

**INTERMUNICIPAL AGREEMENT
COMPOSTING FACILITY**

THIS AGREEMENT made _____, 2017 by and between the VILLAGE OF HORSEHEADS, 202 S. Main Street, Horseheads, New York 14845, hereinafter referred to as "Village", and COUNTY OF CHEMUNG, 203 Lake Street, P.O. Box 588, Elmira, New York 14902, hereinafter referred to as "County".

WHEREAS, the Village recognizes the need to share services within Chemung County to more efficiently utilize the tax dollars of our residents, and

WHEREAS, the Village and County have begun a process to seek out opportunities for shared services, and

WHEREAS, the Village and the County have determined that such a shared service opportunity exists relative to the development, operation and maintenance of a composting facility for residentially generated materials, and

WHEREAS, General Municipal Law authorizes municipalities to enter into intermunicipal agreements, and

WHEREAS, the Village owns a parcel of property at 715 Blostein Boulevard in the Village of Horseheads, Chemung County, New York, on which parcel the Village has constructed and operated a facility for the composting of residentially generated trees, shrubs, leaves, and similar organic materials; and the Village wishes to lease to County, and County wishes to take from Village, that portion of said property consisting of approximately four (4) acres as shown on the attached aerial photograph designated as Exhibit A (the "Premises") for a five-year term. In addition to the Premises, the Lease shall include an easement for ingress and egress to the Premises along an existing roadway extending generally southerly from the terminus of Blostein Boulevard to the Premises.

NOW THEREFORE it is agreed by and between the parties as follows:

1. The term of this Lease will commence on _____, 2017, or the date on which the Village tenders possession of the Premises to the County, whichever shall come sooner, and shall terminate five (5) years thereafter.
2. The County shall pay to the Village, beginning with the commencement of the term, the sum of \$5,000.00 per year on the first day of each and every lease year during the term, in advance, and without demand.
3. The Village grants to the County the option to extend this lease on the same terms and conditions as provided herein, excepting that the parties must agree upon a new annual rental amount which shall not be less than the annual rental provided above. Such option must be exercised by the County by providing written notice of the exercise thereof not less than six months prior to the expiration of the initial five-year term.

4. County will punctually pay the rent as herein provided without offset for any reason, by check or money order mailed or delivered personally to Village at the address set forth above.
5. County shall occupy the Premises solely for the purpose of conducting a composting facility for residentially generated trees, shrubs, leaves, and similar organic materials originating within Chemung County. The County shall operate the facility in accordance with and in compliance with all federal, state and local laws, rules and regulations and NSY DEC Registration #08C06, as amended from time to time. The Village represents and warrants that it has operated a composting facility from the Premises in accordance with all applicable statutes, ordinances, laws, rules, regulations, orders, or requirements of the federal, state and local governments and of any and all their departments, including without limitation 6 NYCRR part 360-5 (Solid Waste Management Facility). The Village further represents and warrants that it has registered the facility with NYS Department of Environmental Conservation as a solid waste management facility and that the Village is in compliance with the terms and conditions of such registration as of the date of the commencement of this Lease. The Village further represents and warrants that it will use its best efforts to maintain the registration in full force and effect during the term of this Lease.

The Village and County mutually represent and warrant that, as of the commencement of this Lease, the registration with NYS DEC will be amended to identify the Village as the facility owner and the County as the facility operator. As of the commencement of this Lease and throughout the term of this Lease and any extensions, the County will operate the facility in full compliance with all applicable statutes, ordinances, laws, regulations, orders and requirements of federal, state and local governments and of any and all of their departments, including without limitation 6 NYCRR Part 360-5, shall create and maintain the necessary and required operational records, and shall timely file all necessary and required reports.

