste, whether bagged (plastic or paper bags) or unbagged, which is composed of source separated grass, leaves, brush and tree limbs and materials of similar nature.

1.02 Interpretation. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "herein," "hereunder" and any similar terms refer to this Agreement.

(b) Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(d) The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Agreement and nothing in this Agreement is intended to confer on any person other than the parties hereto and their respective permitted successors and assigns hereunder any rights or remedies under or by reason of this Agreement. Without limiting the generality of the foregoing, this Agreement shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions, including those contained in the RFP, the proposal of the Contractor submitted in response thereto, and any amendments or supplements to the RFP or the proposal, unless otherwise stated in this Agreement.

(f) In the event of a conflict between any provisions of this Agreement (including the Appendices hereto) imposing any requirement, obligation, standard or guarantee on the Contractor, the higher or more stringent requirement, obligation, standard or guarantee shall apply. As used herein, the "most stringent" shall mean the applicable Contract Standard that is most beneficial to the Authority.

(g) All references to days herein are to calendar days, including Saturdays, Sundays and holidays, except as otherwise specifically provided.

(h) This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.

(i) This Agreement shall be governed by and construed in accordance with the applicable laws of the State of New York.

(j) If any clause, provision, subsection, Section or Article of this Agreement shall be ruled invalid by any court of competent jurisdiction, then the parties shall: (1) promptly meet and negotiate a substitute for such clause, provision, subsection, Section or Article which shall, to the greatest extent legally permissible, effect the intent of the parties therein; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist.

ARTICLE II

Transfer Station Condition and Operations

2.01 Transfer Station Condition Confirmation.

(a) The Contractor acknowledges that: (1) the Contractor's agents and representatives have visited and inspected the Transfer Station and the Transfer Station Site, and its physical condition relevant to the obligations of the Contractor (including equipment) pursuant to this Agreement, including structural and operating conditions, roads, Utilities and topographical conditions; (2) the Contractor is familiar with local conditions, including, but not limited to, transportation, seasons and climate, access, availability, disposal, handling and storage of Acceptable Waste, Unacceptable Waste (including Regulated Medical Wastes and Hazardous Waste) and equipment and availability and quality of labor and Utilities; and the Contractor has received and reviewed all information regarding the Transfer Station provided to it, or made available; and (3) based on the foregoing, the Contract Services can be performed in accordance with the Contract Standards.

2.02 Documents to be Delivered as of Commencement Date. Prior to or on the Commencement Date, the Contractor shall deliver the following documents to the Authority.

(a) The Contractor shall submit to the Authority certificates of insurance for all Contractor Insurance.

(b) The Contractor shall provide updated information to the Authority relating to the Designated Disposal Facilities, including but not limited to modifications or changes to such facilities, or violations received by such facilities, which occurred between the Contract Date and the Commencement Date. Such information shall be maintained at the Authority's offices.

(c) The Contractor shall prepare and provide to the Authority all information regarding Subcontractors, if any, for Contract Services.

2.03 Compliance.

(a) The Contractor shall perform the Contract Services in accordance with Applicable Law, and shall cause all Subcontractors to comply with the provisions of this Agreement and Applicable Law. The Contractor shall provide the Authority (1) within 24 hours of receipt thereof, a true, correct and complete copy of any written notice of non-compliance with Applicable Law, and true and accurate transcripts of any oral notice of non-compliance with Applicable Law, issued or given by any Governmental Body, (2) within 24 hours of such event, a verbal description of any event or the existence of any circumstance which may result in any such non-compliance, and (3) written notice, within 48 hours of such event, describing the occurrence of any event or the existence of any circumstance which may result in any such non-compliance, or of any Legal Proceeding alleging such non-compliance. Except to the extent excused by Uncontrollable Circumstances or Authority Breach, if the Contractor or any Subcontractor fails at any time to comply with Applicable Law with respect to the performance of the Contract Services, the Contractor, without limiting any other remedy available to the Authority upon such an occurrence and notwithstanding any other provision of this Agreement shall (1) within three (3) business days of the event or circumstance resulting in such non-compliance, at its cost and expense, correct such failure and resume compliance with Applicable Law; (2) bear all "Loss-and-Expense" of Contractor and the Authority resulting therefrom; (3) pay or reimburse the Authority for any resulting damages (including any liquidated damages), fines, assessments, levies, impositions, penalties or other charges; (4) make all changes in hauling and disposal practices which are necessary to assure that the failure of compliance with Applicable Law will not recur; and (5) comply with any corrective action plan filed with or mandated by any Governmental Body in order to remedy the Contractor's failure to comply with Applicable Law.

(b) The Contractor shall at all times during the Term comply with the Contract Standards, as applicable, except to the extent excused by any Uncontrollable Circumstances or Authority Breach. If the Contractor fails to comply with any applicable Contract Standard the Contractor shall at its own cost and expense and without relief under any other Contract Standard (1) promptly notify the Authority of any such non-compliance, (2) promptly provide the Authority with copies of any notices sent to or received from the DEC or any other Governmental Body having regulatory jurisdiction with respect to any violations of

Applicable Law, (3) pay any applicable damages provided for herein, and any other resulting damages, fines, levies, assessments, impositions, penalties or other charges resulting therefrom, and (4) take any action necessary in order to comply with such Contract Standard, continue or resume performance hereunder and eliminate the cause of, and avoid or prevent recurrences of non-compliance with such Contract Standard.

(c) Both Parties will cooperate in developing and enforcing rules and regulations applicable to the performance of the Contract Services at the Transfer Station. If any person engaging in activities at the Transfer Station violates such rules or regulations, the Authority or Operator, in their reasonable discretion, shall have the right to remove such person from the premises of the Transfer Station.

2.04 Acceptance of Residential and Commercial Waste; Removal of Unacceptable Waste.

(a) Residential Waste and Commercial Waste.

(i) The Authority makes no guarantees regarding the minimum or maximum quantities of Residential Waste or Commercial Waste that will be delivered to the Transfer Station throughout the Term of this Service Contract. Commencing on the Commencement Date, the Contractor shall transport and dispose of Residential Waste and Commercial Waste and shall perform any other Contract Services all in accordance with the Contract Standards.

(ii) The Contractor shall remove all Residential Waste and Commercial Waste delivered to the Transfer Station each Business Day by the end of each day and shall provide a sufficient number of transfer vehicles or trailers at the Transfer Station each Business Day to haul and dispose of Residential Waste and Commercial Waste in a manner which permits the Transfer Station to operate efficiently. The Contractor, however, shall not be required to haul and dispose Residential Waste and Commercial Waste in excess of 750 Tons on an average daily basis during any given 30 day period in accordance with the Permit and the Loading and Staging Protocol set forth in Appendix 5.

(b) Receiving and Transporting of Acceptable Waste.

(i) Operator shall receive and process at the Transfer Station all Solid Waste and Recyclables delivered to the Transfer Station by or on behalf of the Authority in each Contract Year. Operator shall screen such material for Unacceptable Waste and shall load the Contractor's transfer trailers at the designated transfer area inside the Transfer Station with Residential Waste and Commercial Waste up to, and not in excess of, the weight limit of such trailers. The Contractor acknowledges and agrees that, as more fully described in the Loading and Staging Protocol set forth in Appendix 5, Operator is not required to load each trailer or container provided by the Contractor with a minimum tonnage amount of Residential Waste and Commercial Waste and is only required to use best efforts to load such trailers or containers to the maximum achievable weight permitted by law. The Contractor also acknowledges and agrees that, Operator is required to load 100 cubic yard transfer vehicles or containers provided by the Contractor with a minimum of 18½ tons of Residential Waste and/or Commercial Waste, provided, however, that Authority may revise this requirement upon notice to the Contractor if and when the Authority commences baling waste for transportation on flatbed trailers. Title to Residential Waste and Commercial Waste shall vest in the Contractor after Contractor's acceptance of such waste at the Transfer Station. To the extent Contractor is provided with Unacceptable Waste, title to such waste shall not vest in the Contractor.

(ii) Weighing records pertaining to the receipt of Acceptable Waste at the Transfer Station and the removal of Residential Waste and Commercial Waste from the Transfer Station as set forth in Section 2.06(g) shall be utilized to determine the number of Tons processed by the Transfer Station for billing and record keeping purposes.

1. (c) **Delivery of Unacceptable Waste to Designated Disposal Facilities.** Operator is required to screen all waste delivered to the Transfer Station to determine if Unacceptable Waste is included with the delivered waste. In the event that the Contractor delivers Unacceptable Waste loaded at the Transfer Station by Operator to the Designated Disposal Facility, the Contractor shall contact the Authority and follow its reasonable directions related to the disposal of such Unacceptable Waste at the Authority's cost and expense and in accordance with the Authority's Operations and Maintenance Manual for the Transfer Station.

(i) The Contractor's only other obligations with regard to Unacceptable Waste are as follows:

(A) the Contractor shall follow the reasonable directions of the Authority regarding removal of such Unacceptable Waste delivered to a Designated Disposal Facility and the placement of such Unacceptable Waste at a safe location, if any, at such facility provided that the Contractor may, but shall not be obligated to, contain and store Unacceptable Waste without such direction;

(B) the Contractor shall cooperate with the Authority to identify, contain, store and promptly remove from the Designated Disposal Facility such Unacceptable Waste.

(d) **Overnight Storage.** Residential and Commercial Waste may be stored overnight on the Transfer Station Site in transfer trailers, in accordance with Applicable Law and the Permit, as necessary to permit the productive utilization of Contractor personnel, Hauling Vehicles, and equipment.

(e) **Hazardous Waste.** The Parties acknowledge that the Transfer Station has not been designed and is not intended to be used in any manner or to any extent as a Transfer Station for the receiving, handling, transportation, storage or disposal of Hazardous Waste and Regulated Medical Waste. In the event that Hazardous Waste is loaded into the Contractor's trailers by Operator and delivered to the Designated Disposal Facility, the Contractor shall isolate such waste from the materials stream and immediately notify the Authority and all other appropriate Governmental Bodies as required by Applicable Law. If the Contractor is unable to immediately notify the appropriate Authority officials, the Contractor shall immediately notify all other appropriate Governmental Bodies as required by Applicable Law. The Contractor shall, as the Authority's agent, in the most expeditious manner possible under the circumstances, cause such Hazardous Waste to be removed from the Designated Disposal Facility and transported to and disposed at a landfill or other disposal site selected by the Authority, in its sole discretion, and lawfully permitted to receive and dispose of such Hazardous Waste. Title to Hazardous Waste shall never pass to the Contractor.

(f) **Payment of Costs.** Except to the extent attributable to the failure of the Contractor to properly perform its obligations under this Agreement, the Authority shall pay to the Contractor all of its costs incurred, to the extent of Cost Substantiation, for any such removal and disposal of

Hazardous Waste. Nothing contained herein shall, however, limit the Authority's ability to seek reimbursement from the person or persons responsible for delivering Hazardous Waste for the costs incurred in its removal and disposal.

(g) **Release of Hazardous Substances or Hazardous Wastes.** The Contractor, after first notifying the Authority, shall be responsible for complying with all notification or reporting requirements associated with any release of any substance into the environment (resulting from the performance of the Contract Services) as required by Applicable Law or by any licenses, permits and approvals issued by any regulatory agencies for any and all of the Contract Services, including, but not limited to, the notification or reporting of releases of Hazardous Substances or Hazardous Wastes. The Contractor shall prepare a memorandum evidencing such notification or reporting and provide copies thereof to the Authority, along with any documents provided to the relevant regulatory agency regarding such release.

2.05 Access and Inspection Rights.

(a) During the Term of this Agreement, the Contractor shall, upon 24 hours advance notice, permit the Authority and any of its officers, employees and/or agents at all times or from time to time during normal business hours (or at such other times as may reasonably be requested by the Authority) to enter any and all locations to inspect, audit and make extracts from the Contractor's files and books of account solely as they relate to the Contractor's performance of its obligations under this Agreement, excluding, however, the Contractor's internal financial records regarding profitability and budgets. All such visits shall be conducted in such a manner as to not cause any unreasonable interference with the performance of the Contract Services.

(b) The Authority shall also have access to all of the Contractor's books and records relating in any way to the performance of the Contract Services at the Transfer Station and the Transfer Station Site and the Contractor shall deliver to it any document or instrument reasonably necessary for the Authority to obtain or review any records.

(c) The Authority shall have the right to take any and all actions reasonably necessary to monitor the Contractor's performance of the Contract Services at the Transfer Station and the Transfer Station Site from time to time as the Authority deems appropriate in order to ensure the Contractor's compliance with this Agreement.

2.06 Responsibilities of Contractor. The Contractor shall take delivery of Residential Waste and Commercial Waste at the Transfer Station subject to the following terms and conditions:

(a) **General.** Daily activities at the Transfer Station will be scheduled to be compatible with collection routines and other solid waste activities in North Hempstead and priority will be given to the loading of Residential Waste and Commercial Waste into the Contractor's transfer trailers. The Contractor is permitted to subcontract or enter into agreements with vendors for the performance of any of its hauling obligations under this Article II provided that (i) the subcontract or vendor agreement is lawful, (ii) the identity of the subcontractor or vendor and a general description of its duties is provided to the Authority prior to the subcontractor or vendor commencing activities, and (iii) the Authority does not, in its reasonable discretion, object to such subcontract or vendor agreement. No subcontract or vendor agreement will relieve the Contractor to any extent of its obligations to the Authority under this Agreement.

(b) **Cooperation with Others.** The Contractor shall cooperate and coordinate its operations with the Authority, North Hempstead, Operator and any other contractors and trade and work forces that are at the Transfer Station during the Term of this Agreement.

(c) **Transfer Station Site.**

(i) The Contractor will cooperate with the Authority to perform the Contract Services at the Transfer Station and the Transfer Station Site in a safe manner and in compliance with this Agreement, including the minimizing of noise from the performance thereof in compliance with State law, and the removal of litter, resulting from the performance of the Contract Services at the premises of the Transfer Station.

(ii) Without limiting in any way the Contractor's responsibility to perform the Contract Services at all times in accordance with this Agreement: (A) all loading of Residential Waste and Commercial Waste shall occur indoors and (B) all Residential Waste and Commercial Waste will be shipped offsite within the time periods specified in this Agreement, or the Permit, whichever time period is shorter, unless otherwise mutually agreed to by the Parties and memorialized in a Contract Administration Memorandum.

(iii) The Contractor shall not make any structural changes to existing structures at the Transfer Station or construct any new structures or improvements during the Term of the Agreement.

(d) **Utilities.** The Contractor shall be not be liable for any utility charges at the Transfer Station (including the Weigh Scale), including, but not limited to, electric, water, sewage disposal, heating fuel and telephones.

(e) **Contractor Records and Reports.** The Contractor shall cause the establishment and maintenance of, or its Subcontractor will establish and maintain, an information management system to provide storage and ready-retrieval of hauling and disposal data. The Contractor will prepare and maintain proper, accurate, and complete records and accounts of all transactions related to the performance of the Contract Services. These records will include but will not be limited to, insurance and regulatory records including reports and correspondence; Unacceptable Waste, Hazardous Waste and Regulated Medical Waste delivered to the Designated Disposal Facility; and safety and accident reports. The Authority will have complete access to all such records and any back-up documentation during the Term.

