

TRANSFER STATION AGREEMENT

Between

THE ULSTER COUNTY RESOURCE RECOVERY AGENCY

And

THE TOWN OF NEW PALTZ

Dated as of October 1, 1995

TRANSFER STATION AGREEMENT

TRANSFER STATION AGREEMENT dated as of October 1, 1995 between the ULSTER COUNTY RESOURCE RECOVERY AGENCY, a public benefit corporation duly organized and existing under the laws of the State of New York and having its principal offices at 1266 Ulster Avenue, Kingston, New York 12401 (the "Agency") and the Town of New Paltz, a municipal corporation of the State of New York having its principal offices at Town Hall, P.O.Box 550, New Paltz, New York 12561 (the "Town"):

W I T N E S S E T H:

WHEREAS, the Agency and the Town have entered into a certain Solid Waste Management Agreement dated as of November 1, 1992, as amended (the "Management Agreement") which provides for, among other things, the lease of the existing Town landfill (the "Landfill") to the Agency for disposal of certain Solid Waste; and

WHEREAS, the Agency is in the process of closing the Landfill and has studied the feasibility of a regional transfer station in the Town (the "Facility") and has determined that such a facility is needed to receive and process Solid Waste and Regulated Recyclable Materials generated in the Municipalities, including the Town, which currently utilize the Landfill, when the Landfill ceases operation; and

WHEREAS, the Town and the Agency desire to establish the terms and conditions pursuant to which the Agency shall provide, operate and close a facility on land near the Landfill to be leased by the Town to the Agency as defined by Exhibit "A" herein;

NOW, THEREFORE, the Agency and the Town in consideration of the premises and the respective representations and agreements hereinafter contained and other good and valuable considerations, receipt of which is hereby acknowledged, agree as follows:

Section 1. Definitions

For the purpose of this Agreement, the following words and terms shall have the respective meanings set forth below, unless the context otherwise requires:

"Act" means Article 13-G of the Public Authorities Law of the State.

"Agency" means Ulster County Resource Recovery Agency, a corporate governmental agency constituting a public benefit corporation of the State duly organized and existing under the laws of the State, and any body, board, authority, agency or other political subdivision of the State which shall hereafter succeed to the powers, duties and functions of the Agency.

"Agreement" means this Transfer Station Agreement and any supplements and amendments hereto made in conformity

with the terms hereof.

"County means the County of Ulster, State of New York.

"Effective Date" means the date the Agency receives its permit to construct the Facility from the New York State Department of Environmental Conservation.

"Facility" means a regional transfer station to be constructed by the Agency on land leased from the Town, pursuant to this Agreement, including structures, systems, fixtures, equipment, access roads and all other things necessary to provide for the receipt, weighing, processing, and transfer of Solid Waste and Regulated Recyclable Materials, which shall be operated by the Agency pursuant to this Agreement.

"Management Agreement" means the agreement between the Agency and the Town dated as of January 1, 1993, providing for solid waste services by the Agency to the Town.

"Licensees" means persons issued licenses by the Agency to use the Facility for disposal of Solid Waste and Regulated Recyclable Material meeting the requirements of the Agency as established in its rules and by-laws.

"Regulated Recyclable Materials" means newspaper, color-separated glass bottles and jars, metal cans, plastic bottles and jugs, corrugated cardboard and any other materials as may be designated by the Agency in accordance with Local Law No. 8 of 1991.

"Solid Waste" means all materials or substances

discarded or rejected within the County as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including, but not limited to garbage, refuse, industrial and commercial waste, 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, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the United States Atomic Energy Act of 1954, as amended, waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law of the State of New York, and scrap or other material of value separated from the waste stream and held for purposes of materials recycling, as such definition may be amended from time to time by the State.

"Solid Waste Management Plan" means the plan for management of Solid Waste in the County approved by the State Department of Environmental Conservation on December 3, 1991, as amended from time to time pursuant to law.

"State" means the State of New York.