6. The facility shall be open to the public at least during the period of April 15th through November 15th each year. The County may open the facility sooner and keep the facility open longer at its option. Further, the public hours shall be at least Tuesday through Friday, 10:00 a.m. to 2:00 p.m., and Saturdays 10:00 a.m. to 4:00 p.m.
7. The County shall supply necessary personnel and equipment for the operation of the facility. In addition, it is the County's intention that participating municipalities such as the Village of Horseheads, Town of Horseheads, Town of Big Flats, City of Elmira, etc., shall supply, on a rotating basis amongst the participating municipalities, one employee to assist the County's personnel on Saturdays.
8. The Village shall provide its existing landscape fabric to the County to assist the County in its use and operation of the facility.
9. The facility will be available to Chemung County residents free of charge, but shall not be used for composting of commercially generated materials without the Village's prior written consent.
10. Presently the Premises are exempt from ad valorem taxes and special assessments. In the event that the County's use thereof results in a levying of ad valorem taxes and special

assessments upon the Premises during the term of this lease, or any extension thereof, the County shall pay same.

11. Village will pay all fire and extended coverage insurance premiums (not including County's property). County will pay for all utilities, including electricity, supplied to the Premises for the term of this Lease.
12. County shall and will throughout the term of this Lease, at its own cost and expense, keep itself and the Village insured against public liability and casualty in the limits of at least \$1,000,000 for personal injury and death, and \$1,000,000 for property damage or loss suffered or claimed to have been suffered by persons in and about the Premises. County shall deliver a certificate attesting to said insurance coverage to Village prior to the commencement date of this Lease.
13. County will, at its own expense, take good care of the Premises and appurtenances thereto, and will surrender them to Village at the termination of this Lease in as good condition and repair as they were in at the commencement of the term, except for reasonable wear and tear. County will, at its own expense, make all structural repairs. The County shall transmit to the Village in writing, within two business days after receipt thereof, any verbal or written notice received regarding any unsafe, dangerous or obstructive condition on the Premises and shall take any necessary corrective action with respect to same as soon as possible or contest in good faith the condition complained of.
14. County will not make or allow to be made any alterations or additions to Premises without first obtaining Village's written consent, except such alterations or additions or modifications of the Premises as are necessary to allow the Premises to be used as a composting facility, which consent will not be unreasonably withheld or delayed.
15. County shall permit Village or its agents to enter the Premises for the purposes of inspection and necessary repair at reasonable hours.
16. County shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the federal, state and local governments and of any and all their departments and bureaus applicable to the Premises or to the roadway, streets or alleys thereabouts.
17. County, its successors and assigns, shall not assign, mortgage or otherwise encumber this Lease or sublet the Premises.
18. If County defaults in the performance of any of the covenants or conditions herein contained, other than the covenants to pay rent, Village may give to County ten-days' written notice thereof, and if such default has not been cured, or the County has undertaken good faith efforts to cure such default if not curable within the ten-day period, or the objectionable conduct stopped within said ten-day period, then at the expiration of said ten days, Village may give County five-days' notice of the termination of this Lease, and at the expiration of said five days' notice the term of this Lease shall expire and County shall then surrender the leased premise to Village, but County shall remain liable as hereinafter provided. In case of default by County in the payment of rent, or if the ten-day notice above provided for shall have been given and the ten-day period shall have elapsed without such default having been cured, or the County has undertaken good faith

efforts to cure such default if not curable within the ten day period, or the objectionable conduct having been stopped, and the five-day notice above provided for shall have been given and the five-day period shall have elapsed, or if the leased premises becomes vacant or deserted, Village may at any time thereafter resume possession thereof by any lawful means, and remove County or other occupants and their effects, by dispossess proceedings, or otherwise, without being liable to prosecution or damage therefor, and holding the premises as if this Lease had not been made. In any case, Village may at Village's option relet the premises or any part thereof as agent of County or otherwise, and receive the rent therefor, applying the same first to the payment of such expenses as Village may have incurred in connection with said resumption of possession and reletting, including brokerage, cleaning, repairs and decorations, and then to the payment of rent and performance of the other covenants of County as herein provided; and County agrees, whether or not Village has relet, to pay to Village the rent and other sums herein agreed to be paid by County, less the proceeds of the reletting, if any, as ascertained from time to time, and the same shall be payable by County on the several rent days above specified. County hereby waives all right of redemption to which County or any person claiming under County might be entitled by any law now or hereafter in force.