(f) **Hours of Operation.** Unless otherwise mutually agreed to by the Parties and Operator, the Transfer Station scale shall be open for the loading, hauling and disposing of Residential Waste and Commercial Waste each Business Day from 6:00 a.m. to 4:30 p.m. Monday through Friday, and from 7:00 a.m. to 3:30 p.m. on Saturday (excluding any legal holidays listed in the definition of "Business Day" herein). The Transfer Station shall not be open to accept Acceptable Waste at any other times, provided however, that subject to Applicable Law, including the Permit, the Contractor may have access to the Transfer Station to haul and dispose Residential Waste and Commercial Waste from the Transfer Station at such additional times as the Authority may consent to in writing or as may be required by Applicable Law. To the extent allowed by the Permit or Applicable Law, the Contractor shall use reasonable efforts to accept, haul and dispose Residential Waste and Commercial Waste at other times than as specified above upon the request of the Authority, or upon the occurrence of a natural disaster or other emergency condition on such shorter notice as may be practicable. The Contractor shall not be permitted to pass over the scale after 4:30 p.m. Monday through Friday unless otherwise agreed to by the Parties and the DEC. If the Contractor requests that Authority employees operate the scale after 4:30 p.m., and the Authority approves such request, the Contractor shall pay the

Authority an amount equal to the contracted hourly rate for all hours worked by Authority employees operating the scale after 4:30 p.m., such amount to be deducted by the Authority from the amount paid to such Contractor during the applicable Billing Period. The Contractor shall not be permitted move staged trailers off of the Transfer Station Site after 4:30 PM unless otherwise mutually agreed to in writing by the Parties and appropriate compensation is paid to the Authority by the Contractor.

(g) Operation of Weigh Scales; Tonnage Reports.

(i) Vehicles hauling Residential Waste and Commercial Waste from the Transfer Station shall be weighed by the Authority at the Weigh Scale. The Authority shall be responsible for the operation and maintenance of all of the scales, except that Operator shall be responsible for keeping the Weigh Scale free of litter and debris and shall remove snow, ice or other obstacles to access to the scale by carters. The Authority shall obtain a tare and loaded weight for each tractor/trailer of Residential and Commercial Waste hauled from the Transfer Station. Such tare and loaded weights shall be determined in a manner which consistently includes or excludes weighted items other than Residential Waste and Commercial Waste (such as the tarp, gasoline quantities, people on the vehicles, etc.) so as to ensure, to the most precise extent reasonably possible, that the difference between the tare weight and the loaded weight shall be equal to the weight of the load of Residential Waste and Commercial Waste.

(ii) The Authority shall prepare daily weigh scale records, for the purposes of determining the total Tons of Acceptable Waste delivered to the Transfer Station and thereafter transported and disposed of at a Designated Disposal Facility.

(iii) If each useable scale is incapacitated, the Authority shall rely upon the weights recorded on the scale tickets from the Designated Disposal Facilities as supported by estimates of the quantity of waste delivered on the basis of truck volumes and estimated data obtained through historical data.

(iv) The Authority shall certify the scales, in accordance with customary practice in the industry, at least two times each Billing Year and at such other times upon the reasonable request of the Contractor for which good cause is shown. In the event of a significant discrepancy between the Authority's scale and the Contractor's scale, the Contractor agrees to recertify or recalibrate its scale. In the event that the

Contractor's scale is accurate, as evidenced by written documentation, the Contractor may request that the Authority will recertify or recalibrate its scale. If, upon the completion of both recertifications, a discrepancy continues to exist, the Parties agree to work in good faith to investigate and resolve such discrepancy. The Authority Engineer will verify each test and inspection.

(h) Releases, Leaks or Spills at the Transfer Station Site. The Contractor shall perform the Contract Services in such manner that Residential Waste and Commercial Waste will not be released, leaked or spilled at the Transfer Station Site. The Contractor shall bear the cost of cleaning up and correcting any adverse consequences resulting from any release, leakage or spillage caused by its employees, agents or Subcontractors and shall make and file any reports with respect thereto required under this Agreement and Applicable Law.

(i) Contractor Insurance. Throughout the Term, the Contractor shall obtain and maintain the Contractor Insurance as specified in Appendix 3, shall pay all deductibles relating thereto and shall comply with all applicable Insurance Requirements. Insurance coverage required pursuant to this Section shall be maintained with generally recognized financially responsible insurers reasonably acceptable to the Authority and qualified and licensed to insure risks in the State. The cost of the Contractor Insurance, including all deductible amounts, shall be paid by the Contractor and shall not be subject to reimbursement by the Authority.

(j) Staging Areas. The Authority shall provide cleaning, staging and trailer storage areas reasonably necessary for the Contractor to perform its obligations with respect to the transporting of Acceptable Waste from the Transfer Station in an efficient manner. To the greatest extent possible the staging areas shall be located within the northern portion of the Transfer Station Site, as identified in Appendix 12 and on Exhibit A.

(k) Permits and Licenses. The Contractor will ensure that it is performing the Contract Services in compliance with all local, state and federal Environmental Laws. The Contractor shall, at its sole expense (but with the cooperation of the Authority or North Hempstead to the extent necessary), obtain and maintain all necessary permits and licenses from the United States, the State and local governments and other public authorities as may be required for the Contractor to perform the Contract Services.

(l) Safety and Security of the Transfer Station Site. The Contractor shall perform the Contract Services in a safe manner and at a level consistent with the Contract Standards. Without

limiting the foregoing, the Contractor shall at its cost and expense: (1) take all reasonable precautions for the safety of, and provide all reasonable protection to prevent damage, injury or loss related to the performance of the Contract Services on the Transfer Station Site at all times when the Transfer Station is not being operated, to (a) all employees working at the Transfer Station and all other persons who may be involved with the performance of the Contract Services, (b) all visitors to the Transfer Station, and (c) all Hauling Vehicles, machinery, materials and equipment under the care, custody or control of the Contractor for performing the Contract Services.

(m) Loading and Staging Protocol. The Contractor shall comply with the loading and staging protocol set forth in Appendix 5 relating to the responsibilities and obligations of Operator and the Contractor with respect to the loading and staging of Residential Waste and Commercial Waste at the Transfer Station by Operator, and the hauling and disposal of Residential Waste and Commercial Waste to the Designated Disposal Facility by the Contractor (the "Loading and Staging Protocol"). The Contractor and Operator shall negotiate and discuss in good faith with the Authority any amendments or updates to the Protocol and the Authority shall have the right to disapprove of any provision of the Protocol which is inconsistent with this Agreement or Applicable Law, or impairs access to the Transfer Station of persons entitled thereto, or which becomes necessary in the event that the Authority begins baling waste delivered to the Transfer Station for loading onto flatbed trailers.

(n) Repair of Authority, Town and Private Property. The Contractor shall promptly repair or replace all Authority, Town and all private property damaged by the Contractor or any officer, director, employee, representative or agent of the Contractor in connection with the performance of, or the failure to perform, the Contract Services. The repair and replacements shall restore the damaged property, to the maximum extent reasonably practicable, to its character and condition existing immediately prior to the damage.

2.07 Liquidated Damages.

(a) Imposition of Liquidated Damages. The Agreement provides for the payment by the Contractor of liquidated damages set forth in Appendix 8 in certain circumstances of non-performance, breach and default. Each party agrees that the Authority's actual damages in each such circumstance would be difficult or impossible to ascertain (particularly with respect to the public harm that would occur as a result of such non-performance, breach and default of the

Contractor), and that the liquidated damages provided for herein with respect to each such circumstance are intended to place the Authority in the same economic position as it would have been had the circumstance not occurred and where provided shall constitute the sole and exclusive remedy of the Authority against the Contractor.

(b) Liquidated Damages Payment. Except to the extent the Contractor is excused for Uncontrollable Circumstances or Authority Breach, the Authority shall have the right to deduct from the Disposal Fee amounts due from the Contractor to the Authority for the liquidated damages set forth in Appendix 8.

ARTICLE III

Processing at Designated Disposal Facilities

3.01 **General Conditions.** The Contractor hereby covenants and agrees to diligently and faithfully perform the work of hauling and disposing of Residential Waste and Commercial Waste from the Transfer Station to the Designated Disposal Facilities in accordance with the terms of this Agreement and Applicable Law. The services provided by the Contractor shall include the furnishing of all labor, tools, equipment, materials, insurance, performance bonds, supervision, and all other items necessary to the performance of the Contract Services. The Contract Services to be performed under this Agreement shall be carried out in the manner, at the time, in the locations and at the prices specified herein. The Contractor is permitted to subcontract or enter into agreements with vendors for the performance of any of its obligations hereunder provided that the subcontract or vendor agreement is lawful. No subcontract or vendor agreement will relieve the Contractor to any extent of its obligations to the Authority under this Agreement and nothing herein shall be deemed to permit the disposal of Residential Waste or Commercial Waste at any facility which is not a Designated Disposal Facilities listed on Appendix 1.

3.02 **Basic Services**

(a) **Residential Waste and Commercial Waste**

(i) The Contractor shall transport Residential Waste and Commercial Waste from the Transfer Station to a Designated Disposal Facility. Once the Contractor's transfer trailers have been loaded with Residential Waste and Commercial Waste, such trailer shall be dispatched to the Designated Disposal Facilities in a manner consistent with Applicable Law, provided, however, that the Contractor shall have such trailers containing Residential Waste and Commercial Waste dispatched within 24 hours of its availability on any given Business Day for transport to the Designated Disposal Facility, except that Acceptable Waste first made available on any Saturday shall be dispatched for transport by the close of business on the following Business Day.

(ii) The Contractor shall, at its sole cost and expense, by ownership, leasing or otherwise, provide all Hauling Vehicles and equipment, necessary in order to carry out and perform its obligations hereunder, including its obligations to transport Residential Waste and Commercial Waste to a Designated Disposal Facility. Without limiting the foregoing, the Contractor shall provide or have available a sufficient number of vehicles, tractors, trailers and duly licensed and trained drivers to provide the receipt, transfer and transportation services required hereunder.

(iii) The Contractor shall have sole responsibility for operating, maintaining and servicing the Hauling Vehicles pursuant to the Contract Standards and shall bear all risk of loss thereof or damage thereto, and all risk of damage or injury caused by the operation thereof. The Authority shall have the right to inspect the Hauling Vehicles to ensure that such is being maintained in accordance with the Loading and Staging Protocol. An appropriate number of transfer trailers owned by the Contractor, when not in use, may be stored on the Transfer Station Site for the purpose of efficiency in the loading of such trailers by Operator. All transfer trailers stored at the Transfer Station must be maintained in a neat and orderly condition. All loaded transfer trailers that are stored overnight at the Transfer Station shall be fully tarped and covered. Any Hauling Vehicle which leaves the Transfer Station must meet all applicable rules and regulations for over-the-road travel on roads over which they may travel and be suitably covered and cleaned of all loose or hanging material.

(iv) The Contractor shall maintain weekly, monthly and annual maintenance logs for the Hauling Vehicles. Hauling Vehicles transporting Acceptable Waste to a Designated Disposal Facility in accordance with the delivery requirements set forth herein shall be properly identified and insured pursuant to Applicable Law.

(v) The Loading and Staging Protocol shall include the manner and method to be utilized by the Contractor to perform such Residential Waste and Commercial Waste hauling operations to the Authority, including the maintenance responsibilities set forth herein. The Contractor shall ensure that its Contract Representative has reviewed and is familiar with the Agreement and the Loading and Staging Protocol.

(vi) The Contractor at its cost and expense shall provide personnel to perform the hauling services set forth in this Section that are experienced in providing similar solid waste hauling services. All drivers of vehicles hauling Acceptable Waste shall be licensed for the appropriate application and class of vehicle. The Contractor shall be responsible for conducting a background check to verify its drivers have the appropriate licenses as well as to check the overall driving record of such driver and the driver's solid waste hauling experience. Throughout the Term the Contractor shall maintain on file and available for Authority review, the license number and record of violations, if any, for each driver utilized to perform such services. The Contractor, at the reasonable request of the Authority, shall discipline or replace, as appropriate, any employee of the Contractor or any Subcontractor engaging in unlawful, unruly, disorderly or objectionable conduct on the Transfer Station Site or in the performance of the Contract Services. Notwithstanding the foregoing, any such Contractor discipline or replacement shall be subject to the terms of any applicable collective bargaining agreement. No employee discharged due to an Authority request shall be re-employed by the Contractor or a subcontractor without the written consent of the Authority except to the extent such re-employment is required by a decision of a court of law, arbitrator or similar entity, or is required under a settlement reached in good faith between the Authority, the Contractor and the employee.

(b) **Unacceptable Waste and Hazardous Waste.** The Contractor's obligations with respect to Unacceptable Waste and Hazardous Waste are set forth in Section 2.04 hereof.

3.03 Equipment. Each trailer of Residential Waste and Commercial Waste loaded by Operator shall be fully covered and secured by Operator in accordance with Applicable Law and the Loading and Staging Protocol so as to prevent any blowing, spilling or leakage of the material being transported. Notwithstanding the above, the Contractor's driver is responsible for verifying the tarping of the vehicle prior to leaving the Transfer Station so as to insure the prevention of any blowing, spilling or leaking of material being transported. The transfer trailer provided by the Contractor to perform such services shall be watertight. The Contractor acknowledges and represents that the Transfer Station and Transfer Station Site contain sufficient staging space and operational capabilities to enable the Contractor to perform all of its handling, transfer and transportation obligations hereunder. In the event of a spill, leak

or loss of Residential Waste and Commercial Waste during transit caused by the Contractor, the Contractor shall immediately arrange for the clean-up of the material at the Contractor's sole cost and expense, pay any resulting fines, assessments, penalties or damages resulting therefrom, and indemnify, defend and hold harmless the Authority in accordance with the procedures provided in Section 4.01 from all Loss-And-Expense resulting therefrom.

3.04 **Weighing of Loads.** In accordance with the procedures described in Section 2.06(g), a tare and loaded weight for each tractor/trailer of material hauled from the Transfer Station pursuant to this Agreement shall be measured by the Authority at the Weigh Scale. The weights recorded by such scales shall be binding and payments shall be based on such weighings.

3.05 **Routes.** Hauling Vehicles transporting Residential Waste and Commercial Waste from the Transfer Station to Designated Disposal Facilities located in the Town of Hempstead must use the route or routes designated by the Authority set forth in Exhibit B. In the event that Acceptable Waste is being disposed of at other Designated Disposal Facilities located outside of North Hempstead, such route or routes shall be designated only as far as the township boundary of North Hempstead, as set forth in Exhibit B. No other travel routes may be used, and the loaded transportation vehicles may not park or leave the specified routes, except as a result of an emergency.

3.06 **Permits, Licenses and Legal Entitlements.** The Contractor, at its own expense, shall make all filings, applications and reports necessary to obtain and maintain all permits, licenses and approvals required to be made, obtained or maintained under Applicable Law in order to perform such Acceptable Waste hauling operations, including overweight permits. If applicable, the Contractor shall ensure that the Contractor and its Subcontractors comply with all overweight permits. The Authority shall not be liable for any failure of the Contractor or Subcontractor to comply with such overweight permits and the Contractor shall indemnify the Authority for any Loss-And-Expense resulting therefrom as set forth in Section 4.01. The Contractor shall, within one (1) Business Day, report to the Authority all violations of the terms and conditions of any permit, license, approval or Applicable Law pertaining to its providing such Residential Waste and Commercial Waste hauling operations.