"System" means collectively all elements of any sites containing the facilities constructed or obtained by the Agency to carry out the purposes of this Agreement, including

interim satellite aggregation centers for the processing of Regulated Recyclable Materials and interim landfills to be obtained pursuant to law and agreement with the municipalities owning such landfills, and the facilities identified in the Solid Waste Management Plan, alternate disposal sites, and equipment acquired by the Agency except that the term System shall not include any incinerator or waste-to-energy facility.

"Town" means the Town of New Paltz.

Section 2. Provision of the Facility by the Agency

The Agency will lease the land for the Facility from the Town and will cause the planning, design, permitting, construction, equipping, completion and renovation of the Facility in accordance with the Feasibility Report, Plans and Specifications, Permit, and Operations Plan prepared by the Agency's engineers, Clough, Harbour & Associates ("CHA"). The Agency shall pay for the costs of planning, designing, permitting, constructing, renovating, equipping and completing the Facility.

The Town shall have no obligation to pay for any of the costs described in this section, but the Town agrees to lease, and does hereby lease to the Agency, the site for the Facility, as such site is more fully described in Exhibit "A" annexed hereto and made a part of this Agreement (the "Site") for the consideration of One (\$1.00) Dollar for the term of this Agreement.

Section 3. The Agency's Operating Obligation at the Facility

During the term of this Agreement, the Agency will provide, or cause to be provided, at the Facility, the service of accepting, weighing, processing and transferring Solid Waste and Regulated recyclable Materials brought to the Facility by Licensees and others, in accordance with this Agreement, specifically Exhibit "B" annexed hereto. Licenses shall be issued to Solid Waste haulers, businesses, governmental or non-profit agencies who meet license requirements. License requirements shall be established and enforced by the Agency. The Agency shall operate the Scale House at the Facility, and all materials accepted by the Agency at the Facility shall be weighed by the Agency at the Scale House. The Agency shall maintain, repair, replace and close the Facility.

Section 4. The Town's Operating Obligations

The Town shall plow snow from and do normal annual maintenance on the access road to the Facility.

Section 5. The Agency's Fees and Charges

The Agency shall establish in accordance with the procedure set forth in the Management Agreement on an annual basis such fees and charges as it deems necessary and proper for Licensees to pay to cover the costs of utilizing the Facility and providing the service under this Agreement, including a tipping fee at the Facility, which shall include a

transportation fee for costs of transferring the Solid Waste and Regulated Recyclable Materials to other facilities of the System. Licensees' vehicles shall be weighed in and weighed out of the Facility.

Section 6. The Town's Obligation to Cause the Delivery of Solid Waste and Regulated Recyclable Materials to the Facility

The Town agrees, to the extent lawful and constitutional, that it shall take Appropriate Action, as that term is defined in Section 5 of the Management Agreement, to cause all persons who are qualified to obtain a license to use the Facility, to deliver all Solid Waste and Regulated Recyclable Materials generated in or collected in the Town by such persons to the Facility when it begins operation.

Section 7. Insurance

The Agency shall obtain and maintain, or cause to be obtained and maintained, at its own expense throughout the term of this Agreement insurance, to the extent commercially available, or shall establish a self insurance program, acceptable to the Town, to cover the construction and operation of the Facility. The Town shall be named as an additional Insured.

The insurance policy shall be obtained from a good and solvent insurance company or companies licensed to do business in the State of New York. The insurance policy shall

include the following: comprehensive general liability insurance with broad form extension for personal injury, death and/or property damage in limits of not less than Two Million Dollars combined single limits.

The Agency shall furnish the Town with certificates for the insurance provided for above and shall provide renewals therefor, when due, during the term of this Agreement.