19. Village covenants that County, on paying the rent reserved and performing the covenants and agreements herein contained shall at all times during the demised term peaceably and quietly have, hold and enjoy the Premises in accordance with covenants, encumbrances and restrictions applicable thereto.
20. This Lease may not be altered, modified or canceled except by an instrument in writing duly acknowledged by the parties hereto.
21. All notices may be given by mail addressed to the County at 203 Lake Street, P.O. Box 588, Elmira, NY 14902, and to the Village at 202 S. Main Street, Horseheads, NY 14845, or such further addresses as may be given to the other party during the term of this Lease.
22. The failure of Village to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances, shall not be construed as a waiver or relinquishment for the future of any such covenants, conditions or options, but the same shall be and remain in full force and effect.
23. The County and its agents, officers and employees will neither hold itself out as, nor claim to be, an officer or employee of the Village by reason of this Lease or by reason of occupying the Premises nor make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the Village.
24. The County agrees to indemnify and save the Village, its officers, agents and/or employees harmless from any liability imposed upon the Village, its officers, agents and/or employees arising from the negligence, active or passive, of the County by reason of this Lease or by reason of occupying and using the Premises.
25. The Village Manager of the Village of Horseheads has executed this Lease pursuant to a Resolution adopted by the Village Board of Trustees, at a meeting thereof held on _____, 2017. Brad Lytle, Village Manager, whose signature appears hereafter is duly authorized and empowered to execute this Lease and enter into this Lease on behalf of the said Village. This instrument shall be executed in duplicate. A copy

of this Lease shall be permanently filed after execution thereof, in the office of the Clerk of the Village.

26. The County Executive of the County of Chemung has executed this Lease pursuant to a Resolution adopted by the Chemung County Legislature, at a meeting thereof held on _____, 2017. Thomas J. Santulli, County Executive, whose signature appears hereafter is duly authorized and empowered to execute this Lease and enter into this Lease on behalf of the said County. This instrument shall be executed in duplicate. A copy of this Lease shall be permanently filed after execution thereof, in the office of the Clerk of the County.
27. All the provisions, covenants and conditions contained in this Lease shall apply to and bind and enure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.
28. If any provision of this Lease is deemed to be invalid or inoperative for any reason that provision shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be so modified then severed and the remainder of this Lease shall continue in full force and effect as if the Lease had been signed with the invalid provision so modified or eliminated.
29. The Parties represent and agree that the Premises were formerly a portion of a landfill which is now closed and has been for many years. Accordingly, the Village represents and the County acknowledges that the Premises may have been used to dispose of contaminants, oils, asbestos, PCBs, hazardous substances or wastes as defined by federal, state and local environmental laws, regulations or administrative orders ("Hazardous Materials") on, under, about or within the Premises. Anything in this Lease to the contrary notwithstanding, the Village shall indemnify and hold harmless the County, its successors and assigns from any and all claims and expenses, including personal injury, pollution, costs of remediation, reasonable attorney fees, fines, and penalties that may be levied upon either the Village or the County for the disposition of any Hazardous Materials on, under, about or within the Premises, as defined in the immediate preceding sentence, at any time prior to the first day of the term of this Lease. Anything in this Lease to the contrary notwithstanding, the County shall indemnify and hold harmless the Village, its successors and assigns from any and all claims and expenses, including personal injury, pollution, costs of remediation, reasonable attorney fees, fines and penalties that may be levied upon either the Village or the County for the disposition of any Hazardous Materials, as defined above, at any time on or after the first day of the term of this Lease and throughout the term of this Lease and any extensions. The Village will not and will not permit any third party to use, generate, store or dispose of any Hazardous Materials on, under, about or within the Premises in violation of any law or regulation. The County represents, warrants and agrees that it will not and it will not permit any third party to use, generate, store or dispose of any Hazardous Materials on, under, about or within the Premises in violation of any law or regulation. This Lease shall terminate at the option of the Village and be of no further force or effect if Hazardous Materials are discovered to exist on the Premises other than those which may be directly related to the operation of the former landfill.

During the term of this Lease and any extensions the parties mutually agree to cooperate with each other to secure and maintain any and all permits, registrations and approvals

