

**ONONDAGA COUNTY PARTICIPATING MUNICIPALITY SOLID WASTE
DELIVERY AGREEMENT**

This **AGREEMENT** entered into this 11th day of March, 2015, by
and between:

The Onondaga County Resource Recovery Agency, a public benefit corporation created under the laws of the State of New York, having an office and place of business at 100 Elwood Davis Road, North Syracuse, New York, 13212, (hereinafter referred to as "**OCRRA**") and the **Town of Cicero**, a municipal corporation located in Onondaga County, having an office and place of business at 8236 Brewerton Road, Cicero, New York, 13039, (hereinafter referred to as the "**MUNICIPALITY**");

WITNESSETH:

WHEREAS, by Resolution 28-1978, the Onondaga County Legislature declared that Solid Waste disposal is a County-wide problem; and

WHEREAS, it is mutually understood that for the benefit of all the Participating Municipalities in Onondaga County, it is necessary that Participating Municipalities in the County enter into legally enforceable commitments to deliver all of the Solid Waste produced within their Participating Municipality to the County Solid Waste Management System (hereinafter referred to as the "**OCRRA System**"); and

WHEREAS, the **MUNICIPALITY** and **OCRRA** had previously entered into a similar twenty-five (25) year Delivery Agreement, as had the other thirty-two (32) Participating Municipalities and those prior Delivery Agreements recently expired; and

WHEREAS, the commitment of the member **MUNICIPALITY** herein to participate in the **OCRRA System** will ensure that all of the residents, businesses and public facilities in the

MUNICIPALITY will have a secure, reliable, and environmentally responsible Solid Waste disposal facility and solid waste management system for at least a twenty (20) year period into the future; and

WHEREAS, the **MUNICIPALITY**'s commitment herein will further ensure that **OCRRA**'s recycling and composting facilities and programs will continue to be funded and function for the foreseeable future; and

WHEREAS, this **AGREEMENT** evidences the **MUNICIPALITY**'s continuing commitment to environmentally responsible and reliable Solid Waste management for the **MUNICIPALITY**'s residents and businesses; and

WHEREAS, in furtherance of that commitment, the **MUNICIPALITY** adopted an Intrastate Waste Site designation ordinance on November 13, 2000 that designated the **OCRRA** System for the disposal of all Solid Waste originating or generated in the **MUNICIPALITY** and bound for ultimate disposal in New York State; and

WHEREAS, the **MUNICIPALITY** seeks assurance that **OCRRA** will, during the term of this **AGREEMENT**, accept all of the **MUNICIPALITY**'s Solid Waste into the **OCRRA** System; and

WHEREAS, **OCRRA** intends to fulfill all of its obligations under this **AGREEMENT**;
and

WHEREAS, the Parties to this **AGREEMENT** have agreed to act in good faith and to take all necessary and appropriate actions, in cooperation with one another, to effect the purposes of this **AGREEMENT**; and

WHEREAS, the Parties to this **AGREEMENT** are entering into this **AGREEMENT** pursuant to their respective lawful authorities;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein set forth, and of the undertakings of each party to the other, the Parties to this **AGREEMENT** do hereby promise and agree as follows:

ARTICLE I
DEFINITIONS

- 1.1. “Agency” or “**OCRRA**” shall mean the Onondaga County Resource Recovery Agency.
- 1.2. “Agency Solid Waste Disposal Fee” shall mean the fee established by **OCRRA** as the cost to dispose of one ton of Solid Waste in the OCRRA System and includes all costs incurred by the Agency in connection with the establishment, operation and maintenance of the OCRRA System.
- 1.3. “Bonds” shall mean the bonds issued by the Onondaga County Resource Recovery Agency to finance the construction and maintenance of the OCRRA System.
- 1.4. “Counterpart Agreement” shall mean each agreement, entitled “Solid Waste Agreement”, similar in form and substance to this **AGREEMENT**, executed by each Participating Municipality in Onondaga County participating in the OCRRA System.
- 1.5. “County” shall mean the County of Onondaga, New York.
- 1.6. “Designated Person” shall mean a Person designated by the **MUNICIPALITY** to ensure the **MUNICIPALITY**’s compliance with this **AGREEMENT**.
- 1.7. “Execution Date” shall mean the date this **AGREEMENT** is entered into by **OCRRA** and the **MUNICIPALITY**.
- 1.8. “Hauler” shall mean any Person engaged in the collection and/or transportation of Solid Waste in the Participating Municipalities of Onondaga County.

