

INTERMUNICIPAL AGREEMENT

THIS INTERMUNICIPAL AGREEMENT ("Agreement") is entered into as of the _____ day of _____, 2014.

BY AND BETWEEN

THE COUNTY OF SARATOGA, a municipal corporation duly organized under the laws of the State of New York, with a principal office at 40 McMaster Street, Ballston Spa, New York, 12020 (hereinafter referred to as "County")

-and-

THE CITY OF SARATOGA SPRINGS, a municipal corporation duly organized under the laws of the State of New York, with a principal office at City Hall, 474 Broadway, Saratoga Springs, New York, 12866 (hereinafter referred to as "City")

WITNESSETH:

WHEREAS, the County currently provides for the receipt and transportation of recyclable materials from five transfer stations and the Town of Edinburg Highway Garage;

WHEREAS, one of the County's recyclables transfer stations, the Saratoga County Recycling Center (hereinafter "Recycling Center"), is located on the site of a waste transfer station owned and operated by City at 41 Weibel Avenue, Saratoga Springs, New York; and

WHEREAS, at the County's Recycling Center/City's Waste Transfer Station site, the recyclables function is managed by a County employee, and the solid waste transfer function is managed by City's employees; and

WHEREAS, the County currently operates a multi-stream recycling service that accepts newspaper, glass, cardboard, plastics, aluminum, books, magazines, propane tanks, automotive batteries and scrap metal for recycling that requires the sorting and deposit of recyclables into separate containers upon their receipt; and

WHEREAS, in order to promote efficiencies and reduce costs through a consolidation of municipal services, the County desires to: 1) convert the collection of recyclables from multi-stream recycling to single-stream recycling; 2) privatize the transportation of recyclables from all County recyclables transfer stations; and 3) transfer the oversight of the collection of recyclables at all County recyclables transfer stations to the respective local municipalities operating the solid waste transfer station at the site of each County recyclables transfer station; and

WHEREAS, the County issued a Request for Proposals (RFP) on October 1, 2014 for:
1) the placement of appropriate containers for the receipt of single-stream recyclable materials at the County's transfer stations; 2) the placement of separate containers for the receipt of scrap metal at the County's transfer stations; and 3) the removal and transportation of received single-stream recyclables and scrap metal to approved processing and recovery facilities, which RFP set a deadline of October 31, 2014 for the receipt of proposals responsive thereto; and

WHEREAS, the City is agreeable to assuming responsibility for the management of the collection of recyclables at the Recycling Center in the City of Saratoga Springs upon terms and conditions materially agreed by County and City; and

WHEREAS, the County and City wish to formalize their mutual understanding regarding the County transferring oversight of the collection of recyclables at the Recycling Center from the County to the City;

NOW, THEREFORE, for and in consideration of the mutual covenants contained in this Agreement, County and City hereby agree as follows:

1. TERM OF AGREEMENT. This Agreement shall commence and take effect on February 1, 2015, and shall continue through December 31, 2016. The Agreement shall be subject to renewal for additional terms of two (2) years each, subject to the respective adoption of a resolution by the County's Board of Supervisors and by the City Council of the City of Saratoga Springs authorizing the renewal of the Agreement upon terms and conditions mutually agreeable to the County and City by no later than 60 days prior to the expiration date of the Agreement or any renewal term thereof.
2. CONVERSION TO SINGLE-STREAM RECYCLING. The County shall convert from multi-stream recycling to single-stream recycling at the Recycling Center commencing February 1, 2015, unless said date is extended pursuant to the written mutual agreement of County and City properly authorized by their governing bodies.
3. PRIVATIZATION OF THE COLLECTION AND REMOVAL OF RECYCLABLES. The County shall retain the services of a private waste hauler, pursuant to the Request for Proposals issued by the County on October 1, 2014, to collect, remove and transport single-stream recyclable materials from the Recycling Center commencing February 1, 2015. The County's contract with the waste hauler selected shall require the waste hauler to be responsible for the placement of appropriate containers for the receipt of single-stream recyclable materials and a separate container or containers for the receipt of scrap metal at the Recycling Center. In addition, the County's contract with the waste hauler will require the waste hauler to cover all single stream loads collected with a tarp, and to collect and remove any litter or debris on site, prior to leaving the Recycling Center. Upon the commencement of County's contract with the chosen waste hauler, the County will no longer maintain a County employee on-site at the Recycling Center to oversee the collection, removal and transportation of recyclable materials from the Recycling Center. The County shall be solely responsible for the costs associated with County's contract with said private waste hauler.
4. CITY'S MANAGEMENT OF COLLECTION OF RECYCLABLES. While the County will retain primary responsibility for the collection, removal and transportation of recyclable

materials from the Recycling Center through its contract with a private waste hauler who shall be performing said services, the City shall perform all on-site management and oversight of the collection of recyclable materials and scrap metals. The City shall employ sufficient personnel at the Recycling Center to properly manage the collection and removal of all recyclables, during scheduled operating hours. The City shall be responsible for maintenance of the Recycling Center site, including, but not limited to, building maintenance and repairs, mowing, snow removal, and pavement maintenance. In the event that a recycling bin or bins becomes full and the removal of recyclables is required in advance of a previously scheduled pickup of recyclables, the City shall notify the County of the need for an earlier pickup, and the County shall arrange for such earlier pickup with the private waste hauler retained by the County.

5. **COUNTY PAYMENTS TO CITY.** For the City's on-site management and oversight of the collection and removal of recyclable materials and scrap metal from the Recycling Center, the County shall pay City the sum of Thirty-Two Thousand and Twenty Seven Dollars (\$32,027.00) for services rendered in 2015 and the sum of Thirty-Five Thousand Dollars (\$35,000.00) for services rendered in 2016, payable on March 15 of each year upon the submission by the City to the County of a properly executed County voucher. The City agrees to and shall utilize said sum for solid waste and/or recycling purposes, including, but not limited to, the payment of City's staffing costs at the Recycling Center, and the implementation of on-site improvements intended to facilitate the collection, removal and transportation of recyclable materials and scrap metals. In the event City terminates this Agreement as provided in Section 23 herein, City shall refund to County a proportionate amount of the annual payment, covering the period for which no services were rendered from the termination date through December 31st of that year.
6. **RECYCLABLE MATERIALS.** The County's Commissioner of Public Works shall provide the City with a list of materials that may be accepted for recycling under the recycling provisions of the County's Local Law No. 1 of 1988, as amended.
7. **REGULATORY REPORTING.** The County shall continue to be responsible for all required regulatory reporting to the New York State Department of Conservation (DEC) relative to the collection, removal and transportation of recyclable materials. The City shall cooperate with County's requests for information needed to comply with regulatory reporting to DEC.
8. **INVENTORY OF RECYCLABLE MATERIALS.** The County will develop for use by the City appropriate standard forms for the inventory of all materials received for recycling at the Recycling Center. The City shall utilize the forms provided by County to maintain an accurate monthly inventory of all recyclable materials received. The City shall submit completed inventory forms to County by the 10th day of each month for the recyclables received during the prior month.
9. **ADDITIONAL COSTS BORNE BY COUNTY.** The County shall pay for the cost of the proper removal and disposition of coolant-containing appliances. The County shall also pay for the proper disposition of automotive batteries and propane cylinders. In the case of large coolant-containing appliances, such as refrigerators and freezers, the coolant will be removed from the appliance by a contractor retained by County, and the appliance will be placed in the scrap metal bin for removal by the private waste hauler retained by County.

City personnel will be responsible for overseeing the process of removing and disposing of coolant-containing appliances.

10. ADDITIONAL COSTS BORNE BY CITY. On and after February 1, 2015, the City shall be responsible for the costs of maintaining electricity and phone service to the Recycling Center site. In addition, on and after February 1, 2015, the City shall be responsible for costs of furnishing portable toilet facilities at the Recycling Center site in the event the City should decide to continue to provide toileting facilities at the site.
11. REVENUE FROM SALE OF RECYCLABLES. The County shall receive all revenue derived from the sale of single-stream recyclables, scrap metals and all other recyclables collected at the Recycling Center.
12. FREE RECYCLING FOR COUNTY RESIDENTS. County and City agree that there shall be no County or City charges or fees imposed on Saratoga County residents depositing recyclable materials at the Recycling Center.
13. PERMITS. The County shall maintain any and all necessary governmental permits or approvals needed to manage and oversee the collection and removal of recyclables from the Recycling Center.
14. COMPLIANCE WITH LAWS. The County and City shall comply with all applicable laws, ordinances and regulations, including non-discrimination and labor laws. The County and City agree that for the duration of this Agreement and any renewal term(s) thereof, they will not discriminate against any employee, applicant for employment, or person requesting services in connection with this agreement, because of race, creed, color, national origin, disability, age, sex, marital status, sexual preference or source of payment.
15. RETENTION OF RECORDS. The County and City agree to maintain and have available for audit such records as may be required by the County, the City, New York State or United States governmental agencies. These records shall be available for inspection by properly identified personnel of the above governmental agencies upon reasonable notice, and shall be maintained for a period of six (6) years after termination of this Agreement.
16. DEFENSE AND INDEMNIFICATION. The County shall defend, protect, indemnify and hold harmless the City, its officers, directors and employees from and against any and all claims, demands or causes of action for injury or death to person or damage to property, (including all costs and reasonable attorney's fees incurred in defending any claim, demand or cause of action), arising out of or resulting from any negligent or wrongful acts, errors, omissions, negligence, incompetence, malfeasance or misfeasance by the County, its employees or agents in the performance of County's obligations under this Agreement.

The City shall defend, protect, indemnify and hold harmless the County, its officers, directors and employees from and against any and all claims, demands or causes of action for injury or death to person or damage to property (including all costs and reasonable attorney's fees incurred in defending any claim, demand or cause of action), arising out of or resulting from any negligent or wrongful acts, errors or omissions, negligence, incompetence, malfeasance or misfeasance by the City, its employees or agents in the performance of the City's obligations under this Agreement.

The County and City shall notify each other in writing within ten (10) days of any such claims or demands and shall cooperate in the defense of any such actions.

17. **INSURANCE.** At all times during the term of this Agreement, County and City shall maintain, at their own expense, the following insurance and shall provide proof thereof to each other, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

- (a) Statutory Workers' Compensation coverage in compliance with the Workers' Compensation Law of the State of New York.
- (b) General Liability coverage in the comprehensive or commercial general liability form in the amount of \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. This insurance shall include coverage for bodily injury and property damage and shall be on an occurrence form with a waiver of subrogation. The County shall list the City, and the City shall list the County, as an additional insured on their respective policies.
- (c) Automobile liability insurance coverage for all owned, leased or non-owned vehicles in the amount of \$1,000,000 per occurrence. This insurance shall include coverage for bodily injury and property damage. The County shall list the City, and the City shall list the County, as an additional insured on their respective policies.
- (d) Environmental liability insurance coverage in the amount of \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. The County shall list the City, and the City shall list the County, as additional insured on their respective policies.

The certificate of insurance provided by the City to the County shall list the "County of Saratoga", 40 McMaster Street, Ballston Spa, New York 12020, as certificate holder. The certificate of insurance provided by the County to the City shall list the "City of Saratoga Springs, City Hall, 474 Broadway, Saratoga Springs, New York, 12866" as certificate holder. The City's certificate of insurance must be approved by the Saratoga County Attorney, and the County's certificate of insurance must be approved by Saratoga Springs City Attorney, prior to the commencement of the provision of services pursuant to this Agreement.

In the event any policy furnished or carried pursuant to this Agreement is scheduled to expire on a date prior to the expiration of the term of the Agreement, the party whose policy is due to expire shall deliver to the other party a certificate or certificates of insurance evidencing the renewal of such policy or policies not less than 15 days prior to such expiration date, together with proof of payment of all premiums due thereon.

In the event a party hereto receives notice of cancellation of its insurance required pursuant to this Agreement (the "affected party"), the affected party shall immediately provide the non-affected party with written notice of such cancellation by no later than the next business day of the non-affected party. The affected party shall provide the non-affected party with proof of replacement insurance coverage satisfying the requirements set forth in this Agreement within two (2) business days of the affected party's receipt of said notice of

cancellation. Failure of the affected party to maintain the required insurance shall constitute a breach of this Agreement, and the Agreement shall terminate on the date of cancellation of the affected party's insurance.

All policies of insurance required pursuant to this Agreement shall be underwritten by companies authorized to do business in the State of New York, and shall be primary insurance and not contributory insurance. County and City shall be solely responsible for any deductible losses under their respective policies. Proof of additional insured coverage shall be evidenced through an additional insured endorsement rider provided by the insurance carrier.

Any failure by County or City to comply with the insurance requirements of this Agreement in a timely manner shall constitute a breach of this Agreement, and the non-defaulting party may, at its option, terminate this Agreement upon ten (10) days written notice to the defaulting party. The defaulting party shall have two (2) business days following receipt of such written notice to cure its default.

The insurance required herein is not, and shall not be, construed as a limitation upon either party's obligation to indemnify the other.

18. **DEFAULT**: The occurrence of any of the following shall be considered an Event of Default:
- (a) **Non-payment**. The failure by the County to make any of the payments required pursuant to this Agreement when due.
 - (b) **Failure to Perform**. The failure of the City to provide the management and oversight services of the collection and removal of recyclable materials required pursuant to this Agreement.
 - (c) **Other Failure to Perform**. The failure by either County or Town to perform and/or comply with any term, covenant or condition required under this Agreement.
19. **REMEDIES**. In the Event of Default under this Agreement, the non-defaulting party may take such legal action as may be appropriate under the circumstances, including injunctive relief, declaratory judgment, or monetary damage for such default. No such action or proceeding shall be commenced until the defaulting party has been given written notice thereof by the non-defaulting party and thirty (30) days have elapsed since receipt of such notice, and the defaulting party has not proceeded diligently to cure such default. Any default by a party in providing the insurance required pursuant to this Agreement shall be subject to the remedies and requirements set forth in Paragraph 16 herein.
20. **NOTICES**. Any notice, demand, request, consent, approval, or other communication given under or with respect to this Agreement shall be in writing and shall be personally served or sent by United States registered, certified or express mail, return receipt requested, postage pre-paid, or by overnight courier with delivery charge paid, addressed to the party or other entity to be notified as follows:

To the County: Commissioner of Public Works
3654 Galway Road
Ballston Spa, New York 12020

With a copy to: Saratoga County Attorney
40 McMaster Street
Ballston Spa, New York 12020

To the City: _____

Saratoga Springs, New York, 12866

The parties may designate such other addresses as they may from time to time choose, provided they advise the other party in writing of such change.

21. **APPLICABLE LAW.** The law of the State of New York shall govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement. Venue of any legal action shall be Saratoga County, New York, and action must be commenced in the Saratoga County Court.
22. **WAIVER.** The failure of either party to insist on the strict performance of any term or provision hereof shall not be deemed a waiver of any subsequent breach.
23. **MODIFICATION.** This Agreement constitutes the complete understanding of the parties. No modification of any provisions thereof shall be valid unless in writing signed by both parties.
24. **TERMINATION.** Either County or City may terminate this Agreement without cost or penalty upon 180 days written notice to the other at the address set forth in Paragraph 19 herein.
25. **SEVERABILITY.** In the event that any provision of this Agreement shall be determined by a Court of Law to be illegal and/or unenforceable, the Agreement, to the extent the Courts have determined practical, shall continue in full force and effect between the parties as if the said illegal or unenforceable provision were not contained a part thereof.
26. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement among the parties regarding the subject matter hereof, and supersedes all prior agreements (written or oral) which may have related to the subject matter hereof.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective parties.

APPROVED AS TO FORM AND CONTENT

COUNTY OF SARATOGA

Saratoga County Attorney

By: _____
PAUL J. SAUSVILLE, Chairman
Saratoga County Board of Supervisors
Pursuant to Resolution -2014

APPROVED AS TO FORM AND CONTENT

CITY OF SARATOGA SPRINGS

Saratoga Springs City Attorney

By: _____
Joanne D. Yepsen, Mayor
Pursuant to Resolution _____