3.07 Designated Disposal Facilities. (a) The selection of the Designated Disposal Facility or any alternate disposal facility shall be subject to the advance approval of the Authority, such approval not to be unreasonably withheld. The Contractor shall provide the Authority with all information (including the information listed in Section 3.07(d) below) necessary for the Authority to grant such approval, and such information shall be maintained at the Authority's office. The Contractor shall make all necessary arrangements with the owner or operator thereof for the disposal of all Residential Waste and Commercial Waste during the Term. The Designated Disposal Facility and any alternate disposal facilities, as set forth herein, shall be capable of receiving all Residential Waste and Commercial Waste delivered to and transported from the Transfer Station. In the event a cost savings results for the cost of transportation or disposal based on the selection of an alternate disposal facility by the Contractor, the Contractor agrees to negotiate in good faith to share such cost savings with the Authority.

(b) The Contractor shall be responsible for coordinating the receiving hours of any Designated Disposal Facility or alternate disposal facility, with its Residential Waste and Commercial Waste hauling operations to ensure the efficient disposal of transported waste.

(c) If at any time during the Term, the Designated Disposal Facilities are unable to accept Residential Waste and Commercial Waste, the Contractor shall provide an alternate disposal facility which is either a sanitary landfill or other solid waste disposal or management facility, which as applicable (1) is operated in accordance with good engineering practice, (2) is constructed of a double composite liner or, with the Authority's consent, other equivalent liner systems, (3) is located in the United States, (4) does not appear on any federal or State list of sites, such as but not limited to the National Priority List or the CERCLIS list under CERCLA, maintained for the purpose of designating landfills which are reasonably expected to require remediation on account of the release or threat of release of Hazardous Wastes or Hazardous Substances, (5) is being operated at the time of disposal or delivery in accordance with Applicable Law as evidenced by the absence of any regulatory sanctions or any significant enforcement actions with respect to material environmental matters, (6) has committed by agreement or obligation of the owner or operator to receive Residential Waste and Commercial Waste, and (7) is not under any executive or judicial order barring receipt of Solid Waste from any region which includes North Hempstead. No waste-to-energy facility shall qualify as an

alternate disposal facility unless the site at which the ash residue therefrom is disposed of also fulfills all the requirements listed in this section.

(d) Throughout the Term, the Authority shall have the right to inspect the Designated Disposal Facility or any alternate disposal facility provided by the Contractor at the expense of the Contractor, review all applicable Legal Entitlements, operating plans and any other information, during normal business hours and upon reasonable notice, necessary to ensure compliance with the terms of this Agreement. Upon the request of the Authority, the Contractor shall provide to the Authority all reasonable information relating to a Designated Disposal Facility or alternate Designated Disposal Facility.

(e) Notwithstanding anything contained herein to the contrary, in the event that subsequent to the Contract Date, the Authority agrees to permit Designated Haulers or other haulers to deliver Residential Waste and Commercial Waste to a facility other than the Transfer Station, and the delivery of such waste in the above-referenced manner results in a cost savings to the Authority, the Parties agree to negotiate in good faith to secure a mutually agreeable Disposal Fee.

3.08 Authority Right to Select Designated Disposal Facility. During the Term, the Authority shall have the right to enter into an intermunicipal agreement with another municipality on Long Island to accept a portion of the Town's Residential Waste and Commercial Waste at publicly owned solid waste disposal facilities on Long Island in order to take advantage of intermittent or seasonal capacity that may become available at such facilities during the Term of the Agreement. The Authority shall have the right to divert a portion of the Residential Waste and Commercial Waste delivered to the Transfer Station to the aforementioned publicly owned solid waste facilities during the Term of the Agreement. In the event of such diversion, the Authority may provide the Contractor with up to 250 tons per day of Residential Waste and Commercial Waste at the Authority's Transfer Station and the Contractor shall be obligated to deliver all amounts in excess of 250 tons of Residential Waste and Commercial Waste on any given day to such Disposal Facility designated by the Authority, and the Disposal Fee shall be adjusted as mutually agreed to by the Parties.

3.09 Delivery of Waste to Authority Transfer Station. The Contractor agrees to deliver to the Authority's Transfer Station all Residential Waste and Commercial Waste generated within the Town which is collected by the Contractor from any and all sources.

ARTICLE IV

Indemnification

4.01 **Contractor Indemnification Obligations.** The Contractor agrees that it will protect, indemnify and hold harmless the Authority, and its representatives, officers, employees and subcontractors (as applicable in the circumstances) (the "Authority Indemnified Parties"), from and against (and pay the full amount of) all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorney's fees (collectively, "Loss-And-Expense"), and will defend the Authority Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person, or loss or damage to property (including claims by adjoining property owners, whether based on inverse condemnation or some other legal theory, for diminishment of property value through any environmental conditions or violation of Environmental Laws) arising out of (1) the negligence of the Contractor or any of its officers, members, employees, agents, representatives or Subcontractors in connection with its obligations or rights under this Agreement, (2) the transfer, transportation, processing and disposal of waste and materials for which the Contractor is responsible, (3) any Contractor Breach; or (4) the performance or non-performance of the Contractor's obligations under this Agreement. This indemnity and hold harmless is intended to be as broad as is permitted by law and to include claims of every kind and nature – for tort, under contract; for strict liability or other liability without fault; under statute, rule, regulation or order; and otherwise. The Contractor shall not, however, be required to reimburse or indemnify any Authority Indemnified Party for any Loss-And-Expense to the extent any such Loss-And-Expense is due to (a) any Authority Breach, (b) the negligence or other wrongful conduct of any Authority Indemnified Party, (c) any Uncontrollable Circumstance, (d) any act or omission of any Authority Indemnified Party judicially determined to be responsible for or contributing to the Loss-And-Expense, or (e) any matter for which the risk has been specifically allocated to the Authority hereunder. An Authority Indemnified Party shall promptly notify the Contractor of the assertion of any claim against it for which it is entitled to be indemnified hereunder, shall give the Contractor the opportunity to defend such claim, and shall not settle the claim without the approval of the Contractor. These indemnification provisions are for the protection of the

Authority Indemnified Parties only and shall not establish, of themselves, any liability to third parties. The provisions of this Section 4.01 shall survive termination of this Agreement.

ARTICLE V

Payment

5.01 Fees.

(a) **Disposal Fees.** The Authority shall pay the Contractor a per Ton charge for each Ton of Residential Waste and Commercial Waste which is transported and disposed of by the Contractor (the "Disposal Fees") as set forth in Appendix 9.

(b) **Changes in Connection with Baling.** Contractor acknowledges that during the Term, the Authority may commence baling waste for loading onto flatbed trailers rather than loosely over-the-top trailers. Authority shall provide sixty (60) days notice to Contractor of the date that baling and loading operators shall commence. Commencing upon such date, Authority shall pay the Contractor the Disposal Fees applicable to loading onto flatbed trailers as shown on Appendix 9 rather than the Disposal Fees applicable to loading into over-the-top trailers.

(c) **Contractor Reporting.** The Contractor shall submit to the Authority monthly, no later than the tenth day after the end of each Billing Period throughout the Term, written reports setting forth: (i) the number of loads of Residential Waste and Commercial Waste transported from the Transfer Station, by day of the week; (ii) the total amount (in Tons) of Residential Waste and Commercial Waste transported from the Transfer Station each day; (iii) identify the location of disposal and the corresponding amount of Residential Waste and Commercial Waste delivered to each location; (iv) a calculation of the Disposal Fee payments due the Contractor for the period covered by the report; and (v) certified payrolls, to the extent the Contractor is required, pursuant to Applicable Law, to prepare and maintain such records.

(d) **Billing Payment.** The Contractor shall submit invoices, in a format acceptable to the Authority, for all sums due under this Section 5.01 no later than the fifteenth day after the end of each Billing Period for the fees due hereunder for the Billing Period just ended. Each such invoice shall separately state the amount of the Disposal Fees due to the Contractor. Each such invoice shall be certified as accurate by an officer of the Contractor and will be accompanied by such supporting documentation as the Authority may require from time to time. The Authority shall pay the Contractor the fees stated on such invoices within thirty (30) days after the fifteenth

day following the end of the Billing Period (or, if later, following the receipt of the Contractor's invoice).

(e) **Billing Disputes.** If the Authority disputes any amount billed by the Contractor, the Authority may either (1) pay the disputed amount when otherwise due, and provide the Contractor with a written objection indicating the amount that is being disputed and providing all reasons then known to the Authority for its objection to or disagreement with such amount, or (2) withhold payment of the disputed amount and provide the Contractor with written objection as aforesaid. When any billing dispute is finally resolved, if payment by the Authority to the Contractor of amounts withheld or reimbursement to the Authority by the Contractor of amounts paid under protest is required, such payment or reimbursement shall be made within 45 days of the date of resolution.

(f) **Books and Records.** The Contractor shall prepare and maintain proper, accurate and complete books, records and accounts regarding the performance of the Contract Services and financial or other transactions related thereto to the extent necessary (1) to verify data with respect to any transactions in which the Authority has a financial or other material interest hereunder, (2) to substantiate any payment, including any payment related to an Uncontrollable Circumstance or which is subject to Cost Substantiation, and (3) to prepare any report required pursuant to Applicable Law. The Authority shall have the right to request, upon reasonable notice and demand to the Contractor, any such books and records if required under Applicable Law, to support any Authority litigation, to substantiate an Uncontrollable Circumstance claim from the Contractor or to substantiate any payment whether or not subject to Cost Substantiation. The Contractor shall keep the relevant portions of the books, records and accounts maintained with respect to each Contract Year until at least the seventh anniversary of the last day of such Contract Year. The provisions of this subsection shall survive the termination of this Agreement.

5.03 Payment of Taxes Due to Change in Law. As further described in the definition of "Change in Law" set forth in Section 1.01 herein, upon the occurrence of a Change in Law in Taxes required to be paid by the Authority, the Contractor shall add such amount of Tax to the per Ton charge for each Ton of Residential Waste and Commercial Waste which is transported and disposed of by the Contractor, and the Authority shall pay such amount at the same time as the Disposal Fee is paid, unless otherwise mutually agreed to by the Parties.

ARTICLE VI

Representations and Warranties

6.01 **Representations and Warranties of the Authority.** The Authority represents and warrants that:

(a) The Authority is a body politic and corporate constituting a public benefit corporation validly existing under the Constitution and laws of the State, with full legal right, power and authority to enter into and perform its obligations under this Agreement.

(b) The Authority has duly authorized the execution and delivery of this Agreement. This Agreement has been duly executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.

(c) Neither the execution nor the delivery by the Authority of this Agreement nor the performance by the Authority of its obligations hereunder nor the consummation by the Authority of the transactions contemplated hereby (1) conflicts with, violates or results in a breach of any law or governmental regulation applicable to the Authority or (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement or instrument to which the Authority is a party or by which the Authority or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument. Nothing in this Section shall be construed as a representation or warranty, of any nature, by the Authority with respect to the environmental impact report prepared for the Transfer Station.

(d) There is no action, suit or other proceeding as of the Contract Date, at law or in equity, before or by any court or governmental authority, pending or, to the Authority's best knowledge, threatened against the Authority which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the execution or delivery of this Agreement or the validity or enforceability of this Agreement or any other agreement or instrument to be entered into by the Authority in connection with the transactions contemplated

hereby, or which would materially and adversely affect the performance by the Authority of its obligations hereunder or under any such other agreement or instrument.

(e) The Authority has no knowledge of any Applicable Law in effect on the date as of which this representation is being made, exclusive of permitting requirements, which would prohibit the performance by the Authority of this Agreement and the transactions contemplated hereby, other than the need to obtain all Legal Entitlements necessary for operation and maintenance of the Transfer Station and implementation of any Capital Improvements.

6.02 Representations and Warranties of the Contractor. The Contractor hereby represents and warrants that:

(a) The Contractor is duly organized and validly existing as a corporation under the laws of the State of _____ and authorized to do business in the State, with full legal right, power and authority to enter into and perform its obligations under this Agreement.

(b) The Contractor has duly authorized the execution and delivery of this Agreement. This Agreement has been duly executed and delivered by the Contractor and constitutes the legal, valid and binding obligation of the Contractor, enforceable against the Contractor in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.

(c) Neither the execution nor the delivery by the Contractor of this Agreement nor the performance by the Contractor of its obligations hereunder (1) conflicts with, violates or results in a breach of any law or governmental regulation applicable to the Contractor, (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of the Contractor) or instrument to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument, or (3) will result in the creation or imposition of any Encumbrance of any nature whatsoever upon any of the properties or assets of the Contractor.

(d) There is no action, suit or other proceeding as of the Contract Date, at law or in equity, before or by any court or governmental authority, pending or, to the Contractor's best knowledge, threatened against the Contractor which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the execution or delivery

of this Agreement or the validity or enforceability of this Agreement or any other agreement or instrument entered into by the Contractor in connection with the transactions contemplated hereby, or which would materially and adversely affect the performance by the Contractor of its obligations hereunder or by the Contractor under any such other agreement or instrument.

(e) The Contractor has no knowledge of any Applicable Law in effect on the date as of which this representation is being made which would prohibit the performance by the Contractor of this Agreement and the transactions contemplated hereby, other than the need to obtain all Legal Entitlements necessary for the performance of the Contract Services.

(f) The Hauling Vehicles will not pick up any materials other than fuel and safety and maintenance items normal and customary for hauling Acceptable Waste after being weighed-out at the Weigh Scale.

(g) The operations of the Contractor have been conducted in accordance with all applicable laws of all governmental bodies having jurisdiction over them, including, without limitation, all Environmental Laws, regulations and requirements relating to equal opportunity, health and occupational safety. The Contractor has not received any notification of any present or past violation by it of any such laws, rules or regulations except as previously disclosed to North Hempstead as of the Commencement Date. The Contractor has all licenses, permits, orders or approvals from governmental bodies required for the conduct of its businesses as presently conducted and is not in violation of any such license, permit, order or approval. The Contractor shall use its best efforts to ensure that all such licenses, permits, orders and approvals are in full force and effect and shall remain in full force and effect during the Term, and represents that no suspension or cancellation thereof has been threatened. Without limiting the generality of the foregoing:

(i) The Contractor shall comply with all provisions of the Labor Law of the State of New York, insofar as they are applicable to the provisions hereof.

(ii) This Agreement shall be void and of no effect unless the Contractor shall secure workers' compensation insurance to the benefit of and keep insured during the Term of this Agreement, employees in compliance with the provisions of the Workers' Compensation Law of the State.

(iii) To the extent applicable, the Authority has applied for and provided to the Contractor the prevailing wage rate scale and the Contractor shall comply therewith a copy of the prevailing wage rate scale is attached hereto as Appendix 10.

(h) The Contractor is familiar with Applicable Law, currently governing the performance of the Contract Services, including but not limited to the hauling and disposal of Residential Waste and Commercial Waste, which in any way affect or may in the future affect, the Contractor's performance hereunder. The Contractor or one or more of its subcontractors has obtained all permits, licenses and other authorizations which are required with respect to the work hereunder under all Environmental Laws. The Contractor is in full compliance with all terms and conditions of the required permits, licenses and authorizations applicable to the Contractor, and are also in full compliance with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetable contained in those laws or contained in any regulation, code, plan, order, decree, judgment, notice or demand letter issued, entered, promulgated or approved thereunder. The Contractor is not aware of any past, present or future events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent continued compliance, or which may give rise to any common law or legal liability, or otherwise form the basis of any claim, action, suit, proceedings, hearing or investigation, based on or related to the processing, distribution, use, treatment, storage, disposal, transport, or handling, or the emission, discharge, release or threatened release into the environment, of any pollutant, contaminant, Hazardous Substance or Hazardous Waste.