1.9. “Hazardous Waste” shall mean waste which, by reason of its quantity, composition or characteristics is a toxic substance or hazardous waste [as defined in the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended (including, but not limited to, amendments thereto made by the Solid Waste Disposal Act Amendments of 1980), and related regulations, in the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., as amended, and related regulations, or in any future additional or substitute federal, state or local laws and regulations pertaining to the identification, treatment, storage or disposal of toxic substances or hazardous wastes]; any source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and related regulations. If any governmental agency or unit having appropriate jurisdiction shall determine that substances which are not, as of the contract date, considered harmful, toxic, or dangerous, are in fact harmful to health, then any such substances or materials shall thereafter constitute Hazardous Waste for purposes of this **AGREEMENT.**

1.10. “Municipal Hauler” shall mean the Participating Municipality itself as a municipal handler of Solid Waste, as well as a Hauler employed or under contract by a municipality or a district within the municipality operating as part of a municipally owned and operated Solid Waste collection system.

1.11. “OCRRA Contracted Haulers” shall mean those haulers which have signed a hauler agreement with the Onondaga County Resource Recovery Agency.

1.12. “Participating Municipalities” shall mean all municipalities that have signed and entered into Counterpart Solid Waste Delivery Agreements.

1.13. “Person” shall mean any individual, corporation, partnership, trust, governmental agency or any other entity, or any group of such persons.

1.14. "Service Agreement" shall mean the Second Amended Solid Waste Disposal Service Agreement between **OCRRA** and Covanta Onondaga LP, the operator of the Onondaga Waste-to-Energy Facility, as amended on November 12, 2014, which will be in effect for a twenty (20) year period beginning on May 10, 2015.

1.15. "Solid Waste" shall mean residential, governmental, commercial and/or industrial refuse including yard waste but shall not include human wastes; rendering wastes; demolition wastes; residue from incinerators or other destructive systems for processing waste, other than now existing individual building incinerators, residue from which is presently collected as part of normal refuse collection practices; junked automobiles or pathological, toxic, explosive, radioactive material or other Hazardous Wastes which, under existing or future federal, state or local laws, require special handling in their collection or disposal.

1.16. "Street" shall mean any type of public way accessible to vehicular traffic including, without limitation, lanes, roads, avenues, streets and highways.

1.17. "System" or "OCRRA System" shall mean **OCRRA**'s Solid Waste management and disposal system and every aspect thereof including, but not limited to, the Onondaga Waste-to-Energy Facility, and any transfer stations or landfills acquired, constructed or operated or to be acquired, constructed or operated by **OCRRA** or any agent, designee or contractor of **OCRRA** in connection with the Onondaga County Solid Waste Management Plan ("SWMP") as well as OCRRA composting facilities at Amboy and Jamesville.

1.18. "Waste-to-Energy Facility" or "Facility" shall mean the Onondaga Waste-to-Energy Facility located on Rock Cut Road in the Town of Onondaga, Onondaga County.

ARTICLE II
OCRRA UNDERTAKINGS

2.1. Operation of the OCRRA System. **OCRRA** hereby agrees to provide for the operation of the OCRRA System including the Onondaga Waste-to-Energy Facility at the Rock Cut Road site in the Town of Onondaga, its transfer stations at Ley Creek and Rock Cut Road, when needed, for OCRRA System operations, as well as, its Agency compost facilities and any other equipment or facilities which **OCRRA** deems necessary or desirable for a twenty (20) year period beginning May 10, 2015. **OCRRA** also agrees to maintain its successful recycling program, which will continue procedures designed to maximize recycling alternatives in Onondaga County.

2.2. Commitment to Accept Solid Waste. **OCRRA** agrees to accept all of the Solid Waste generated in the **MUNICIPALITY** and delivered by the **MUNICIPALITY** itself, Municipal Haulers, or OCRRA Contracted Haulers, as well as, residents and businesses within the Participating Municipality. Pursuant to Section 3.1. of this **AGREEMENT**, all accepted Solid Waste will be disposed of by the OCRRA System for the term of this **AGREEMENT**.

2.3. Recycling Program. In order to conserve natural resources, and consistent with our Participating Municipalities and the County's desire to reduce unnecessary landfilling, **OCRRA** will continue its award winning recycling program. The recycling program requires mandatory curbside recycling in the **MUNICIPALITY** in which the **MUNICIPALITY** must participate and fully support.

2.4. Compost Facilities. **OCRRA** presently operates compost facilities at Jamesville and Amboy on land leased from Onondaga County. When those facilities are open for

business, Participating Municipalities and its residents, businesses, as well as, **OCRRA** permitted waste haulers operating within the **MUNICIPALITY**, will be able to utilize them and obtain mulch and compost therefrom at **OCRRA** established rates.