Section 8. Agency's Indemnification with Respect to the Facility

The Agency agrees that it will protect, indemnify, and hold harmless the Town and its officers, employees and agents (collectively, the "Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and attorneys' fees, and will defend the Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person or persons, or loss or damage to property arising out of the construction and operation of the Facility, or the performance (or non-performance) of the Agency's obligations under this Agreement. The Agency shall not, however, be required to reimburse or indemnify any Indemnified Party for loss or claim due to the negligence of any Indemnified Party, and the Indemnified Party whose negligence is adjudged to have been the primary cause of such loss or claim will reimburse the

Agency for the costs of defending any suit as required above. In the event of multiple fault, the Agency and any Indemnified Party shall share such loss or claim based upon the percent of fault attributable to each party as determined by a Court. An Indemnified Party shall promptly notify the Agency of the assertion of any claim against it for which it is so entitled to be indemnified, shall give the Agency the opportunity to defend such claim, and shall not settle such claim without the approval of the Agency. These indemnification provisions are for the protection of the Indemnified Parties only and shall not establish, of themselves, any liability to third parties.

Section 9. Default

(a) Default by the Agency

The occurrence of any of the following shall constitute a default by the Agency:

(1) The failure on the part of the Agency to maintain insurance as agreed; and

(2) The failure on the part of the Agency to observe or perform any of the other material terms of this Agreement on the part of the Agency to be observed and performed; and

(3) The cancellation of the Agency's power to act by judicial decree, legislative enactment or otherwise; and

(4) The filing of a petition in bankruptcy or the petition for any other relief from creditors under any

Federal or State law, as well as an assignment for the benefit of creditors, or the appointment of a Receiver.

In the event of any default as set forth in this paragraph above, the Town may give written notice to the Agency calling attention to the existence of such failure. If the failure is not cured within thirty (30) days after notice thereof, then the Agency shall remove its building equipment and effects from the site, and the Town shall have all other remedies provided by law or equity or contract.

Notwithstanding the above, if the failure is of such a nature that it cannot reasonably be fully cured within the thirty (30) day period after notice, the Agency shall not be in default if it commences a cure within the thirty day period and thereafter diligently proceeds with all action necessary to complete such cure within a reasonable time.

In the case of any default, the Town may recover against the Agency any legal money damages or costs and expenses permitted in an action at law or equity as may be justified under all the circumstances. In case of any default, the Agency shall have the right and obligation to remove the building within six months from termination of the Agreement. The Agency shall also remove all Solid Waste and the leachate collection system, and shall regrade and seed the area. If the Agency does not remove the building within the six month period, it will become the property of the Town.

Section 10. Term of Agreement

Unless otherwise terminated upon default as provided in Section 10, hereof, this Agreement shall be in full force and effect and be legally binding upon the Agency and the Town on the Effective Date. This Agreement shall remain in full force and effect through September 30, 2016 (the "Initial Term"). The Agreement may be renewed after the expiration of the Initial Term upon mutual agreement. Notwithstanding the above, the Agency may terminate this Agreement if it determines to cease operations at the Facility because the Facility is no longer required. Upon termination of this Agreement, the Agency shall remove from the Site the scalehouse, scale building and compactors, roll-offs and other equipment.

Section 11. Amendment of Agreement.

This Agreement may be amended, waived, modified, and supplemented at any time by agreement of the parties. Any amendment to this Agreement so consented to as provided above shall be by written agreement, duly authorized and executed by the Agency and the Town.

Section 12. Notices.

Any Notice of communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid as follows:

If to the Town: Supervisor  
Town of New Paltz  
Town Hall, P.O.Box 550  
New Paltz, New York 12561

If to the Agency: Ulster County Resource Recovery Agency  
Attention: Executive Director  
1266 Ulster Avenue  
Kingston, New York 12401

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by notice to the other party.

Section 13. Severability

If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not effect any of the remaining provisions of this Agreement and this Agreement shall be construed and enforced as if such invalid and unenforceable provision had not been contained herein.

Section 14. Execution of Documents

This Agreement may be executed in any number of counterparts, any of which shall be regarded for all purposes as an original and all of which shall constitute but one and the same instrument. Each party agrees that it will execute any and all deeds, documents or other instruments, and take such other action as is necessary to give effect to the terms of this Agreement.

Section 15. Entirety

This Agreement merges and supersedes all prior negotiation, representations and agreements, except the Management Agreement, between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof, all prior negotiations, representations and agreements, except the Management Agreement, whether oral or written, having been merged herein.

Section 16. 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 will impair such right or shall be construed to be a waiver thereof, but which right may be exercised from time to time and as often as may be deemed expedient. Any waiver must be in writing and signed by the party granting such waiver. If any covenant or agreement contained in this Agreement is breached by any party and thereafter waived by any other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach under this Agreement.

Section 17. Governing Law and Jurisdiction

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

Section 18. References and Headings.

Except as otherwise indicated, all references herein to Sections are to Sections of this Agreement. Section headings herein have been inserted for convenience of reference only and will not limit, expand or otherwise affect the construction of this Agreement. Capitalized terms not defined herein shall have the meaning ascribed to them in the Management Agreement, or if not defined therein, the Act.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

ULSTER COUNTY RESOURCE RECOVERY  
AGENCY

By: *Bob Matera*  
Title: Chairman

TOWN OF NEW PALTZ

By: *David S. Lent* 12/27/95  
Title: Supervisor

Witness *James J. [unclear]* - 12-27-95  
*Engene [unclear]*



CLOUGH, HARBOUR  
& ASSOCIATES  
ENGINEERS, SURVEYORS, PLANNERS  
& LANDSCAPE ARCHITECTS

III WINNERS CIRCLE  
P.O. BOX 5269 • ALBANY, NEW YORK 12205-0269  
TEL: 518-453-4500 • FAX: 518-458-1735

SUGGESTED LEGAL DESCRIPTION

FOR LEASED LANDS OF

ULSTER COUNTY RESOURCE RECOVERY AGENCY

All that tract, piece or parcel of land situate in the Town of New Paltz, County of Ulster and State of New York, being more particularly bounded and described as follows:

Commencing at a point in the northerly boundary of lands now or formerly of the Town of New Paltz, said point being in the division line between lands of said Town of New Paltz on the south and lands now or formerly of Silas Wheelock Smith et al. as described in Liber 2243 of Deeds at Page 122 on the north, said point also being the northwesterly corner of the parcel of land conveyed to the Town of New Paltz by Harry S. Dishart in Liber 1091 of Deeds at Page 737 and the northeasterly corner of lands conveyed to the Town of New Paltz by Mary C. Wilson in Liber 1210 of Deeds at Page 349 (North Parcel); thence South 34° 25' 06" East, 676± feet to the point of beginning; thence from said point of beginning through lands of said Town of New Paltz the following nine (9) courses and distances:

- 1) South 34°-19'-25" East, a distance of 98.26 feet to a point;
- 2) South 23°-48'-43" East, a distance of 94.57 feet to a point;
- 3) South 23°-57'-16" East, a distance of 84.33 feet to a point;
- 4) South 32°-21'-49" East, a distance of 26.53 feet to a point;



ALBANY, ROCHESTER, SYRACUSE, BUFFALO, LAKE PLACID, GOSHEN & NEW YORK CITY, NY  
MALVERN & WILKES-BARRE, PA • HARTFORD, CT • SPRINGFIELD, MA • KEENE, NH  
RUTLAND, VT • FALMOUTH, ME

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- 5) South 36°-00'-50" East, a distance of 91.71 feet to a point;
- 6) South 38°-04'-27" East, a distance of 110.45 feet to a point;
- 7) South 51°-55'-33" West, a distance of 369.36 feet to a point;
- 8) North 38°-34'-51" West, a distance of 500.02 feet to a point;
- 9) North 51°-55'-33" East, a distance of 430.02 feet to the point or place of beginning, containing 196,081 square feet or 4.50 acres of land more or less.

Subject to all rights, easements, covenants and restrictions of record.

Subject to any state of facts an up-to-date abstract of title would disclose.

EXHIBIT "B"

Terms and Conditions for Operation of the  
Town of New Paltz Regional Transfer Station

1. Hours. The Facility will be open on Mondays through Fridays at no less than eight hours per day, and on Saturday for no less than four hours per day. The Facility will be closed on legal holidays in New York, except as otherwise determined by the Agency. The starting and closing hours of the Facility shall be 6:30 a.m. to 4:30 p.m. Monday through Friday and 7:00 a.m. to 1:00 p.m. on Saturday. Any changes to the starting and closing times will be subject to the consent of the Town, which consent shall not be unreasonably withheld.
2. Billings. All billings to Licensees shall be made by the Agency. Failure of Licensees to pay bills on a current basis may be grounds for refusal of use of the Facility. The Agency shall establish rates, penalties, payment periods and other billing procedures for in its by-laws.
3. Residential Users of Facility. The Facility will accept loads of residential municipal solid waste in excess of two cubic yards in accordance with MRDC requirements.
4. General Operating Procedures. The Agency shall operate the Facility in accordance with applicable statutes and federal, state and Agency laws, rules and regulations with such equipment and personnel as it deems necessary and proper. Town employees currently operating the Landfill shall be considered by the Agency for employment at the Facility. The Town shall operate the MRDC, also located on the Site.
5. Rejected Loads. If any person attempts to dispose of improper material at the Facility, the Agency will reject the load and order the party to take the load to an appropriate facility.
6. Licensee List. The Agency shall provide to the Town and keep current at all times a list of persons licensed to use the Facility.
7. Host Community Payment. The Town shall receive, as a host community, the sum of \$1.25 for each ton of Solid Waste disposed of at the Facility, of which \$.25 shall be paid by the Town to the appropriate entity responsible for fire protection. These payments shall be made by the Agency on a semi-annual basis. The payment will be adjusted by the Consumer Price Index (Albany Area) every 5 years based upon previous June figures.

8. Miscellaneous.

a) Solid Waste at Facility. The Facility shall receive Solid Waste from Ulster County only. Most of the Solid Waste shall be generated in the service area defined in the Management Agreement. Extension of the service area beyond Ulster County shall require Town Board approval. No Solid Waste shall be left at the Facility for more than seven (7) days. No garbage shall be stored outside the Facility. Notwithstanding the above, construction and demolition debris shall not be left at the Facility for more than fifteen (15) days.

b) Routes to be Taken by Haulers. The Agency shall designate the routes to be taken by Solid Waste haulers bringing Solid Waste to the Facility from outside the Town. Any roads other than State routes shall be approved by the Town, which approval shall not be unreasonably withheld. The Agency shall enforce such requirement against the haulers and shall amend its by-laws to provide for the payment of a \$100 fine for each violation of this requirement. Continued violation could result in loss of the right to use the Facility.

c) Reconstruction of Access Road. The Agency shall reconstruct the access road from Route 32 to the Town's Municipal Drop-Off Center. Such reconstruction shall be based upon an engineering study performed by the Agency's Engineers as approved by the Town, which approval shall not be unreasonably withheld. Reconstruction shall be completed prior to commercial use of the Facility. The Agency shall also have the responsibility to undertake major repair, repaving, replacement and reconstruction of the access road over the life of this Agreement.

d) Facility Leachate Collection System. The Agency agrees that the Facility shall be equipped with a leachate collection system located in the floor.

e) Noise and Odors. The operation of this Facility will not exceed the decibel limit as specified in the 1993 6 NYCRR § 360-1.14(p) for facilities in a rural area as measured at the boundary of the leased premises. The Agency shall comply with 6 NYCRR §§ 360-1.14(m) and 360-1.14(e) with regard to odors at the Facility. The Agency shall cover all vehicles, or require the covering of all vehicles which enter or leave the Facility to further minimize odor impacts.

f) Wood on Leased Premises. The Town shall have 90 days to sell the wood on the leased premises cut down by the Agency's contractor, as long as there is no interference with construction of the Facility.

g) Stormwater Management Plan. The Agency shall prepare and submit to the Town a stormwater management plan. The plan shall be part of the Agency's application to DEC. The Town shall have the right to approve the plan. Such approval shall not be unreasonably withheld.

h) Traffic Safety. The Agency will present a plan to the Town for approval by the Town Board addressing traffic safety issues on Clearwater Road. The plan will minimize traffic during Saturdays when activities are occurring at the Town's recreational fields on Clearwater Road.

i) Lease. The Lease is non-transferable by the Ulster County Resource Recovery Agency.