(i) The Contractor owns, leases, or has binding and enforceable contractual rights to use during the Term of this Agreement, including any extensions hereof, the equipment necessary or appropriate for the Contractor to adequately fulfill its responsibilities under this Agreement, and the Contractor shall deliver to the Authority, upon its request, proof satisfactory to the Authority of such ownership, lease, or contractual rights prior to the Contract Date or at any other reasonable time during the Term.

(j) The Designated Disposal Facilities are (i) duly permitted and licensed for Residential Waste and Commercial Waste, (ii) in compliance with Applicable Law, and (iii) not the source of a release or threatened release of any Hazardous Substance. The Contractor will forward to the Authority a copy of all notices and correspondence relating to the compliance of the Designated Disposal Facilities with Environmental Laws at the Authority's request.

ARTICLE VII

Events of Default; Remedies

7.01 **Events of Default by the Authority.** Each of the following shall constitute an Event of Default on the part of the Authority for which the Contractor may terminate this Agreement pursuant to the notice and cure opportunity requirements set forth in (b) below.

(a) **Events of Default for which Contractor May Terminate.** The failure or refusal by the Authority to make payments of any undisputed amounts owed by the Authority to the Contractor unless such failure or refusals are excused by an Uncontrollable Circumstance or Contractor Breach.

(b) **Notice and Cure Provisions.** No event of default set forth in (a) above shall constitute an Event of Default for which the Contractor may terminate this Agreement unless:

 (i) the Contractor has provided the Authority with written notice advising the Authority that the specified failure or refusal to perform exists which will, unless corrected, constitute a material breach of this Agreement on the part of the Authority, and

 (ii) the Authority has neither challenged in an appropriate forum the Contractor's conclusion that such failure or refusal to perform has occurred or constitutes a material breach of this Agreement nor corrected or taken steps to correct such default within sixty (60) days of the date the notice is received by the Authority. Notwithstanding the foregoing sixty (60) day time period, if the Event of Default is not cured within such sixty (60) day time period, but the Authority shall have, however, diligently taken steps to correct such default within such time period, the same shall not constitute an Event of Default for as long as the Authority is continuing to take such steps to correct such default. In the event Contractor terminates the Agreement pursuant to this Section, the Authority shall be required to pay all undisputed amounts owed pursuant to the Agreement within 30 days of such termination.

(c) **No Other Authority Failures Shall Constitute an Event of Default.** No other failure on the part of the Authority shall constitute an event of default for which the Contractor may terminate this Agreement.

7.02 Events of Default by the Contractor.

(a) **Events of Default Not Requiring Notice or Cure Opportunity for Termination.** Each of the following shall constitute an Event of Default on the part of the Contractor for which the Authority may terminate without any requirement of notice or cure opportunity:

(i) The failure of the Contractor, for a 48-hour period, to haul and dispose of Residential Waste and Commercial Waste from the Transfer Station Site in accordance with the requirements set forth in Section 2.04(a)(ii) which was loaded into the Contractor's transfer trailers during such period, during the hours set forth in Section 2.06(f) and unless such failure or refusal is excused by Uncontrollable Circumstances or Authority Breach;

(ii) The failure of the Contractor to provide the security instruments as set forth in Section 11.02 and 11.03;

(iii) The written admission by the Contractor that it is bankrupt, or the filing by the Contractor of a voluntary petition under the Federal Bankruptcy Code, or the consent by the Contractor to the appointment by a court of a receiver or trustee for all or a substantial portion of its property or business, or the making by the Contractor of any arrangement with or for the benefit of its creditors involving an assignment to a trustee, receiver or similar fiduciary, regardless of how designated, of all or a substantial portion of the Contractor's property or business; and

(iv) The final adjudication of the Contractor as bankrupt after the filing of an involuntary petition under the Federal Bankruptcy Code, but no such adjudication shall be regarded as final unless and until the same is no longer being contested by the Contractor nor until the order of the adjudication shall be regarded as final unless and until the same is no longer being contested by the Contractor nor until the order of the adjudication is no longer subject to appeal.

(b) **Events of Default Requiring Notice or Cure Opportunity for Termination.** The following shall constitute an Event of Default on the part of the Contractor for which the

Authority may terminate this Agreement pursuant to the notice and cure requirements set forth in (c) below:

(i) failure or refusal by the Contractor substantially to perform any other material obligation under this Agreement (other than those obligations contained in subsection 7.02(a) above);

(ii) failure of the Contractor to pay or credit undisputed amounts owed to the Authority under this Agreement within 60 days following the due date for such payment or credit.

(c) Notice and Cure Provisions. The Authority shall have the right to terminate the Contractor for an event of default set forth in (b) above if:

(i) The Authority has given prior written notice to the Contractor stating that a specified failure or refusal to perform exists which will, unless corrected, constitute a material breach of this Agreement on the part of the Contractor and which will, in its opinion, give the Authority a right to terminate this Agreement for cause under this Section unless such default is corrected within a reasonable period of time; and

(ii) the Contractor has neither challenged in an appropriate forum the Authority's conclusion that such failure or refusal to perform has occurred or constitutes a material breach of this Agreement nor corrected or taken steps to correct such default within thirty (30) days of the date the notice is received by the Contractor. Notwithstanding the foregoing thirty (30) day time period, if the Event of Default is not cured within such thirty (30) day time period, but the Contractor shall have, however, diligently taken steps to correct such default within such time period, the same shall not constitute an Event of Default for as long as the Contractor is continuing to take such steps to correct such default.

(d) Enforcement Costs. The Parties agree to pay all Fees-and-Costs incurred by or on behalf of one party in enforcing payment or performance of the other party's obligations hereunder if such non-performance results in a judicially determined Event of Default. It is specifically understood that upon the occurrence of an Event of Default by one party, the other Party shall have the right to terminate this Agreement in accordance with the provisions of Sections 7.01 and 7.02 above and to receive damages as and to the extent provided in this Article.

(e) Termination Damages. Upon an Event of Default by the Contractor under this Section, the Contractor shall be responsible for paying any and all damages to the Authority for termination of this Agreement.

7.03 Remedies for Breach. The Parties agree that, except as otherwise provided in Sections 7.01 and 7.02 with respect to termination rights, in the event that either party breaches this Agreement, the other party may exercise any legal rights it has under this Agreement and under Applicable Law to recover damages or to secure specific performance, and that such rights to recover damages and to secure specific performance shall ordinarily constitute adequate remedies for any such breach. Neither party shall have the right to terminate this Agreement for cause except upon the occurrence of an Event of Default as set forth in this Article.

7.04 Procedure for Termination for Cause. If any party has the right to terminate in accordance with this Article, the same may be exercised by notice of termination given to the party in default at least 60 days prior to (or, in the case of a bankruptcy default, simultaneously with) the date of termination specified in such notice (the "Termination Date").

7.05 CERTAIN OBLIGATIONS OF THE CONTRACTOR UPON TERMINATION.

(a) Obligations on Default Termination. Upon a termination of the Contractor's right to perform the Contract Services set forth in this Agreement in accordance with this Article or at the end of the Term, the Contractor at its cost and expense shall:

- (i) stop the Contract Services on the date and to the extent specified by the Authority;
- (ii) promptly take all action as necessary to protect and preserve all materials, equipment, Hauling Vehicles (if not needed by the Authority) and other property;
- (iii) promptly remove from the Transfer Station Site all equipment, machinery, tools, temporary and other property owned or leased by the Contractor (including, but not limited to trailers), and repair any damage caused by such removal;
- (iv) unless the Authority directs otherwise, terminate all Subcontracts and make no additional agreements with Subcontractors and promptly advise the

Authority of any special circumstances which might limit or prohibit cancellation of any Subcontract;

(v) promptly notify the Authority in writing of any Legal Proceedings against the Contractor by any Subcontractor relating to the termination of the Contract Services (or any Subcontracts);

(vi) if applicable, give written notice of termination, effective as of the date of termination of this Agreement, promptly under each policy of Contractor Insurance (with a copy of each such notice to the Authority);

(vii) take such other actions, and execute such other documents, as may be necessary to effectuate and confirm the foregoing matters, or as may be otherwise necessary or desirable to minimize the Authority's costs, and take no action which will increase any amount payable by the Authority under this Agreement.

(b) Contractor Payment of Certain Costs. If termination is due to a Contractor event of default pursuant to Section 7.02 and the Contractor fails to comply with any obligation under this Section, the Authority may, with reasonable notice to the Contractor, perform such obligation and the Contractor shall pay the excess cost upon demand, notwithstanding that any other person may have defaulted in taking similar action or occupied the same areas or otherwise had any responsibility for the condition involved.

7.06 NO WAIVERS. No action of the Authority or Contractor pursuant to this Agreement, and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Agreement. No course of dealing or delay by the Authority or Contractor in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the Authority or Contractor under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

7.07 NO CONSEQUENTIAL OR PUNITIVE DAMAGES. In no event shall either party hereto be liable to the other or obligated in any manner to pay to the other, except with respect to indemnification of Loss-And-Expenses arising from third party claims for which one party is obligated to indemnify the other pursuant to the provisions of this Agreement, any special, incidental, consequential, punitive or similar damages (but not actual or direct damages)

based upon claims arising out of or in connection with the performance or nonperformance of its obligations or otherwise under this Agreement, or the material inaccuracy of any representation made in this Agreement, whether such claims are based upon contract, tort, negligence, warranty or other legal theory.

7.08 **APPLICABLE LAW, FORUM FOR DISPUTE RESOLUTION AND WAIVER OF JURY TRIAL.** All legal actions and proceedings related to this Agreement or to the performance of the Contract Services or to any rights or any relationship between the parties arising therefrom shall be governed solely by the laws of the State of New York and shall be solely and exclusively initiated and maintained in the courts of the State of New York located in Nassau County and in all such actions the parties shall have waived their rights to a trial by jury.

ARTICLE VIII

Uncontrollable Circumstances

8.01 **Performance Excused.** Except as otherwise specifically provided in this Agreement, neither the Authority nor the Contractor shall be liable to the other for any failure or delay in performance of any obligation under this Agreement to the extent such failure or delay in performance is due to the occurrence of an Uncontrollable Circumstance.

8.02 **Notice, Mitigation.** The party experiencing an Uncontrollable Circumstance shall notify the other party by hardcopy telecommunication or telephone and in writing, on or promptly after the date the party experiencing such Uncontrollable Circumstance first knew of the commencement thereof, followed within 15 days by a written description of (1) the Uncontrollable Circumstance and the cause thereof (to the extent known), (2) the date the Uncontrollable Circumstance began, its estimated duration, the estimated time during which the performance of such party's obligations hereunder will be delayed, (3) the estimated amount, if any, by which the Disposal Fees may need to be adjusted as a result of such Uncontrollable Circumstance, (4) its estimated impact on the other obligations of such party under this Agreement and (5) potential mitigating actions which might be taken by the Contractor or Authority and any areas where costs might be reduced and the approximate amount of such cost reductions. Each party shall provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as reasonably possible, use all reasonable efforts to eliminate the cause therefore, reduce costs and resume performance under this Agreement. While the delay continues, the Contractor or Authority shall give notice to the other party with a copy to the Authority Engineer, before the first day of each succeeding month, updating the information previously submitted. The Contractor shall furnish promptly (if and to the extent available to the Contractor) any additional documents or other information relating to the Uncontrollable Circumstance reasonably requested by the Authority Engineer or the Authority.

8.03 **CONDITIONS TO DISPOSAL FEE AND SCHEDULE RELIEF.** If and to the extent that Uncontrollable Circumstances interfere with, delay or increase the cost of the

Contractor's performance of the Contract Services, and the Contractor has given timely notice as required by subsection 8.02, the Contractor shall be entitled to an increase in the Disposal Fee or an extension of any schedule for performance equal to the amount of the increased cost or the time lost as a result thereof. In the event that the Contractor is entitled to any Disposal Fee or schedule relief on account of any Uncontrollable Circumstance, the Contractor shall furnish the Authority written notice of the specific relief requested and detailing the event giving rise to the claim within 30 days after the giving of notice delivered pursuant to subsection 8.02. Within 30 days after receipt of such a timely submission from the Contractor, the Authority shall issue a written concurrence or denial of the Contractor's claim for Disposal Fee or schedule relief, and the reasons therefor.

8.04 **ACCEPTANCE OF RELIEF CONSTITUTES RELEASE.** The Contractor's acceptance of any Disposal Fee or schedule relief under this Section shall be construed as a release of the Authority by the Contractor (and all persons claiming by, through, or under the Contractor) for any and all Loss-And-Expense resulting from, or otherwise attributable to, the event giving rise to the relief claimed.

8.05 **Termination Due to Uncontrollable Circumstances.**
Notwithstanding any provision set forth herein to the contrary, upon each occurrence of an Uncontrollable Circumstance, the Authority shall calculate whether any increase in the Disposal Fees is expected to result therefrom. If any increase in the amount of Disposal Fees payable hereunder is anticipated due to the occurrence of one or more Uncontrollable Circumstances, the Authority shall have the right to terminate this Agreement, upon sixty (60) days prior written notice to the Contractor.

ARTICLE IX

Term and Survival of Certain Provisions

9.01 **Term of Agreement.** This Agreement shall become effective on the Commencement Date, and shall continue in effect until December 31, 2025 (the "Initial Term"), or, if renewed as provided in this Section, until the last day of the renewal term (the "Renewal Term"; the Initial Term and any Renewal Term being referred to herein as the "Term"), unless earlier terminated pursuant to the termination provisions of Article VII hereof, in which event the Term shall be deemed to have ended as of the date of such termination. At the end of the Initial Term, this Agreement may be renewed and extended for two (2) additional periods of five (5) years at the sole discretion of the Authority. The Contractor shall give the Authority written notice of the approaching expiration of the Initial Term and each Renewal Term no later than 270 days prior to such expiration. All rights, obligations and liabilities of the parties hereto shall commence on the Commencement Date, subject to the terms and conditions hereof. The Authority shall have no obligation to make any payments hereunder until the Commencement Date.

9.02 **Survival of Certain Provisions.** The rights and obligations of the parties hereto pursuant to Sections 2.03, 2.07, 4.01, 5.01(f), 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 8.01, 8.02, 8.03, 8.04, 8.05, 9.02, and 11.03 shall survive the termination or expiration of this Agreement, and no such termination or expiration of this Agreement shall limit or otherwise affect the respective rights and obligations of the parties hereto accrued prior to the date of such termination or expiration. At the end of the Term, all other obligations of the parties hereunder shall terminate unless extended.

ARTICLE X

(Reserved)

ARTICLE XI

Miscellaneous

11.01 Ownership and Sources of Payment of Disposal Fee.

(a) The Authority owns and shall retain ownership of the Transfer Station Site and all buildings and other improvements now existing and to be made thereon, including the Transfer Station.

(b) The Authority shall provide all funds necessary for the payment of the Disposal Fee from the proceeds of the Authority's rates, fees and charges imposed pursuant to the Act, or such other sources of funds as determined to be required from time to time by the Authority to meet its funding obligations.

(c) Neither the Town nor any holders of Authority bonds is, or will be, a party to this Agreement or Subcontract or any lower tier contract or Subcontract.

11.02 Cost of Obtaining Security for Performance Included in Disposal Fee.

The cost and expense of obtaining and maintaining the security instruments required under this Article as security for the performance of the Contractor's obligations hereunder shall be deemed to be included in the Disposal Fee.

11.03 Performance Bonds.

(a) Unless otherwise agreed to by the Authority, the Contractor shall provide to the Authority a performance bond, in form and substance substantially similar to that set forth in Appendix 6, in the amount of \$5,000,000 (five million dollars) for each year of the Initial Term and any Renewal Term, if the Authority elects to renew and extend this Agreement. The performance bond shall be for a one year period commencing on the Commencement Date, said performance bond shall be renewed annually no later than 30 days prior to the expiration of the then current bond throughout the Term of the Agreement and any extensions thereof in the amount. No later than the day preceding each anniversary of the Commencement Date, the Contractor shall obtain from the surety which issued the performance bond a rider, in form and substance reasonably satisfactory to the Authority, to extend the term of the performance bond for one additional year. In the event that the Contractor selects a new surety to provide a

performance bond, said performance bond shall be provided no later than 30 days prior to the expiration of the then current bond in the amount and manner set forth above.

(b) In the event that the Contractor fails to provide the performance bond required pursuant to Section 11.03(a), such failure shall constitute an Event of Default within the meaning of Section 7.02 of this Agreement. Without waiving, limiting, or relinquishing any of its rights to declare such an Event of Default and seek any available remedies therefore, in the event of the Contractor's failure to provide the performance bond the Authority shall have, in addition to all of its other rights under this Agreement, the right to offset against any payments due from it to the Contractor an amount equal to the annual premium which the Contractor paid for the performance bond for the immediately preceding Billing Year. Such offset right shall be exercisable by the Authority without the declaration by it of a Contractor Event of Default.

11.04 **Monitoring of Performance.** The Authority shall have the right to take any and all actions reasonably necessary to monitor the Contractor's performance of the Contract Services from time to time as the Authority deems appropriate to ensure the Contractor's compliance with Applicable Law and any other DEC permit requirements. The Contractor Representative shall meet from time to time, no less frequently than monthly, with representatives of the Authority to discuss compliance by the Contractor and its overall performance under this Agreement.

11.05 **Non-Compliance.** The Contractor shall be responsible for payment of any penalties, fines or similar charges for violations of Applicable Law and any other DEC permit requirements resulting from the Contractor's performance of its obligations hereunder. Upon notice to it in writing, the Contractor shall immediately reimburse the Authority and North Hempstead for any fines imposed upon either of them and relating to the Contractor's operations under this Agreement. Notwithstanding the foregoing, the Contractor may contest such fines and, in the event the Contractor is able to overturn the violations underlying said fine and a refund is made to the Town of North Hempstead or the Authority, the amount of such refund shall be remitted to the Contractor.

11.06 **Assignment.**

(a) Except as set forth in subsection (b) below, a Party may not assign any of its rights or obligations under this Agreement without the prior written consent of the other Party,

and any such purported assignment or delegation, in the absence of such consent, shall be void and without effect.

(b) The Authority may assign its rights and obligations under this Agreement, without the consent of the Contractor, to the Town of North Hempstead if such assignee assumes the duties and obligations of the Authority hereunder.

(c) In the event the Contract Services hereunder are performed by a subsidiary of the Contractor, the Contractor agrees to cause such subsidiary to observe, comply with and perform such responsibilities in accordance with all of the terms of this Agreement. Notwithstanding the foregoing, the Contractor remains, and shall remain, fully responsible for the performance of its obligations under this Agreement and the Authority has no obligation whatsoever to look to any Person other than the Contractor for the performance of such obligations.

11.07 **Notices.** All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or day on which United States mail is not delivered:

(a) If to the Authority:

Town of North Hempstead Solid Waste Management Authority
802 West Shore Road
Port Washington, NY 11050
Attention: Executive Director

with a copy to:

Town of North Hempstead
220 Plandome Road
Manhasset, NY 11030
Attention: Counsel to the Authority

(b) If to the Contractor:

with a copy to:

A Party may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying Party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such Party by a duly authorized officer or employee.

11.08 **Relationship of the Parties.** Neither Party shall have any responsibility to perform services for or to assume contractual obligations which are the obligation of the other Party. It is expressly understood and agreed that each Party and each of its subcontractors, employees, or agents shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the other Party, and that the contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same. Each Party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors and nothing herein shall be construed as creating a partnership or joint enterprise or any fiduciary relationship between the Parties.

11.09 **Waiver.** Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right resulting from any breach of this Agreement or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the Party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by a Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Agreement.

11.10 **Articles and Section Captions; References.** The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof. Except as otherwise indicated, all references herein to Sections and Articles are to sections and articles of this Agreement.

11.11 **Amendment.** No amendment, modification or change to this Agreement shall be effective unless same shall be in writing and duly executed by the Parties.

11.12 **Governing Law.** This Agreement shall be governed by the laws of the State of New York.

11.13 **Third Party Beneficiaries.** The Contractor acknowledges that North Hempstead is a third party beneficiary of the provisions of this Agreement which inure to the

benefit of North Hempstead or the Authority and agrees that North Hempstead and the Authority shall be entitled, jointly or severally, to enforce directly said provisions, including the right to declare a Contractor Events of Default, terminate this Agreement or exercise other remedies hereunder.

11.14 **No Other Agreements.** All negotiations, proposals and agreements among the Parties prior to the date of this Agreement are superseded hereby. This Agreement shall constitute the entire agreement between the Parties with respect to the disposal services and other obligations contemplated hereby.

11.15 **Service Agreement Administration.**

(a) **Contract Representative.** Each of the Authority and the Contractor shall designate in writing prior to the Commencement Date a person to transmit instructions, receive information and otherwise coordinate service matters arising pursuant to this Agreement (each, a "Contract Representative"). Either party may designate a successor or substitute Contract Representative at any time by written notice to the other party. The Contractor's Contract Representative shall be intimately familiar with the day-to-day operation activities of the Transfer Station.

(b) **Contractor Meeting Attendance Required.** The Contractor or the Contractor's Contract Representative shall meet with the Authority quarterly, or more frequently at the Authority's request, to review the contents of the reports required to be prepared pursuant to Section 2.06(g). The Contractor's Contract Representative shall personally attend any operations meetings with the Authority (which shall occur with no greater frequency than monthly) and all public Authority meetings and all regular and special meetings of the North Hempstead Town Board, which the Authority may reasonably request from time to time and to which the Contractor is given at least ten (10) Business Days notice, to review management, operational, performance and planning matters arising with respect to the Contract Services, the Transfer Station or this Agreement.

(c) **Administrative Communications.** The parties recognize that a variety of contract administrative matters will routinely arise throughout the Term. These matters will by their nature involve requests, notices, questions, assertions, responses, objections, reports, claims, and other communications made personally, in meetings by phone, by mail and by electronic and computer communications. The purpose of this subsection is to set forth a process

by which the resolution of the matters at issue in such communications, once resolution is reached, can be formally reflected in the common records of the parties so as to permit the orderly and effective administration of this Service Agreement.

(i) Contract Administration Memoranda. The principal formal tool for the administration of matters arising under this Agreement between the parties shall be a memorandum which shall be prepared, once all preliminary communications have been concluded, to evidence the resolution reached by the Authority and the Contractor as to matters of interpretation and application arising during the course of the performance of their obligations hereunder ("Contract Administration Memorandum"). By way of example and not of limitation, such matters may include: (1) claims for an increase or decrease of the Disposal Fee or other demands for compensation or performance based on any provision hereof; (2) issues as to the meaning, interpretation, application or calculation to be made under any provision hereof; (3) the specific details and terms of any Change Order; (4) notices, waivers, releases, satisfactions, confirmations, further assurances and approvals given hereunder; and (5) other similar contract administration matters.

(ii) Procedures. The Contract Administration Memorandum shall be prepared by the Authority and shall be dated and signed by the Contract Representative of each party, and co-signed by the Contractor and by the Authority.

(iii) Effect. Executed Contract Administration Memoranda shall serve to guide the ongoing interpretation and performance of this Agreement. Notwithstanding the foregoing, in the event of a conflict between Contract Administration Memoranda and this Agreement, the Agreement shall control. Moreover, any material change, alteration, revision or modification of this Agreement, however, shall be effectuated only through a formal amendment authorized, approved or ratified by resolution of the Authority and properly authorized by the Contractor.

11.16 Execution of Documents. This Agreement shall be executed in any number of duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute but one and the same instrument.

11.17 Survival. The representations of the Parties in this Agreement shall survive the execution, delivery and acceptance hereof by the Parties.

11.18 **Business of Contractor.** With respect to the Transfer Station, Contractor shall not engage in any business or enterprise at the Transfer Station except as described herein.

11.19 **Public Information.** The Contractor agrees to, at the Authority's cost and expense:

(a) assist the Authority and North Hempstead in preparing public information materials, briefing documents, press releases, fact sheets, and other public information materials that describe the hauling and disposal of Acceptable Waste of North Hempstead and/or the Contractor and are intended to enhance its understanding by the public, the Authority and North Hempstead, the participating communities, the media, environmental groups, regulatory agencies, and others, provided, however that the Contractor shall not charge a fee to the Authority for merely providing the Authority with information regarding Contractor's hauling and disposal activities, whether due to this Agreement or otherwise; and

(b) assist the Authority and North Hempstead in making presentations to other agencies or groups within the local governments, participating communities, environmental groups, regulatory agencies and others in order to promote a better understanding of the hauling and disposal of Acceptable Waste of North Hempstead and secure acceptance or greater participation thereof.

11.20 **Prevailing Wages.** If required pursuant to Applicable Law, the Contractor shall pay or cause to be paid prevailing wages for all labor engaged in connection with the performance of the Contract Services.

11.21 **Capital Improvements at Designated Disposal Facilities.** Except as set forth in the definition of Change in Law, from the Contract Date through the end of the Term, the Authority shall not be responsible for the cost of any upgrades, additions, capital improvements, maintenance, replacements or repairs, or improvements made by the Company to any of its Designated Disposal Facilities for any reason, including a change in Applicable Law.

11.22 **Fuel Provided by Authority.** At the request of either Party during the Term of the Agreement, the Parties may discuss and negotiate the ability of the Authority to provide fuel to the Contractor to perform the hauling services to be performed hereunder. The Parties are permitted to take any and all actions necessary to allow the Parties to exercise this option in accordance with Applicable Law. In the event that the Authority is able to provide such fuel to

the Contractor as described above, the Parties agree to negotiate in good faith to determine the amount of the cost savings that will be received by the Authority and the Contractor will pass such savings on to the Authority.

11.23 Change Orders. The nature or scope of services to be performed by the Contractor hereunder may be changed, and compliance with the terms and conditions of this Agreement may be waived or amended in whole or in part, pursuant to a written change order delivered to the Contractor by the Authority setting forth a reasonably detailed description of such change, waiver or amendment, and any adjustment to the payments to be made to the Contractor hereunder, and the Contractor's written acceptance of such change order.

11.24 No Discrimination. The Contractor shall not discriminate nor permit discrimination by any of its officers, employees, agents and representatives against any person because of age, race, color, religion, national origin, sex, gender identity or, with respect to otherwise qualified individuals, disability. The Contractor will take all actions reasonably necessary to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, sex, gender identity, national origin or, with respect to otherwise qualified individuals, disability. Such action shall include, without limitation, recruitment and recruitment advertising; layoff or termination; upgrading, demotion, transfer, rates of pay or other form of compensation; and selection for training, including apprenticeship. The Contractor shall impose the non-discrimination provisions of this Section by contract on all Subcontractors hired to perform work related to the Contract Services and shall take all reasonable actions necessary to enforce such provisions. The Contractor will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

11.25 Further Assurances. Each party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give full effect to this Agreement. Specifically, upon reasonable request of the Authority, the Contractor shall supply an affidavit that the Transfer Station is free of all liens and Encumbrances, including liens for any taxes which are due and required to be paid by the Contractor (other than liens required or contemplated by this Agreement). The Authority further agrees not to remove or transfer equipment (or any part or interest therein) manufactured or furnished by the Contractor or an Affiliate from the Transfer Station Site without providing prior written assurance

satisfactory to the Contractor that such removal or transfer will not increase the Contractor's liability under this Agreement.

IN WITNESS WHEREOF, the Authority and the Contractor have caused this Agreement to be executed in their respective names, have caused their respective corporate seals to be hereto affixed, and have caused this Agreement to be attested, all by their duly authorized officers and representatives, and the Parties have caused this Agreement to be dated as of the date and year first written above.

**TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY**

By _____

Name:

Title:

(CONTRACTOR)

By: _____

Name:

Title:

APPROVED:

Executive Director

Counsel to the Authority

Assistant Secretary

APPENDICES

APPENDIX 1
DESIGNATED DISPOSAL FACILITIES

APPENDIX 2
COPY OF NEW YORK STATE TRANSFER STATION PERMIT TO OPERATE

APPENDIX 3
CONTRACTOR INSURANCE

The Contractor shall provide insurance policies as stated below at the expense of the Contractor. All policies must be underwritten by insurers licensed to sell insurance in New York State and maintaining an A.M. Best rating of "A-XI" or better. The Town of North Hempstead and the Town of North Hempstead Solid Waste Management Authority, all elected and appointed officials, employees and volunteers shall be listed as Additional Insured on all policies except Workers Compensation and NYS Disability, and Proposer shall annually provide the Authority with valid certificates of insurance and additional insured endorsements for all policies required herein.

The insurance required shall include all major divisions of coverage, and shall be on a comprehensive general basis including Premises and Operations, Products and Completed Operations, Independent Contractor's Contractual, and Owned, Non-owned, and Hired Motor Vehicles. Such insurance shall be written for not less than any limits of liability required by law or the following limits, whichever are greater.

Insurance certificates shall be presented to the Authority on the Commencement Date. The Contractor and all subcontractors waive subrogation rights against all additional insureds for all losses, to the extent of Contractor's Indemnification obligations under this Agreement.

Each policy shall contain a 30 day notice of cancellation or non renewal.

Notice of Occurrence is to be given to:

North Hempstead Solid Waste Management Authority
802 West Shore Road
Port Washington, NY 11050
Attention: Executive Director

The Contractor shall take out and maintain during the life of the Agreement and any extensions thereof, the following insurance in companies and forms reasonably acceptable to the Authority and in adequate amounts, as shall protect him, performing work covered by this Agreement, the Authority

and the Town and their employees, agents and officials from all claims and liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Agreement. The Contractor covenants and agrees to hold the Authority and the Town and their employees, agents and officials, as additional insureds, harmless from loss or damage due to claims for personal injury and/or property damage arising from or in connection with operations under this Agreement.

The types and amounts of insurance to be provided are as follows:

1. Commercial General Liability coverage for bodily injury and property damage, including death with limits of at least \$1,000,000 per occurrence; \$2,000,000 aggregate, aggregate limits to apply per property/location, including contractual liability extending to hold harmless with endorsement showing the policy is considered primary and non-contributory. Policy must have waiver of subrogation in favor of additional insured;
2. Commercial Automobile Liability with a combined single limit of at least \$1,000,000 per occurrence;
3. Environmental Impairment Liability with limits of at least \$10,000,000 on a claims made basis;
4. Contractor's Pollution Liability Policy with limits of at least \$10,000,000 per occurrence and transportation coverage.
5. Excess or Umbrella Liability coverage with limits of at least \$15,000,000, Umbrella or Excess Form providing excess of General Liability and Automobile Liability;
6. Workers' Compensation and Disability Benefits Insurance as required by Applicable Law.

Contractor shall annually provide the Authority with valid certificates of insurance for all policies required herein. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of the Agreement and shall operate as an immediate termination thereof.

All policies shall be so written that the Authority will be notified of cancellation, or a restrictive amendment which results in such policy being non-compliant with this section or this Agreement, at least thirty (30) days prior to the effective date of such cancellation or such amendment.

A certificate evidencing such insurance, shall be furnished to the Authority at the execution of this Agreement. Such certificate shall not merely name the types of policy provided, but shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement.

APPENDIX 4
SUBCONTRACTOR INFORMATION

[Contractor to provide 30 days prior to the Commencement Date]

The Contractor will provide the following information for all proposed Subcontractors providing any of the Contract Services:

1. Name and address of Subcontractor (If a corporation: names of officers, directors and any shareholders possessing 5% or more of the outstanding stock in the corporation; If a partnership: names of all general or limited partners).
2. Names of all affiliated and related companies and their relationship to the Subcontractor.
3. List of creditors, excluding only mortgages of record, bond holders pursuant to a public offering and operation debts accrued in the normal course of business and customarily extinguished within 120 days.
4. List of any and all criminal convictions within the last five years recorded by the Subcontractor, any officer or director thereof, shareholder, any affiliate, or any related contractor.
5. List of any and all civil penalties, judgments, consent decrees, or other sanctions within the last five years recorded by the Subcontractor, any officer or director thereof, shareholder, any affiliate or any related contractor.
6. List of any and all current investigations, indictments or pending litigation by any federal, State or local jurisdiction recorded by the Subcontractor, any officer or director thereof, shareholder, any affiliate or any related contractor.
7. List of any and all actions occurring within the last five years which have resulted in revocation or suspension of any permit or authority to do business in any Federal, State, or local jurisdiction, recorded by the Subcontractor, any officer or director thereof, shareholder, any affiliate or any related contractor.
8. List of any and all actions occurring in the past five years that have resulted in the barring from public bidding recorded by the Subcontractor, any officer or director thereof, shareholder, any affiliate or any related contractor.
9. List of any bankruptcy proceedings in the past five years recorded by the Subcontractor, affiliate or related contractor.

APPENDIX 5
LOADING AND STAGING PROTOCOL

Operator and Contractor shall be guided by the following loading, handling and staging protocol in the performance of their Contract Services with the Authority. A schedule will be prepared each week, no later than the prior Friday, with the contractor representatives in conjunction with Authority personnel to determine the estimated amount of trailers needed to service the Transfer Station the following week. Also, at that time, the approximate percentage of live load and staged trailer activity will be estimated. Operator may direct incoming transfer vehicles arriving at the facility to be live loaded; provided however that the Executive Director, in his sole discretion, shall be permitted to terminate or otherwise modify the ability of Operator to direct such live loads. Follow-up estimations of Transfer Station activities shall be done on a daily basis by telephone. It is the intent of this Loading Protocol to assist the parties in fulfilling the required Contract Services to the Authority and modifications to the weekly schedule shall be subject to change based on the Transfer Station activity.

I. RECEIPT, PROCESSING AND LOADING:

- a. Operator shall receive, process and load at the Transfer Station all Residential Waste and Commercial Waste delivered to the Transfer Station by or on behalf of the Authority in each Contract Year. Contractor is responsible to provide a sufficient number of trailers in a timely fashion to transport and/or stage Residential Waste and Commercial Waste for disposal.
- b. Operator shall screen all Residential Waste and Commercial Waste for Unacceptable Waste.
- c. Contractor shall use best efforts to remove all Residential Waste and Commercial Waste delivered to the Transfer Station each Business Day by the end of each day and shall provide a sufficient number of transfer vehicles or trailers at the Transfer Station each Business Day to haul and dispose of Residential Waste and Commercial Waste in a manner which permits the Transfer Station to operate efficiently and maximizes the amount of such waste that may be loaded into such vehicles or trailers and removed from the Transfer Station on a daily basis. Detailed Contractor obligations in this regard shall be governed by the Agreement.
- d. Operator shall load transfer trailers provided by Contractor with Residential Waste and Commercial Waste in the designated transfer area inside the Transfer Station (loading alley).
- e. All trailers (live loaded and staged) shall be placed on a pit scale during the loading process to assist with the proper and safe loading of the Contractor's trailers. All weights shall be in

accordance with a reasonable weight range schedule as determined by Operator and the Contractor (with approval of the Authority) under normal industry standard operating practices and in accordance with applicable weight laws. Operator shall use best efforts to obtain the maximum achievable weights permitted by law on all Contractor transfer vehicles or containers with the understanding that seasonality of waste and waste composition can materially affect load weights and load weight variability. In addition, Operator agrees to load 100 cubic yard Hauling Contractor transfer vehicles or containers with, a minimum, of 18½ tons of Residential Waste and/or Commercial Waste. Throughout the Term of the Agreement, the Authority shall, in consultation with the Operator and the Contractor, oversee and assess the loading process to confirm that Operator is utilizing best efforts to obtain the maximum achievable weights permitted by law and shall remedy any situation where Operator is not achieving such maximum weight limits in accordance with normal industry standards based on the composition of the waste available to Operator for loading.

f. Operator shall load Contractor's trailers in a manner and with the requisite professional skills as to not negligently damage such trailers during the loading process. Contractor shall supply all transportation and tarping (i.e., tarps and tarp fasteners) equipment including, but not limited to, trailers in good working condition and in compliance with Applicable Law.

g. Contractor shall be solely responsible for compliance with all applicable weight laws and secured load regulations before exiting the Transfer Station. If a trailer and tractor combination is over the applicable weight regulations, Operator shall assist with the off-loading of Contractor's trailers to help with compliance of all applicable weight laws.

h. On each and every day that the Transfer Station is open for business, Operator shall load Contractor's trailers between the hours of 6:00 a.m. and 4:00 p.m. Monday through Friday, and 6:00 a.m. and 3:00 p.m. on Saturdays. Operator shall not be required to load trailers before and/or after the above-listed loading hours.

II. LIVE LOADING PROCEDURES:

a. Live loading is defined as a tractor and trailer together with a driver which arrives at the Transfer Station, proceeds to the scale to weigh in, and thereafter proceeds to the loading tunnel and is loaded with Residential Waste and Commercial Waste.

- b. Contractor and its transportation subcontractor shall be solely responsible for compliance with applicable weight regulations as well as Department of Transportation requirements.
- c. Contractor's trailers shall be given priority in the loading of Residential and Commercial Waste and Operator shall have the ability to direct Hauler and its transportation subcontractor's drivers to live load when needed.
- d. Contractor shall enter the Transfer Station Site with a tractor hauling an empty transfer trailer and shall first proceed to the weigh scale for weighing in order to obtain the tare/empty weight.
- e. The tractor and empty trailer shall then proceed to the Transfer Station for loading (alley).
- f. Tractor, driver and trailer will wait to be loaded with Residential Waste and Commercial Waste.
- g. After the live loading process is complete, the Contractor driver shall proceed to the tarping station and tarp the loaded trailer with the assistance of Operator personnel.
- h. The driver shall then proceed with the tractor and loaded trailer to the weigh scale to obtain an outbound Authority weigh scale receipt. Once the vehicle is weighed out, a receipt and manifest has been provided to the driver, and the driver has inspected the tractor and trailer for compliance with all applicable laws and regulations, the tractor and trailer shall immediately proceed off-site to the Designated Disposal Facility or Alternate Designated Disposal Facility.
- i. If any incident occurs at the Transfer Station which damages Contractor's equipment during the live loading procedure, said incident shall be reported in writing to the Authority's scale house personnel and to Contractor's facility manager by the driver prior to exiting the Transfer Station.

III. STAGED LOADING PROCEDURES:

Contractor shall also stage empty transfer trailers at the Transfer Station Site for loading by Operator. The following protocol shall be utilized:

- a. Operator shall inspect trailer for visible damage using a Vehicle Condition Report before connecting.

b. Operator shall attach an empty transfer trailer provided by Hauler to a switcher tractor (yard horse). Then, with the empty transfer trailer, Operator shall proceed onto the weigh scale for weighing in order to obtain the empty weight.

c. The switcher tractor and the empty trailer shall proceed to the Transfer Station for loading. Once the empty trailer is loaded in compliance with the reasonable weight range schedule, the trailer shall be covered by Operator personnel at the tarping station located in the Transfer Station for purposes of staging the trailer at the Transfer Station. The same switcher tractor and loaded trailer shall proceed to the weigh scale to obtain the Authority weigh scale receipt. Operator personnel shall attach such receipt and the manifest to the outside of such loaded trailer inside a weather-protected sleeve or envelope as provided by Contractor. The trailer will be dropped off or staged in the approved staging area. Operator personnel shall include an Inspection Report with other paperwork, if applicable.

d. Contractor tractors shall hook up only to loaded trailers, as may be directed by Operator, with an attached scale ticket, vehicle condition report and manifest. Before leaving, Contractor or its designated representative must conduct a trailer inspection using a new Vehicle Condition Report and shall immediately proceed off-site to the Designated Disposal Facility or Alternate Designated Disposal.

e. It is the sole responsibility of Contractor to provide Operator with all the equipment necessary for the tarping of staged trailers at the Transfer Station. The final inspection and re-securing of all tarping equipment shall be Contractor's sole responsibility. If a trailer is unsafe or in violation of any weight regulations, Hauler or its designated representative shall not remove said trailer from the Transfer Station Site.

f. Operator shall use best efforts to load staged trailers according to a reasonable weight range schedule as determined by Operator and Contractor (and approved by the Authority) based upon the type of waste material being loaded, the equipment available and/or the capability of the Transfer Station operations.

g. If any damage to Contractor's equipment is observed on staged trailers, said damage shall be reported in writing to the Authority's scale house personnel and to Operator's facility manager by the driver prior to exiting the Transfer Station.

IV. INSPECTION OF LOADED TRANSFER TRAILERS BEFORE TRANSPORT

Contractor personnel shall be required to inspect all transfer tractors and trailers loaded by Operator personnel to insure that such trailers have been tarped correctly and shall confirm that the transfer trailer may be transported in accordance with Applicable Law. Contractor acknowledges the possibility that a trailer or tractor trailer unit weight may vary from its loaded weight due to rain, snow, variable tractor weight difference, etc. In the event that such transfer trailer cannot be transported in accordance with Applicable Law, Contractor is required to take all action necessary to ensure that such transfer trailers may be transported in accordance with Applicable Law, including but not limited to: a) requiring the driver of such vehicle to take any action necessary to correct the issue causing such trailer to be in violation of Applicable Law, or b) requesting the assistance of Operator personnel to correct the weight issue causing such trailer to be in violation of Applicable Law. Operator personnel shall reasonably assist Contractor in the correction of such issue to the extent that the loading or staging of the transfer trailer by Operator caused or will cause the transfer trailer or the transportation thereof to be in violation of Applicable Law. Notwithstanding the above, subsequent to the loading of a transfer trailer by Operator it shall remain the responsibility of Contractor at all times to confirm that any transfer trailer loaded by Operator personnel may be transported in accordance with Applicable Law.

V. VEHICLE CONDITION REPORTS

a. All Contractor drivers shall be required to conduct a trailer inspection before outbound transport for Live Load, connecting an empty staged trailer for loading on site, or connecting a loaded staged trailer for outbound disposal.

b. In the event a defect is noted, the following protocol will take place to assist in determining what party may be liable for repair:

- i. Driver is to notify Operator's Supervisor immediately of defect.
- ii. A picture and/or written description of damage shall be completed by the driver while at the Transfer Station.
- iii. A copy of the worker description and photo(s) shall be immediately available to Contractor, Operator and the Authority.
- iv. The Authority's personnel in the scalehouse shall be notified before the trailer departs the Transfer Station.

v. All related paperwork will be copied and meetings with all respective parties shall be coordinated to determine responsibility.

APPENDIX 6
FORM OF PERFORMANCE BOND

FORM OF PERFORMANCE BOND

Know All Men by These Presents

That we, _____ of _____ in the County of _____ in the State of New York, as principal and _____ as Surety, are held and firmly bound unto the Town of North Hempstead Solid Waste Management Authority ("Solid Waste Management Authority"); acting through its Executive Director, in the full and just sum _____ of _____ dollars (\$ _____) to be paid to said Solid Waste Management Authority for which payments, well and truly to be made, we bind ourselves, our respective heirs, executors, administrators, successors and assigns jointly and severally by these Presents. SEALED with our seals and dated the _____ day of _____, 2010.

The condition of this obligation is such that if the above principal, his heirs, executors, administrators and assigns shall in all things stand to and abide by, and well and truly keep and perform, in the time and in the manner specified, the covenants, conditions and agreements in the Agreement with the Solid Waste Management Authority, acting through its Executive Director, for the services as specified therein effective January 1, 2021, then this obligation shall become and be null and void; otherwise it shall remain in full force and effect.

Name of Contractor

Name of Insurance Company

Signed and sealed in the presence of

(NOTE: When the Performance Bond is executed, the surety company shall furnish evidence of authority of officer executing the bond.)

(Authority of Insurance Company to execute bond to be inserted here or attached hereto).

APPENDIX 7
MONTHLY AND ANNUAL REPORTS

The Contractor shall prepare and deliver to the Authority all reports required pursuant to this Agreement, including but not limited to those required pursuant to Section 5.01(c).

APPENDIX 8
LIQUIDATED DAMAGES

Event	Liquidated Damage Amount
1. Failure to provide sufficient transfer vehicles on a daily basis to perform the Contract Services in accordance with Applicable Law	\$500 per day
2. Failure to remove all transfer vehicles from the Transfer Station Site by the end of the day that are not being staged for the next day	\$500 per day
3. Idling of vehicles on the Transfer Station Site in violation of Applicable Law	\$250 per event
4. Disposal of waste at an unlicensed/not permitted site or facility, or a facility other than a Designated Disposal Facility without prior written approval of the Authority	\$5,000 per day
5. Significantly modifying Contractor hauling and disposal services set out in the Loading and Staging Protocol without prior written notification to and approval from the Authority after notice and 24-hour cure opportunity	\$500 per event – First Notice \$1,000 per event – Second Notice \$1,500 per event – Third Notice and each subsequent notice
6. Failure to file a timely or complete monthly report, including repair and replacement records after notice and 10-day cure period	\$500 per event

APPENDIX 9
DISPOSAL FEES

APPENDIX 10
PREVAILING WAGE RATE SCHEDULE

APPENDIX 11
TRANSFER STATION SITE DESCRIPTION

The Transfer Station is located at 999 West Shore Road in Roslyn, New York. The site is situated on an 8.7 acre parcel of land that formerly housed the Authority's old garbage incinerator and baler facilities. In the mid 1990's, parts of the incinerator buildings and stack were demolished in order to construct the current transfer station now located here. Please see Exhibit A, for a site plan of the current Transfer Station facility.

As identified in Exhibit A, the main features of the transfer station include the following facilities:

- A scalehouse and two weigh scales. Each scale has a seventy foot length and has a maximum capacity of 80 tons. Adjacent to the two scales, is a bypass lane to pass through the scale area unweighed if necessary.
- A resident drop off area, currently open only on Sundays for use by residents of North Hempstead to dispose of solid waste, recyclables and electronic waste.
- A yard waste transfer area which consists of an approximately 10,000 SQ. FT. asphalt pad area surrounded by a U-shaped push wall enclosure.
- An asphalt parking area for trailer staging/storage of approximately 13,284 sq. ft.
- A Transfer Station building consisting of a tipping floor of approximately 28,221 sq.ft. total with an area of 22,523 sq.ft. dedicated for residential and commercial waste and 5,698 sq.ft. dedicated for C&D. A drive through tunnel runs along the entire west side of the building allowing for the loading of multiple trailers simultaneously; at the end of the tunnel, a elevated tarping station is positioned to cover trailers before they leave the site. The building has seven 26 feet high doors for the offloading of waste. The building is equipped with an odor control system consisting of an overhead spray bar and nozzles. Lastly, an office suite is provided with two private offices, administrative area, locker rooms, lunch room and rest rooms. Currently, the facility does not have any processing equipment in the building such as balers, trommels, sorting conveyors or picking stations.

Exhibit A
Transfer Station Site Plan



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Exhibit B
Hauling Vehicle Travel Route

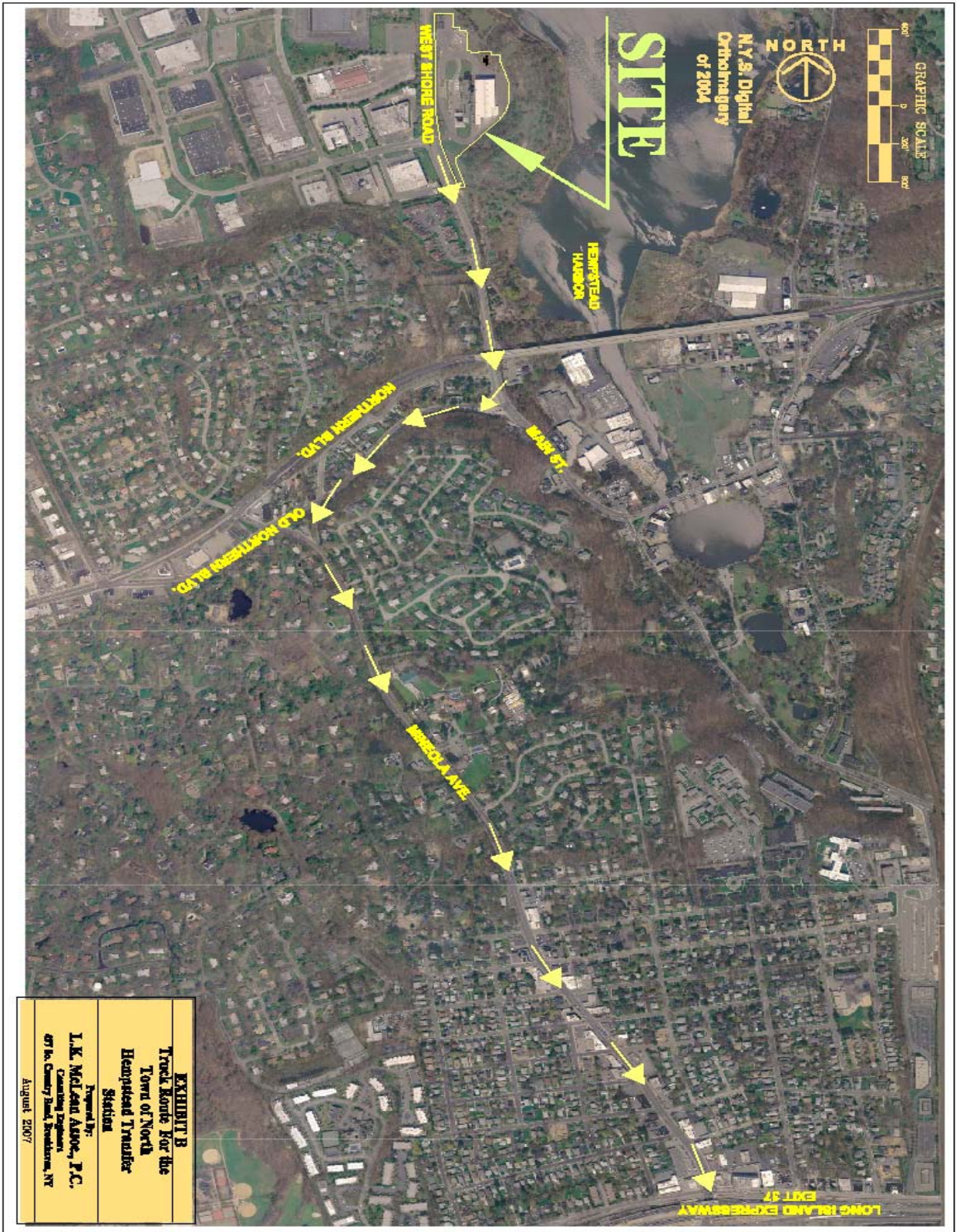
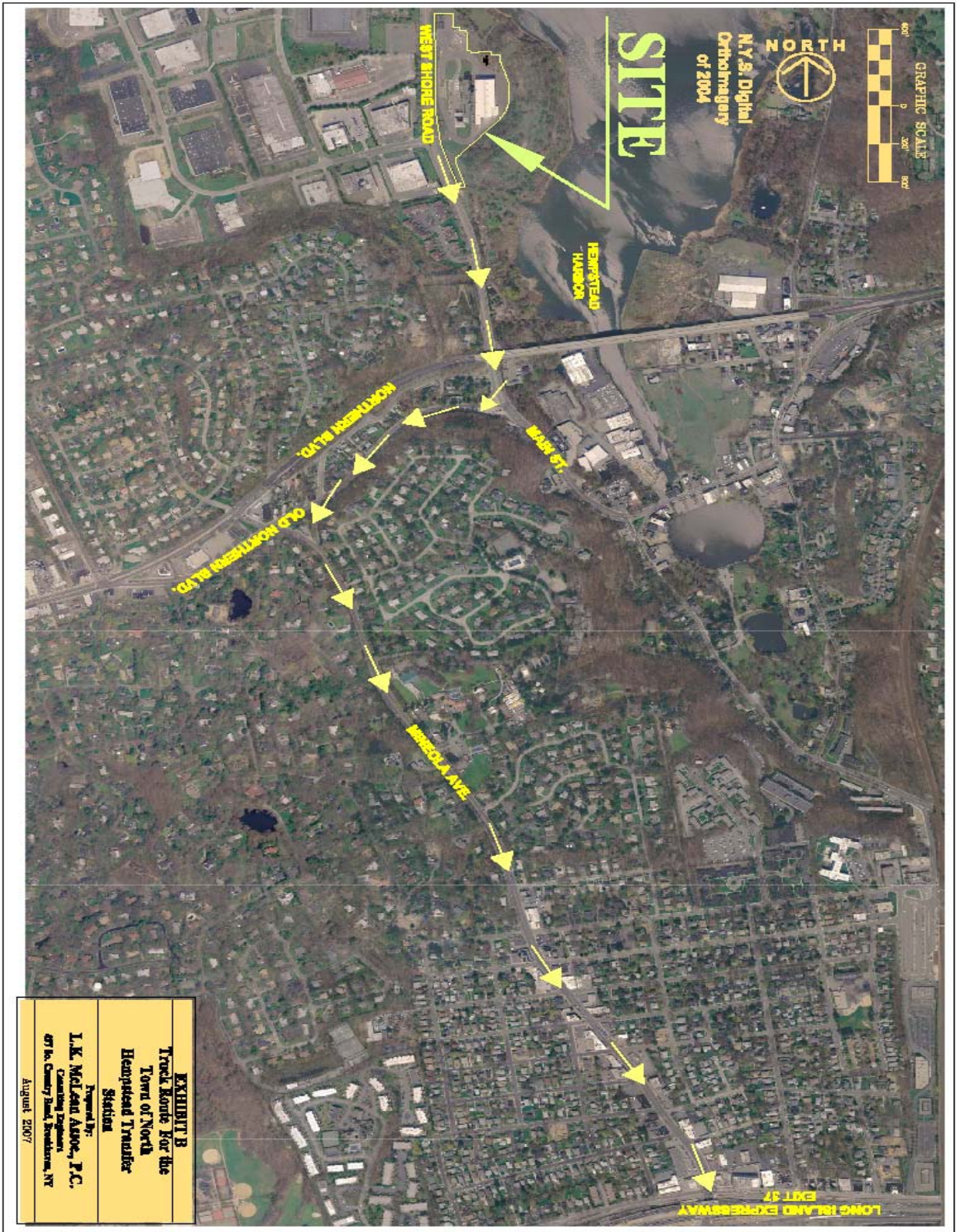


Exhibit A
Transfer Station Site Plan



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Exhibit B
Truck Travel Routes for the Transfer Station Facility



Appendix 1
Solid Waste Tonnage Data from 2002 – 2014

TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY

Tonnage Amounts of Residential Waste
2002 - 2014

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
January	7,242.98	7,190.55	6,986.41	6,710.43	6,836.20	5,804.84	6,183.78	6,079.58	6,754.11	6,176.08	6,569.88	6,569.88	6,467.05
February	5,683.37	5,312.06	5,767.40	5,799.91	5,416.29	4,119.57	4,814.58	5,387.33	5,369.12	5,637.33	5,547.38	5,547.38	5,137.51
March	7,069.64	8,246.67	7,664.13	7,040.56	6,973.30	5,178.29	5,764.01	6,648.16	8,347.57	7,560.41	6,892.85	6,892.85	6,155.44
April	8,091.33	9,502.06	8,516.78	8,529.00	7,527.67	5,755.34	7,270.24	7,536.35	8,843.67	7,760.91	7,130.05	7,130.05	7,489.34
May	8,815.25	10,100.26	9,216.76	8,367.49	8,959.45	6,993.93	7,984.21	8,130.11	8,289.33	8,546.29	8,195.49	8,189.30	8,189.30
June	8,543.52	10,586.14	10,635.02	9,074.78	8,327.05	6,081.47	8,110.71	8,573.01	9,171.12	8,907.16	8,100.61	7,953.89	7,953.89
July	8,233.36	10,201.51	9,542.18	8,020.85	7,994.32	6,432.62	7,699.27	8,180.90	8,338.73	7,651.93	7,247.40	7,857.90	7,857.91
August	7,384.08	9,274.50	8,837.00	7,918.26	7,377.89	6,492.42	7,539.27	7,678.60	7,984.52	8,884.69	7,069.17	7,435.01	N/A
September	7,583.79	9,459.15	9,008.61	7,658.34	7,532.58	5,847.84	7,932.83	7,781.20	8,000.65	8,574.00	6,797.08	7,199.70	N/A
October	7,616.67	9,531.12	8,082.07	8,335.89	7,400.81	6,497.95	7,826.76	7,734.81	7,746.44	7,749.48	7,053.79	7,212.46	N/A
November	8,211.15	9,373.89	8,722.95	8,644.56	8,007.33	7,045.98	7,486.66	8,341.40	8,402.15	8,021.15	8,094.90	7,526.28	N/A
December	7,780.25	8,860.60	7,872.47	7,199.02	6,178.84	6,830.22	7,524.80	7,514.66	7,200.14	739.85	7,516.09	7,409.63	N/A
Total	92,255.39	107,638.51	100,851.78	93,299.09	88,531.73	73,080.47	86,137.12	89,586.11	94,447.55	86,209.28	86,214.69	86,924.33	49,250.44

**TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY**

**Tonnage Amounts of Commercial Waste
2002 - 2014**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
January	6,551.67	8,392.17	6,220.52	5,022.98	6,093.32	6,178.84	3,935.77	3,495.19	3,178.67	5,713.52	5,196.98	5,902.29	6,307.71
February	6,036.15	6,083.86	4,718.33	5,209.31	4,323.48	3,887.85	3,349.00	3,402.71	2,593.00	5,586.59	4,965.30	4,965.30	5,044.21
March	7,463.80	7,903.73	6,126.27	6,633.40	5,717.72	4,726.01	4,166.32	3,536.21	5,252.66	6,999.27	5,526.96	5,526.96	5,636.41
April	8,203.11	7,847.16	7,953.64	8,297.90	6,296.64	5,118.90	4,959.62	3,818.85	6,444.28	6,529.23	5,526.29	5,526.29	5,868.52
May	8,765.32	8,294.56	8,661.18	8,982.95	7,306.13	6,413.63	5,702.19	4,276.67	6,510.02	6,970.23	6,081.32	6,341.07	6,341.07
June	8,743.68	9,212.82	10,100.11	9,104.67	7,999.57	6,200.70	6,536.86	4,672.74	7,323.17	7,254.17	6,386.08	6,346.95	6,346.95
July	8,786.57	9,898.85	8,848.47	7,620.67	8,113.57	6,493.37	6,075.91	4,264.94	6,878.26	6,570.46	5,787.14	6,255.51	6,255.51
August	9,019.04	8,883.42	9,153.68	8,215.72	8,995.08	6,470.66	5,411.79	3,930.28	7,228.80	7,710.39	6,067.67	5,942.59	N/A
September	8,548.63	9,784.92	8,784.03	7,325.86	7,580.15	4,822.33	5,149.02	3,518.50	6,682.79	7,377.23	5,604.58	5,371.23	N/A
October	8,338.51	9,267.00	8,075.98	6,984.73	7,519.62	4,369.92	4,347.64	3,896.42	6,928.29	6,793.92	5,617.70	5,412.39	N/A
November	8,017.91	7,537.97	6,804.87	8,523.79	6,800.15	3,837.91	3,452.17	3,500.04	6,762.99	6,551.87	8,518.99	5,745.13	N/A
December	7,841.12	8,014.95	6,616.19	7,345.46	6,120.31	3,921.57	3,637.43	3,530.60	6,379.65	6,544.07	6,358.65	5,622.17	N/A
Total	96,315.51	101,121.41	92,063.27	89,267.44	82,865.74	62,441.69	56,723.72	45,843.15	72,162.58	80,600.95	71,637.66	68,957.88	41,800.38

**TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY**

**Annual Tonnage Amounts Combined: Residential & Commercial
2002 - 2014**

Yearly Totals	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
													Jan - July
	188,570.90	208,759.92	192,915.05	182,566.53	171,397.47	135,522.16	142,860.84	135,429.26	166,610.13	166,810.23	157,852.35	155,882.21	91,050.82

**Monthly Averages
January through July Monthly Averages: 2002 - 2014
August through December Monthly Averages: 2002 - 2013**

Monthly Ave.	January	February	March	April	May	June	July	August	September	October	November	December
	12,135.49	9,977.26	12,742.28	14,113.32	15,432.58	16,018.99	15,162.16	15,075.38	14,493.75	14,195.03	14,494.35	12,879.90

TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY						TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY					
Tonnage Amounts of Residential Waste 2014 - 2018						Tonnage Amounts of Commercial Waste 2014 - 2018					
	2014	2015	2016	2017	2018		2014	2015	2016	2017	2018
January	6162.40	5988.22	5632.22	5985.32	5532.36	January	5111.76	5356.00	5115.73	4448.40	3759.05
February	4969.22	4801.02	5167.56	4807.88	4868.62	February	4313.22	4026.25	4636.93	3658.76	3880.91
March	6190.43	6235.78	6451.99	5496.68	5712.02	March	5120.72	5057.93	5451.15	4323.35	4135.01
April	7534.52	7173.73	6629.23	6288.13	5932.00	April	5486.05	4922.54	5227.14	4373.06	5125.74
May	8290.55	7594.38	7002.64	7361.78	7595.42	May	6830.80	5219.56	5447.77	5626.37	6319.55
June	7878.87	7790.77	7552.94	7031.57	8021.69	June	6906.38	6515.28	5762.86	5673.60	6238.71
July	7726.82	7300.49	6732.88	6650.10	7677.44	July	6735.16	6214.45	5522.53	5456.91	5940.52
August	7186.84	7053.42	7039.72	6806.42	7323.97	August	6196.85	5525.67	5450.81	5202.03	5715.60
September	7359.57	7154.30	6699.11	6384.29	6810.58	September	6184.37	5654.14	5116.05	4850.48	5157.81
October	7276.41	7061.27	6718.72	6363.87	6881.30	October	5927.69	5947.00	4562.56	4658.87	5333.21
November	7106.22	7237.01	6942.02	6631.16	7647.79	November	5635.15	5737.98	4679.09	4600.94	5289.72
December	7708.53	7241.74	6703.51	6002.16	6975.65	December	6291.86	6308.07	4811.71	3973.18	5389.20
Total	85390.38	82632.13	79272.54	75809.36	80978.84	Total	70740.01	66484.87	61784.33	56845.95	62285.03

TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY					
Annual Tonnage Amounts Combined: Residential & Commercial 2014 - 2018					
Yearly Total	2014	2015	2016	2017	2018
	156130.39	149117.00	141056.87	132655.31	143263.87

TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY									
Tonnage Amounts of Monthly Average 2014-2018									
Commercial	January	February	March	April	May	June	October	November	December
	4758.19	4103.21	4817.63	5026.91	5888.81	6219.37	5285.87	5188.58	5354.80
Residential	January	February	March	April	May	June	October	November	December
	5860.10	4922.86	6017.38	6711.52	7568.95	7655.17	6860.31	7112.84	6926.32

Appendix 2
New York State Department
of Environmental Conservation Permit



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
TOWN OF NORTH HEMPSTEAD

220 PLANDOME RD
MANHASSET, NY 11030-2327
(516) 883-6241

Facility:
TOWN OF NORTH HEMPSTEAD TRANSFER
STATION
999 WEST SHORE RD
PORT WASHINGTON, NY

Facility Location: in NORTH HEMPSTEAD in NASSAU COUNTY **Village:** PORT WASHINGTON

Facility Principal Reference Point: NYTM-E: 613.2 NYTM-N: 4518.6
Latitude: 40°48'38.2" Longitude: 73°39'28.3"

Authorized Activity: Operate a solid waste management facility authorized to receive and transfer up to 1090 tons per day comprised of the following: 750 tons per day of municipal solid waste (MSW), 90 tons per day of unprocessed construction and demolition (C&D) debris, 50 tons per day of source separated recyclables, and 200 tons per day of yard waste.

