

**LEACHATE DISPOSAL AGREEMENT  
BETWEEN  
MONTGOMERY COUNTY  
AND  
VILLAGE OF CANAJOHARIE**

This Agreement, made as of the \_\_\_\_ day of \_\_\_\_\_, 2017 by and between **Montgomery County**, a Municipal Corporation existing under the laws of the state of New York, with its principal offices located in the County Annex Building, 20 Park St., Fonda New York 12068, hereinafter referred to as the “**County**”, and the Village of Canajoharie, a Municipal Corporation organized and existing under the laws of the State of New York, in the County of Montgomery and State of New York, hereinafter referred to as the “**Municipality**.”

**WITNESSETH**

**WHEREAS**, pursuant to General Municipal Law §110-o municipal corporations are authorized to enter into agreements for the performance among themselves of one of their respective functions, powers and duties on a cooperative contract basis or for the provision of a joint service or a joint water, sewage or drainage project; and

**WHEREAS**, the **County** is the owner of landfill facilities producing leachate material, which leachate requires processing through a wastewater treatment facility; and

**WHEREAS**, the **Municipality** is the owner and operator of wastewater treatment facilities in Canajoharie, NY, which can be used to process said leachate; and

**WHEREAS**, the **County** wishes to process the said leachate at the Canajoharie wastewater treatment facilities and the **Municipality** wishes to accept the leachate for processing under the terms set forth below; and

**WHEREAS**, the cooperative action of the **County** and the **Municipality** is expected to be to the benefit of the **County** and the **Municipality**.

**NOW, THEREFORE**, in consideration of the foregoing it is hereby mutually covenanted, promised and agreed by and between the parties hereto as follows:

1. Subject to the provisions herein and based on acceptable annual analysis, for the period June 1, 2017 to May 31, 2018, the **Municipality** shall accept and receive at its wastewater treatment facilities, leachate generated from the landfills of the **County** which said **County** may elect to deliver to said wastewater treatment facilities of the **Municipality** during the term

of this Agreement, such leachate to be transported by the **County** to the wastewater treatment facility of the **Municipality** in the Village of Canajoharie;

2. The **County** will pay to the **Municipality** \$ 0.03 (three cents) per gallon for the first 2.0 million gallons and \$0.0225 (two and a quarter cents) for each gallon thereafter, delivered to said wastewater treatment facility operated by the **Municipality** at Canajoharie, New York during the term of the Agreement.
3. Billing shall be based upon the log sheet filled out by the **County** driver when the **County** delivers the leachate to the **Municipality**.
4. All invoices shall from the **Municipality** shall set forth the date, gallons and fee for each load of material delivered by the **County**.
5. The **Municipality** can reject shipments of leachate should it be deemed by the operator or a governing agency that acceptance of such would compound an existing problem or in itself potentially cause negative impact on the operation of the treatment system and or receiving waters of New York State. The **Municipality** will in such case, inform the **County** by phone as soon as practicable but no less than one hour prior to the next anticipated delivery.
6. The **Municipality** also reserves the right to inspect the material being delivered to the facility, as well as conduct sampling for analysis of the same, at any time. The **County** agrees to provide sampling and testing of the leachate as required by the NYS Department of Environmental Conservation.
7. It is specifically understood and agreed by and between the parties hereto that it is the intent of the parties to perform this Agreement as described herein throughout the term of the Agreement, but in the event that a determination by a State or Federal authority of competent jurisdiction, or the operator in charge of the wastewater treatment facility of the **Municipality**, that the leachate is so contaminated that it impacts the proper operation of the **Municipality's** wastewater treatment facility, then, upon notification of such negative impact, in writing, to the **County**, the **Municipality** will not be obligated to receive or process any further leachate for the **County** and this agreement shall then be null and void and no further effect except that the **County** shall be obligated to pay the **Municipality** any monies owed for leachate delivered by the **County** to the wastewater treatment facility of the **Municipality** delivered prior to the termination.

8. The **Municipality** and the **County** shall comply with all Federal, State and Local Laws, rules, regulations, codes and ordinances in the performance of this Agreement and shall obtain, pay for and comply with any conditions contained in any permits, approval and renewals which are required to be obtained in the legal performance of this Agreement.
9. Nothing in this Agreement shall be held to alter or abridge the powers and duties of the state Department of Health, the Department of Conservation or the water pollution control board.
10. **ENFORCEABILITY:** If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall be valid and enforced to the fullest extent possible permitted by law.
11. **WAIVER:** Failure or delay of either party to exercise a right under this Agreement shall not be considered a waiver of that right.
12. **INSURANCE AND LIABILITY:** The **Municipality** and the **County** shall proceed on a self-insured basis, provided however, that all delivery vehicles shall be insured as required by law. Once the leachate is deposited at the **Municipality's** wastewater treatment facility liability shall be on the **Municipality**.
13. **AGENCY:** This agreement in no way establishes an agency relationship between the **MUNICIPALITY** and the **COUNTY**. Each party shall maintain its independence and its separate identity. Each party shall have executive control of its management, employees, staff, policies and assets. Neither party assumes any liability for the acts of the other party.
14. **HOLD HARMLESS:** The **MUNICIPALITY** and the **COUNTY** shall hold harmless and indemnify the other party from and against liability, loss, damage, cost and expense which such other party may suffer from any claim, demand, suit, or cause of action which may be made or had against it by reason of the negligence or malpractice on the part of the indemnifying party including its agents, servants, contractors or employees.
15. **INDEMNIFICATION:** The party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of receipt of notice to commencement of any action with respect to which a claim for indemnification is to be made hereunder. The indemnifying

party will be entitled to assume the defense thereof. The indemnifying party will not be liable to the indemnified party for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof.

16. **ASSIGNMENT:** This Agreement binds the parties hereto and their respective successor, agents, officers, representatives and assigns. This Agreement may not be assigned by either party except by agreement, in writing, duly executed pursuant to General Municipal Law §110-o, signed and acknowledged by the authorized officers and/or representatives of the parties. The terms of this Agreement shall be binding upon the successors, heirs and the assigns of the parties hereto, in the event of approved assignment.
  
17. **MODIFICATION:** There shall be no oral modifications of this agreement and any modification or amendment of the terms of the agreement shall not be binding unless executed in writing in accordance with the provisions in General Municipal Law §110-o by the parties hereto. The terms of this written agreement contain entire understanding between the parties and supersede any oral representations previously made.
  
18. **DISPUTE RESOLUTION:** In the event of any dispute under this Agreement, either party shall serve written notice to the other of the existence and nature of the dispute, the amount at issue, if any, and the provision of this agreement governing the dispute. The parties shall negotiate the dispute in good faith until either party advises the other, in writing, that an impasse exists and that they intend to pursue their legal remedies in Court. Unless otherwise agreed in writing by the Parties, the Parties shall continue to perform their respective obligations under this Agreement during any Dispute proceeding.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written:

**MONTGOMERY COUNTY**

(Seal)

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Village of Canajoharie**

(Seal)

By: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF NEW YORK**

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**Montgomery County**

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me personally came \_\_\_\_\_, to me personally known, who being by me duly sworn, did depose and say that he resides in \_\_\_\_\_, New York; that he is the \_\_\_\_\_ of Montgomery County, a Municipal corporation described in and which executed the written agreement; that he knows the seal of said corporation; that the seal was so affixed by authorization of the Governing Board; and that he signed his name thereto by like order.

\_\_\_\_\_

**Notary**

**STATE OF NEW YORK**

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**MUNICIPALITY OF**

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me personally came Francis Avery, to me personally known, who being by me duly sworn, did depose and say that he resides in Canajoharie, New York; that he is the Mayor of the Village of Canajoharie, the Municipal corporation described in and which executed the written agreement; that he knows the seal was so affixed by authorization of the Board of Trustees; and that he signed his name thereto by like order.

\_\_\_\_\_

**Notary**