ARTICLE III OBLIGATIONS OF THE MUNICIPALITY

3.1. Commitment to Deliver Solid Waste. Beginning on the Execution Date, and for the term of this **AGREEMENT**, the **MUNICIPALITY** agrees to deliver or cause to be delivered into the **OCRRA** System all of the Solid Waste collected within such **MUNICIPALITY**, whether such Solid Waste is collected by the **MUNICIPALITY** itself as part of a general municipal Solid Waste collection service, or is collected by private Haulers operating within the Participating Municipality including, but not limited to, private haulers hired by the **MUNICIPALITY** or private haulers serving a Solid Waste district located within the Participating Municipality.

3.2. Source Separation. The **MUNICIPALITY** agrees to actively participate in **OCRRA**'s mandatory curbside recycling program, and to foster both public and private efforts in this regard.

3.3. On November 13, 2000, the **MUNICIPALITY** adopted an Intrastate Waste Site Designation Ordinance (or Law) (hereinafter referred to as "Ordinance or Law") in which it designated that all Solid Waste generated within the boundaries of the **MUNICIPALITY** and bound for ultimate disposal in New York State must, by that Ordinance or Law, be disposed of at the designated waste site, namely at the Onondaga Waste-to-Energy Facility on Rock Cut Road or to other transfer or processing facilities maintained by **OCRRA**. The **MUNICIPALITY** hereby represents that Ordinance or Law has not been rescinded or

amended in any way, to date, and that such Ordinance or Law will continue to remain in full effect and be enforceable, without any further amendments or contingencies, for the term of this Solid Waste Delivery **AGREEMENT**.

3.4. The **MUNICIPALITY** further recognizes that the County of Onondaga adopted Local Law No. 5 of 2003 (as amended by Local Law No. 3 of 2012), a County-wide “Flow Control” law, directing that all Solid Waste originating in Onondaga County be disposed of at the municipally owned (i.e., **OCRRA** owned) Onondaga Waste-to-Energy Facility on Rock Cut Road in the Town of Onondaga or at any other designated **OCRRA** System Facility. The **MUNICIPALITY** commits and agrees to comply fully with Onondaga County Local Law No. 5 of 2003, as amended, and in any **MUNICIPALITY** procurement for Solid Waste pick-up and/or disposal services within the **MUNICIPALITY**, including such services for any Solid Waste districts within the **MUNICIPALITY**, that the **MUNICIPALITY** will, in its Request for Proposals or Bids for such services, and in its contract award thereafter, require that all such Solid Waste be delivered to the Onondaga Waste-to-Energy Facility or to any other designated **OCRRA** disposal Facility during the term of this **AGREEMENT**. The **MUNICIPALITY** further agrees not to commence, pursue or participate in any action, legal or otherwise, that challenges the validity or constitutionality of said Local Law No. 5 of 2003, as amended.

3.5. The **MUNICIPALITY** recognizes **OCRRA** has, or in the future will have, entered into Hauler contracts with all Solid Waste Haulers operating in Onondaga County. In fact, the **MUNICIPALITY** itself may have entered into such a Hauler contract or, in the future may decide to engage in municipal collection and thus enter into such a Hauler contract with **OCRRA**. The **MUNICIPALITY** agrees that if it now engages in municipal collection, or in the future engages in any municipal collection during the term of this

AGREEMENT, that it will enter into a Hauler contract with **OCRRA** that will, among other things, require that all Solid Waste from the **MUNICIPALITY** be delivered to the Onondaga Waste-to-Energy Facility or to another designated **OCRRA** System Facility. The **MUNICIPALITY** further agrees not to interfere with any Hauler contracts **OCRRA** may have with any private Haulers operating within the **MUNICIPALITY**'s boundaries and, when requested by **OCRRA**, will assist **OCRRA** in every way possible in enforcing such Hauler contracts.

3.6. The **MUNICIPALITY** agrees to appoint a Designated Person, who is to monitor and ensure compliance with this **AGREEMENT** in the **MUNICIPALITY**.

ARTICLE IV FINANCIAL MATTERS

4.1. Fee Structure. **OCRRA** will bill each Hauler who delivers Solid Waste originating from or generated in the **MUNICIPALITY** into the **OCRRA** System. The amount due from each Hauler will be determined by multiplying the then applicable Agency Solid Waste Disposal Fee by the actual number of tons delivered by the Hauler. The Agency will send a monthly accounting to each Hauler and all amounts listed thereon will be due and payable in accordance with **OCRRA**'s billing policy.

ARTICLE V FURTHER ASSURANCES

5.1. Additional Actions. **OCRRA** and the **MUNICIPALITY** shall, in good faith, during the term of this **AGREEMENT**, take all such actions as may be necessary or appropriate to carry out the purposes of this **AGREEMENT** including, without limitation, the enactment of legislation, resolutions and other official actions.