Permit Authorizations

Solid Waste Management - Under Article 27, Title 7

Permit ID 1-2822-00466/00003

Renewal

Effective Date: 4/24/2015

Expiration Date: 4/23/2020

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: ROGER EVANS, Regional Permit Administrator

Address: NYSDEC REGION 1 HEADQUARTERS
SUNY @ STONY BROOK | 50 CIRCLE RD
STONY BROOK, NY 11790 -3409

Authorized Signature: _____

Date 4/22/2015



Permit Components

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the permit application, plans and materials prepared by permittee or permittee's consultant on the date specified in Condition no. 2.

2. Terms of Operation, Approval for Changes The facility shall be operated in conformance with:

- a. Terms and conditions of this permit;
- b. Current 6 NYCRR Part 360 Solid Waste Management Facilities regulations, or any revisions hereafter promulgated;
- c. The Engineering Report dated May 7, 1993 prepared by RRT Design & Construction Corporation, and Operations & Maintenance (O&M) Manual dated May 1, 2010, prepared by Omni Recycling of Westbury, Inc.

Any revision to the above approved documents identified in item (c) of this condition or to the operations at this site requires prior written approval from the Department. The permittee shall not add a facility component that would otherwise qualify as an exempt or registered facility, unless the permittee first receives a modified permit to incorporate the additional component of the operation.

If any of the above documents conflict with any condition of this permit, the permit condition shall prevail.

3. Authorized Activity Operate a solid waste management facility authorized to receive and transfer up to 1090 tons per day comprised of the following: 750 tons per day of municipal solid waste (MSW), 90 tons per day of unprocessed construction and demolition (C&D) debris, 50 tons per day of source separated recyclables, and 200 tons per day of yard waste. All throughputs are based on a two-week average.



4. Unacceptable Wastes The permittee is prohibited from accepting any waste that is industrial waste, regulated medical waste, asbestos waste, liquid waste, sewer sludge, septage, or hazardous waste, except household hazardous waste accepted during Department approved household hazardous waste collection event.

The permittee shall also not receive MSW that has been commingled with source separated recyclables.

5. Waste Handling The permittee shall comply with the following requirements:

a. All activities, including but not limited to loading, unloading, sorting, processing, and storage, shall be performed inside the enclosed building, except for yard waste. No solid waste, except yard waste and recovered recyclables, may be placed outside the enclosed buildings for any purpose. All waste streams shall be kept separate at all times.

b. At the end of each workday the facility areas including onsite roads, processing, tipping, and loading shall be cleaned of any solid waste. All on-site roads must be swept by a mechanical sweeper. The permittee shall make alternative arrangements to sweep the roads when the sweeper is out for maintenance.

c. All overnight storage of solid waste shall be in its respective storage area. MSW shall not remain at the facility for more than two business days; C&D debris shall not remain at the facility for more than five business days; yardwaste including leaves shall not remain at the facility for more than three business days, however grass clippings must be processed and removed from the facility within 24 hours of the receipt; and recovered recyclables shall not be at the facility for more than seven business days or whenever transfer containers are full, whichever occurs first.

d. The permittee may store empty containers in the resident Drop-off Area area. All waste on vehicles entering and leaving the site must be sufficiently covered or enclosed to prevent litter from escaping. All vehicles must have the tilframe or tailgate closed prior to leaving the tipping buildings or the yard waste area.

f. The permittee must maintain the facility in neat and orderly appearance at all times.

g. The overhead doors of the transfer buildings must be closed at the end of each business day and may not be opened until business resumes the following business day.

h. The permittee is only allowed to park trucks and trailers in trailer parking area. The permittee is responsible to keep resident drop off area and waste oil collection area clean, free of spills and accessible all the time. Waste from resident drop-off time area must be removed to the appropriate waste storage area within 48 hours from the receipt of this material.

i. Any yard waste received in bags must be de-bagged same day by close of business each day. No composting of any kind may be performed at the facility.



6. Maximum Quantity Onsite The permittee shall not exceed following maximum quantities of each of the following onsite:

- a. 1600 cubic yards of MSW.
- b. 800 cubic yards of C&D debris.
- c. 100 cubic yards of recyclables.
- d. 1,000 cubic yards of yard waste.

7. Hours of Operation Hours of operation shall not conflict with any local laws or ordinances. The permittee shall limit the hours and days of operations from 6:00 am to 6:00 pm, Monday through Saturday. No operations of any kind are permitted on Sunday. The resident Drop-off Area may be operated on Saturday and Sunday from 7:30 am to 3:30 pm.

8. Signs The permittee shall post signs showing hours and days of operations, a list of materials the facility is authorized to accept, and a list of materials the facility is prohibited such as hazardous waste, industrial waste, medical waste, liquid waste, and asbestos waste from being accepted at the facility. The signs shall be located so that they are visible to any vehicles and/or person approaching the facility entrance.

9. Waste Control An attendant shall be on duty during all hours of operation. The attendant shall inspect all vehicles entering the facility, rejecting any loads containing unauthorized and/or suspicious materials and keep a detail logbook for the Department review.

10. Control of Nuisance Conditions Odors, dust, insects, vectors, noise, blowing litter and other potential nuisances shall be adequately controlled at all times. The permittee shall immediately implement any controls required by the Department including cessation of facility operations.

The odor and dust control system must be operational and used except for winter months to prevent off-site dust and odors. A sufficient amount of odor control material must be maintained on site at all times. In addition, odors from the yard waste area must be controlled sufficiently to prevent an off-site nuisance. The Department reserves the right to require the yard waste operation to be relocated indoors, if offsite odors become a nuisance. If offsite odors from waste inside a building is determined to be a nuisance and cannot be controlled by other means, the permittee shall install high speed doors that remain closed at all times, except for entry and exiting of equipment, vehicles, and people.

11. Fire Protection and Detection The permittee shall maintain fire protection and detection equipment in accordance with local laws and ordinances.

12. Cessation of Operations The permittee shall verbally notify the Department within 24 hours of any occurrence of any event which causes the facility to cease operation for a period of 48 hours or more. Such an event would include a fire, spill, equipment breakdown, or other similar event. A written report shall be submitted to the Department within 7 days of the event.



13. Ultimate Disposal of Waste All solid waste passing through the facility must be ultimately disposed of at a facility authorized by the Department if located in New York State, or by the appropriate governmental agency or agencies if in other states, territories, or nations.

14. Unauthorized Waste In the event that any hazardous waste, medical waste, or other regulated waste not allowed under this permit is accepted at the facility, the unauthorized waste shall be contained and properly secured immediately. The permittee shall notify the Department and the Nassau County Department of Health Services within 24 hours of the event. The waste material shall be removed by a waste transporter authorized under 6 NYCRR Part 364 to transport such waste. A written report shall be submitted to the Department within 7 days of the event.

15. Small Spill Containment The facility shall keep available at the site equipment and materials necessary to contain small quantities of chemicals or spills. These materials shall be stored in well identified accessible storage areas. As a minimum, the following must be available at all times:

- 4 - 55 gallon drums with covers and securing rings
- 400 lbs. absorbent material (e.g. Speedi-Dri)
- 50 lbs. Boric Acid
- 50 lbs. Sodium Bicarbonate
- Assorted brooms, shovels, gloves, masks, and other protective gear

16. Maintenance and Repair of Facility The permittee shall adequately maintain and make repairs to the facility as necessary. This includes any part of the facility, such as doors to buildings; odor and dust controls and equipment; punctures, holes, or other damage to buildings; minimizing leachate generation and the ponding of stormwater; and concrete and/ or asphalt pavement that becomes damaged or worn.

The permittee shall undertake all repairs immediately and have all work completed within one week. Repairs related to dust or odor controls must be completed within 24 hours. If the permittee is unable to complete repairs within the specified time outlined by this condition, the permittee shall provide an acceptable schedule to the Department which shall include a description of the work to be completed and any controls that will be implemented to ensure the facility remains in compliance with this permit, including the cessation of all or part of the facility operations.

17. Comprehensive Recycling Analysis The permittee must not accept at the facility solid waste which was generated within a municipality which has either not completed a Comprehensive Recycling Analysis (CRA) or is not included in another municipality's CRA satisfying the requirements of 6NYCRR Part 360-1.9(f) which has been approved by the Department and implemented the recyclables recovery program determined to be feasible by the analysis.



18. Recordkeeping Requirements The permittee shall maintain the following records at the facility for 7 years from the date of creation and be available immediately to the Department upon request:

- a. Daily log of solid waste received and transported from the facility which includes:
 - i. Type, quantity, and origin of the solid waste received.
 - ii. Quantity and destination of all recyclables.
 - iii. Quantity and destination of all non-recyclables and residuals transported for disposal.
- b. All weight tickets, hauling receipts, disposal receipts, invoices, tracking documents, etc. to support entries made into the daily log.

19. Reporting Requirements The permittee shall submit the original copy of the annual report to the Region 1 Office located at the New York State Department of Environmental Conservation, Division of Materials Management, 50 Circle Road, SUNY @ Stony Brook, NY 11790, and a copy to the Central Office at New York State Department of Environmental Conservation, Division of Materials Management, Bureau of Permitting and Planning, 625 Broadway, 9th Floor, Albany, NY 12233-7253. The report must be submitted no later than March 1 following each year of operation on forms prescribed by or acceptable to the Department.

20. Financial Assurance The permittee shall maintain the financial assurance for the closure of the facility. In the event that the permittee fails to maintain financial assurance as required by this permit, the permittee must immediately cease accepting solid waste until financial assurance acceptable to the Department is in place. Within 10 days from the cessation of the required financial assurance, the permittee shall have all solid waste, including recovered recyclables, removed from the facility and the facility shall be in "broom clean" condition.

21. Environmental Monitor The environmental monitor shall be funded in accordance with the following:

- a. The Permittee shall fund environmental monitoring services to be performed by or on behalf of the Department. These monitoring services will include, but not be limited to, the scope of work in an annual environmental monitoring work plan which is incorporated by reference and enforceable under this Permit.
- b. The Permittee shall provide to the Department on an annual basis the funds necessary to support the activities set forth in the annual environmental monitoring work plan. The sum to be provided will be based on the annual budgeted amount and is subject to annual revision. Subsequent annual payments shall be made for the duration of this permit or until the environmental monitoring services are no longer necessary, whichever comes first.
- c. The Permittee shall be billed annually, prior to the start of each State Fiscal Year (SFY) (April 1). If this Permit is to first become effective subsequent to April 1, the initial bill will be for an amount sufficient to meet the anticipated cost of the environmental monitoring services through the end of the current SFY.



d. The Department may revise the required annual bill on an annual basis to include all of the Department's estimated costs associated with the environmental monitoring services. The annual revision may take into account such factors as inflation, salary increases, changes in the fringe benefits rate, changes in operating hours and procedures, changes in non-personal service costs (including travel, training, sampling and analytical, and equipment costs, etc.), an increase or decrease in the level of environmental monitoring services necessary, and an increase or decrease in the number of environmental monitors. Upon written request by the Permittee, the Department shall provide the Permittee with a written explanation of the basis for any revisions.

e. Prior to making its annual payment, the Permittee will receive, and have an opportunity to review and request adjustment to, an annual environmental monitoring work plan that the Department will undertake during the year. The Department will provide a final annual work plan that the Department will undertake during the year.

f. Payments are to be made in advance of the period in which they will be expended and shall be made in full within 30 days of receiving a bill from the Department. The bill from the Department to the Permittee will provide information regarding to whom payments should be made payable and the address to which payments should be sent.

g. Failure to make the required payments shall be a violation of this Permit. The Department reserves all rights to take appropriate action to enforce the above payment provisions.

h. The environmental monitor shall, when present at any of the Permittee's facilities, abide by all of the Permittee's health and safety and operational requirements and policies, if such requirements and policies exist and provided they are not inconsistent with Department policies and labor management contracts, and further provided, however, that this shall not be construed as limiting the environmental monitor's powers as otherwise provided for by law and shall not result in the environmental monitor being afforded less protection than otherwise provided to the environmental monitor by State and Federal health and safety requirements.

i. The environmental monitor shall receive from the Permittee all general and site-specific safety training which is normally given to new facility/site employees for all areas of the facility or site. This training will be a supplement to the health and safety training that the environmental monitor routinely receives from the Department.

j. The Permittee shall immediately furnish to the environmental monitor any facility/site health and safety and operational requirements and policies. Within five (5) days of any revision to the facility/site health and safety and operational requirements and policies, the Permittee shall furnish to the environmental monitor the health and safety and operational requirements and policies.

k. The environmental monitor shall be permitted to use environmental monitoring and data collection devices (e.g., photo ionization detectors, cameras, video recording devices, computers, cell phones, etc.) deemed necessary by the Department to evaluate and document observed conditions. The Permittee may request the data and images collected from areas where confidentiality is a concern be considered confidential information if appropriate. Copies of the data or images collected from areas where confidentiality has been determined to be a concern shall be provided to the Permittee.



1. It will remain the responsibility of the Permittee to contact the Spill Hotline or any Division within the Department regarding any required notification of any spill, release, exceedances etc. Notification to the environmental monitor will not be considered sufficient to replace and required notifications.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC REGION 1 HEADQUARTERS
SUNY @ STONY BROOK, 50 CIRCLE RD
STONY BROOK, NY 11790 -3409

4. Submission of Renewal Application The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Solid Waste Management.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;



- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.