5.2. Assistance with Permits and Approvals. OCRRA and the MUNICIPALITY shall use their mutual best, good faith efforts to obtain further agreements, approvals, licenses, permits, legislation, authorizations and the like, as may be necessary or appropriate in connection with the future design, financing, construction and operation of the OCRRA System or as may be necessary or appropriate to carry out the purposes of this **AGREEMENT.**

**ARTICLE VI
MISCELLANEOUS**

6.1. Effect of Breach. Each party specifically recognizes that the other is entitled to bring immediate suit for temporary as well as permanent injunctive relief, mandamus, or specific performance or to exercise other legal or equitable remedies to enforce the obligations and covenants of each party hereto. It being recognized, however, that the successful operation of the OCRRA System – and therefore the ability of Participating Municipalities within Onondaga County to safely, lawfully and economically dispose of their Solid Waste – depends on all Participating Municipalities fully living up to the terms and conditions of these Solid Waste Delivery Agreements. **OCRRA and the MUNICIPALITY** each agree to fulfill their obligations and duties under this **AGREEMENT** in good faith while any such suits or remedies are pursued unless and until the final judgment of a court of competent jurisdiction properly relieves either party of any portion of their obligations hereunder. To further ensure the successful operation of the OCRRA System, it is also agreed that all Participating Municipalities shall be deemed third-party beneficiaries of all Counterpart Agreements entered into by all of the other Participating Municipalities.

6.2. Term of Agreement. This **AGREEMENT** shall be in full force and effect and be legally binding upon **OCRRA** and the **MUNICIPALITY** from the Execution Date and

delivery hereof. This **AGREEMENT** shall remain in full force and effect until twenty (20) years from May 10, 2015.

6.3. Termination of Agreement. Neither **OCRRA** nor the **MUNICIPALITY** shall have the right to terminate this **AGREEMENT** for so long as the Service Agreement or any contractual or bonding obligations of **OCRRA**, under the Service Agreement, shall remain outstanding for any reason whatsoever. Upon the satisfaction and discharge of all **OCRRA**'s contractual obligations under the Service Agreement and all of **OCRRA**'s existing bonding obligations, **OCRRA** and the **MUNICIPALITY** may terminate this **AGREEMENT** by mutual consent.

6.4. Assignability. **OCRRA** may assign or pledge this **AGREEMENT** in relation to the financing and operation of the **OCRRA** System; but no other assignment of this **AGREEMENT** shall be authorized or permitted by either Party to this **AGREEMENT**.

6.5. Waiver Not to be Construed. No waiver by **OCRRA** or the **MUNICIPALITY** of any term or condition of this **AGREEMENT** shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any pledge be deemed to constitute a waiver of any subsequent pledge, whether of the same or of a different section, subsection, paragraph, clause, phrase, word or other provision of this **AGREEMENT** required of it under this **AGREEMENT** or by law. The failure of either party to insist in any one or more instances upon strict performance of any of the terms, covenants, agreements or conditions in this **AGREEMENT** shall not be considered to be a waiver or relinquishment of such term, covenant, agreement or condition; but the same shall continue in full force and effect.

6.6. Amendments. This **AGREEMENT**, being for the benefit of all the Participating Municipalities, may not be substantially altered, changed or amended before or after execution without the concurrence of all other Participating Municipalities and any such

amendment shall be only by written agreement, duly authorized and executed. This writing represents the entire **AGREEMENT** between the Parties and any modification or amendment shall be in writing and duly executed by the Parties to this **AGREEMENT**.

6.7. Severability. If any provision, paragraph, sentence, clause or word of this **AGREEMENT** shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such shall not affect the remainder of this **AGREEMENT** and shall be construed and enforced, consistent with its expressed purposes, as if such invalid or unenforceable provision, paragraph, sentence, clause or word had not been contained herein.

6.8. Duplicate Originals. This **AGREEMENT** may be executed in two or more counterparts, any of which shall be regarded for all purposes as duplicate originals.

IN WITNESS WHEREOF, the Parties hereto have duly executed this **AGREEMENT** the day and year first above mentioned.

Onondaga County Resource Recovery Agency

Town of Cicero

By: *Mark A. Donnelly*
Mark A. Donnelly, Executive Director

By: *Jessica Zambrano*
Jessica Zambrano, Supervisor

Date: *March 13, 2015*

Date: *March 11, 2015*

Witness: *William J. Bulger*

Witness: *Debra M. Coile*

Seal:

APPROVED AS
TO, LEGAL FORM
WJD *11/14/14*
Initials Date

Seal:

