

**Town of Perinton and Waste Management of New York, L.L.C.**  
**HOST COMMUNITY AGREEMENT**

This Host Community Agreement (the "HCA") made as of this \_\_\_\_ day of 20\_\_ by and between the Town of Perinton, a municipal corporation organized under the laws of the State of New York, 1350 Turk Hill Road, Fairport, New York 14450 (hereinafter the "Town") and Waste Management of New York, L.L.C., a Delaware limited liability company, 425 Perinton Parkway, Fairport, New York 14450 (hereinafter "WMNY").

**WITNESSETH:**

WHEREAS, WMNY owns and operates a private solid waste landfill and composting facility in the Town of Perinton and Town of Macedon known as High Acres Landfill and Recycling Center (hereinafter the "Facility") which is permitted by the New York State Department of Environmental Conservation (NYSDEC) for the disposal of certain wastes; and

WHEREAS, The Facility has served the Town, its residents and other customers since 1972; and

WHEREAS, WMNY and the Town entered into a contract dated May 1, 1977 for the "Furnishing, Operating and Restoring of a Sanitary Landfill," which contract, as amended, was extended until December 31, 2011 and was thereafter extended on a month-to-month basis until the negotiation and December 31, 2013 execution of a "Host Community Agreement" by and between WMNY and the Town (the "HCA"); and

WHEREAS, the HCA, by its terms, is effective for a \_\_\_\_ year term, \_\_\_\_\_ once mutually agreed upon by WMNY and the Perinton Town Supervisor, allowing for periodic adjustments to address unanticipated circumstances and events relative to Landfill operations and/or economic conditions; and

WHEREAS, notwithstanding the foregoing, it is understood and agreed by the parties that this HCA may be amended from time to time, depending upon the ascertainment of certain final actions as described in this HCA's, but that the parties' collective intent is that the HCA be otherwise effective for a term described above; and

WHEREAS, WMNY and the Town desire to set forth their understanding with respect to the continued operation of the Facility and to set forth certain terms to ensure the Facility's proper operation and the availability of disposal capacity for solid waste generated by Town residents and other customers of WMNY and to supersede and restate the rights and obligations of the parties related to the HCA as more fully set forth herein; and

WHEREAS, it is the intent of the parties to continue this HCA or a similar agreement for as long as the Facility is operating and continues to accept waste; and

WHEREAS, it is understood and agreed by the parties that the provisions set forth in this HCA shall not be considered predictive nor the basis of any future agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in this HCA, and the premises and the covenants set forth herein, the parties agree as follows:

## I. PURPOSE

The purpose of this HCA is to define the rights and obligations of the parties related to the construction, operation, maintenance of the WMNY's solid waste landfill and appurtenant facilities in the Town and the expansion thereof in the Town of Macedon.

## II. DEFINITIONS

The terms set forth in this HCA shall have the meanings ascribed to them herein, for all purposes of this Agreement, unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

- A. Actionable – any odor event that meets the thresholds of Section XV (C)
- B. Aged Waste – any Municipal Solid Waste (hereinafter “MSW”) older than \_-days.
- C. Annual Guaranteed Payment - The payment set forth in Section XIV, subparagraph A
- D. Annual Per Ton Payment - Shall have the meaning ascribed to it in Section XIV, subparagraph A.
- E. ASTM E544-18 – Standard practice for referencing or scaling odor intensity through a series or scale of concentrations of a known reference odorant identified as n-butanol.
- F. Beneficial Use Determination - or “BUD” or “Beneficial Use Materials” shall have the meaning set forth in 6 NYCRR Part 360.12, Beneficial Use, or for which WMNY has received DEC approval to beneficially use, pursuant to Section 360.12(d), Case Specific Beneficial Use Determinations.
- G. HCA - This Agreement and Appendices or Schedules attached thereto.
- H. Compost - The stable humus-like material produced by the aerobic, thermophilic decomposition of solid organic constituents of solid waste.
- I. Cover - Soil or other suitable material, including any polyethylene film material like Enviro-cover, or a combination of same, acceptable to the NYSDEC that is used to cover disposed solid waste at a landfill.
- J. Facility - All aggregate elements of the High Acres Solid Waste Landfill and ancillary facilities in the Town of Perinton and in the Town of Macedon, including, but not limited to weigh stations, above-ground leachate storage tanks, electrical equipment, piping, buildings, offices, maintenance areas, methane gas collection system, composting, soil borrow areas, construction debris (CD) landfill area, and any additions, replacements, appurtenances, and equipment, to be constructed or installed excluding, however, mass burning or incineration operation equipment, processing of any hazardous waste materials, and any Landfill to be utilized in connection therewith.
- K. Generation Time: time between MSW being loaded into a truck or railcar at a transfer station to the time it arrives at High Acres Landfill.
- L. Hazardous Waste - As defined in 6 New York Code Rules and Regulations (hereafter NYCRR) Part 371 et seq.
- M. Landfill - The High Acres Solid Waste Landfill as currently permitted by the NYSDEC,

depicted in Exhibit A attached hereto and made a part hereof, as of the date of this signed agreement.

- N. Landfill Gate Rate - For any given year the gate rate shall equal the quotient of all Tipping Fees, including fuel and environmental surcharges imposed by the Landfill (exclusive of any of tax or governmental surcharges imposed by any government entity) received from third parties for the disposal of MSW at the Landfill for such year divided by the volume of tons of all third party qualified waste for such year which is delivered and disposed of at the Facility.
- O. New York State Department of Environmental Conservation (NYSDEC)- The department or agency of the government of the State of New York created by Chapter 140 of the Laws of 1970, and having the jurisdiction, powers, and duties described in the Environmental Conservation Law of the State of New York, or any successor thereto.
- P. Ordinary Municipal Solid Waste (MSW) – Commonly known as trash or garbage that consists of everyday items such as product packaging, furniture, clothing, containers, food scrapes, etc.
- Q. Point of Origin – MSW Transfer Station.
- R. Property Value Protection Program - The Property Value Protection Program shall be the plan described in Section VIII of this Agreement, as depicted on Exhibit B attached hereto and made a part hereof.
- S. Renewable Energy Benefit Payment - The payment from the WMNY to the Town as set forth in Section XIV of this HCA.
- T. Solid Waste – Municipal Solid Waste (MSW) shall mean Solid Waste as defined in Section 360-1.2 of 6 NYCRR Part 360 in effect on the date of this Agreement.
- U. State Environmental Quality Review Act (SEQRA) - Article 8 of the Environmental Conservation Law of the State of New York and the implementing regulations set forth in 6NYCRR Part 617.
- V. Tipping Fee - The per ton rate charged to third party users to dispose of MSW at the Facility.
- W. Town - The municipal corporation known as the Town of Perinton in the County of Monroe and State of New York and, depending on the context, the geographic area thereof.
- X. Town Board – means the Perinton Town Council, which is the executive body that governs the Town of Perinton.

### **III. FACILITY DESCRIPTION**

The Facility, as defined in Section II (J) of this HCA, is further depicted in Exhibit A attached hereto and made a part hereof.

### **IV. RESTRICTIONS ON OWNERSHIP, TRANSFER AND USE**

- A. Ownership & Transfer - This Agreement is applicable to WMNY, its successors and assigns, and to all parties to which WMNY transfers any or all of its ownership interests or

contracts or subcontracts concerning management and/or operations in, and responsibilities for, the Facility. In the event that WMNY proposes to sell, lease or otherwise transfer ownership or control of the Facility, WMNY shall notify the Town at least 60 days prior thereto, and provide written proof that any such successor or assign has written notice of and acknowledges this Agreement and the duties and obligations hereunder. WMNY shall not transfer any of its interests in the ownership or operation of the Facility unless the proposed transferee has the financial capability, operational experience, and a favorable environmental compliance history to clearly demonstrate that the transferee is capable of complying with the terms of this Agreement, any and all permits associated with the Facility, and State and Federal laws relevant thereto. WMNY shall provide such documentation as the Town requires within 60 days prior to the proposed date for transferring any such interest. The Town Board may seek further information and documentation premised upon its review thereof. The Town understands that NYSDEC shall have primary jurisdiction to determine whether the proposed transferee is qualified to operate the Facility and to discharge the obligations of a permittee; however, the Town retains the right to be an involved party in a decision to allow the transfer of any interest in the Facility's ownership or operation to a transferee.

- B. Use – The Town and WMNY hereby agree that WMNY shall operate the Facility in accordance with, and subject to, the Town's special use permit. The Town and WMNY further agree that WMNY shall be authorized to accept all materials permitted by the NYSDEC for disposal at the Facility, including but not limited to MSW, Beneficial Use Determination Materials (BUD) that have been approved by the NYSDEC as alternative operating cover (AOC), and yard waste (leaves, garden debris, tree/brush debris) for recycling/composting. The Town and WMNY further agree to the following disposal restrictions at the Facility:
1. No regulated quantity of Hazardous Waste as defined in Title 6 NYCRR Part 371 of such Regulations or other Unauthorized Waste as defined under Title 6 NYCRR Part 360.
  2. Any Unauthorized Waste material listed or identified in WMNY's most current NYSDEC Permit to operate High Acres Landfill.
  3. Unauthorized Waste shall also include any material which, in the sole opinion of WMNY, or by WMNY in consultation with the Town, is deemed unacceptable for disposal at the Facility. Unauthorized Wastes are described as follows:
    - a. In accordance with Section 144 of the Code of the Town of Perinton and for as long as such Code shall prohibit natural gas and/or petroleum exploration activities, or the development of natural gas and/or petroleum oil production wastes, such materials shall not be disposed of at the Facility. This restriction does not include the disposal of petroleum contaminated soils that are generated from sources other than natural gas and/or petroleum oil exploration activities.
    - b. MSW originating from the five (5) boroughs of New York City and delivered to the Facility by rail shall not exceed \_\_% of the total permitted annual volume as referenced in Section XII of this HCA, and shall be measured on a monthly basis. This restriction does not reduce the annual volume permitted for this Facility.



- c. At no time shall the wastewater treatment plant sludge accepted for disposal at the Facility exceed \_\_\_% of all other waste streams accepted for disposal at the Facility measured on a monthly basis.
- d. WMNY shall not accept for disposal at the Facility any hazardous waste, hazardous ash or nuclear waste, regulated medical waste, solid waste containing PCBs with a concentration greater than 50ppm (parts per million), de-characterized Hazardous Waste which has been treated in accordance with the requirements of 6 NYCRR 376 and no portion of the Facility shall be used for the burning of waste.
- e. WMNY shall not accept, by any mode of transportation, MSW for disposal at the Facility that is considered aged waste that has a generation time of greater than \_\_\_\_\_ days from its point of origin.

As soon as WMNY becomes aware of MSW that has a generation time of greater than \_\_\_\_\_ days, it further agrees to develop alternative procedures to dispose of the waste, including but not limited to the diversion of waste loads to other facilities; regardless of whether the delays are the result of force majeure events or otherwise.

- 4. “Beneficial Use Materials” or “BUD” shall mean any materials that are defined in Section II of this HCA. Town approval for the classification of a waste as a Beneficial Use Material is not required. Upon request of the Town, however, WMNY shall provide the Town with copies of any requests made to NYSDEC for BUDs and shall also provide copies of any and all NYSDEC beneficial use decisions regarding those requests.
- 5. No portion of the Facility shall be used for the construction or operation of a solid waste incinerator, including an incinerator to energy facility.
- 6. The Town acknowledges that the Facility may accept MSW generated within and outside of the Town, the County of Monroe and the State of New York pursuant to certain NYSDEC issued permits during the term of this HCA
- 7. Enforcement of Restrictions: WMNY acknowledges that the Town has no adequate remedy by way of damages in the event that WMNY breaches or threatens to breach these use restrictions, and therefore WMNY agrees that, in such event, the Town shall first follow the guidance provided in Section of XX of this Benefit Agreement. If Arbitration is unsuccessful, the Town may apply to the Courts for equitable relief directing WMNY to comply and/or enjoining or restraining WMNY from any breach hereof. WMNY shall indemnify the Town for any and all costs and expenses incurred or expended in connection with this provision as more fully set forth in Section XXI of this HCA.

## **V. TERM & SEVERABILITY**

- A. This HCA is effective upon approval by the Perinton Town Board and shall be subject to a \_\_\_\_\_ year term, \_\_\_\_\_ once mutually agreed upon by WMNY and the Perinton Town Supervisor, allowing for periodic adjustments to address

unanticipated circumstances and events relative to Landfill operations and/or economic conditions.

This HCA shall terminate upon the first to occur:

1. In the event that the HCA is not renewed at the end of the terms described above, the HCA shall continue subject to its existing terms on a month-to-month basis until the parties enter into a new agreement;
  2. The Facility ceases accepting MSW for disposal at the landfill for any reason; or
  3. The Facility, for whatever reason, is no longer permitted, licensed or otherwise authorized to operate a MSW disposal landfill.
- B. If any clause, provision, subsection, section or article of this Agreement shall be ruled invalid by any court of competent jurisdiction, then the parties will:
1. Promptly meet and negotiate a substitute for such clause, provision, section or article, which will to the greatest extent legally permissible reflect the original intent of the parties therein.
  2. Negotiate such changes in, substitutions for, or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items 1 and 2 above to reflect the original intent of the parties in the provision declared invalid.
  3. The invalidity of such clause, provision, subsection, section or Article will not affect any of the remaining provisions hereof, and this Agreement will be construed and enforced as if such invalid portion did not exist.

## **VI. INVESTIGATIONS, OPERATIONS, MONITORING, & FACILITY LIAISON**

### **A. INVESTIGATIONS & OPERATIONAL IMPROVEMENTS TO BE PERFORMED**

This HCA shall also require WMNY to perform the action items, including any necessary Operation & Maintenance (O&M) Plan amendments and corrective mitigative activities as set forth in the Commitment Letters, appended hereto as Exhibit B, to the extent reasonable and agreeable by WMNY, the Town of Perinton and NYSDEC.

### **B. MONITORING**

This HCA shall also require WMNY to perform enhanced monitoring activities as set forth in the Commitment Letters, appended hereto as Exhibit B, to the extent reasonable and agreeable by WMNY, the Town of Perinton and NYSDEC.

**C. NOTIFICATION**

1. With the NYSDEC's approval, WMNY agrees that the NYSDEC on-site monitor will provide copies of their daily inspections reports to the Perinton Commissioner of Public Works.
2. WMNY shall submit to the Town copies of all cover letters associated with any and all reports required to be made to the NYSDEC pursuant to WMNY's 6 NYCRR Part 360 Permit ("Part 360 Permit) and Title V permit ("Title V Permit) and the applicable regulations, at the same time said reports are submitted to the NYSDEC. WMNY further agrees to allow the Town to review such reports as requested by the Town.
3. WMNY will notify the Town, in writing, no later than 7-days in advance of the commencement of major on-site construction activities or any activities that may disturb the waste mass where undue odors (gas or garbage) may result or if there is a planned interruption with the flare system or gas plant. Pursuant to its Part 360, WMNY will make available to the Perinton Commissioner of Public Works all materials and documents that it submits to the NYSDEC in support of the said construction activities as well as documents or communications, including approvals that it receives from the NYSDEC.
4. WMNY will provide, in a timely manner, copies to the Perinton Commissioner of Public Works of any and all regulatory correspondence from any federal, state, or local agency to WMNY and/or emergency notification from WMNY, including any responses made thereto by WMNY as well as any further communications received or sent regarding such matter until it has been resolved.
5. WMNY shall notify the Town immediately if there is an unplanned interruption / loss of power at the gas plant or flare system.

**D. FACILITY LIAISON**

WMNY and the Town mutually agree to the formation of a Citizen Advisory Committee. The purpose of this committee is to provide for the input of local citizens and to provide a formal liaison between the community, the Town and WMNY.

**VII. NOTIFICATION MANAGEMENT PROGRAM**

- A. WMNY will continue to maintain, operate and fund a local notification hot-line telephone number which will be in operation and accessible on a 24-hour a day, 7-day a week basis for the receipt of citizen complaints regarding Facility operations, including, but not limited to, litter, dust, noise, truck traffic, hours of operation, odors, etc.
- B. WMNY will ensure that the hotline number is prominently displayed on its web-site for High Acres landfill. The Town will post the hotline number in public areas (town offices, meeting halls, etc.) and on its website.
- C. WMNY will timely investigate the complaint by dispatching a responder who is trained to evaluate odors on the N-Butanol Scale and can rate the intensity and duration of odor from

the corresponding complainant. The trained responder shall arrive at or near the corresponding complainant address in a timely manner, but shall not exceed 30-minutes.

- D. WMNY will record all complaints received from the notification hotline in a complaint log, showing the date and time of the complaint, the name of the complainant and telephone and address if available, location, nature and duration of the circumstances giving rise to the complaint and other supporting details. WMNY will also record the details of its investigation and its findings/determinations.
- E. WMNY will implement reasonable corrective measures to eliminate or mitigate the conditions giving rise to the complaint, as described in Section XV Offsite Impacts.
- F. WMNY will provide the Town full access to the complaint log upon request by the Town, including the results of investigative activities and the ultimate resolution of the complaint. WMNY will also provide to the complainant a written copy of the complaint log relating to his or her complaint as soon as practicable after WMNY completes its investigation.
- G. WMNY and the Town agree that the NYSDEC on-site monitor may review the complaint log in order to report on WMNY's compliance with the complaint management program as well as to verify on-site observations associated with operational controls for odors.

#### **VIII. PROPERTY VALUE PROTECTION PROGRAM**

WMNY agrees by means of a Property Value Protection Program as set forth in Exhibit B attached hereto to provide compensation according to the terms and conditions of this program hereinafter set forth. The purpose of this program is to compensate the owners of identified residential properties whose residences suffer a decline in value at the time of the sale of their property as a result of the Facility. A list of property owners and the Property Value Protection Program is included in Exhibit C and is incorporated herein.

#### **IX. TRAFFIC AND ROUTES OF TRAVEL**

WMNY shall be responsible for patrolling Perinton Parkway, and NYS Route 31F (from Turk Hill Road to County-Line Road) to assure that the operation at the Facility does not result in litter or unsightly condition on these roads, as it may relate to the presence of a MSW landfill operation. This litter control program shall include at least quarterly clean-ups of litter along such routes using adequate personnel. Based on the volume or presence of litter along these roadways, additional clean-ups may be warranted.

Roadways within the Facility shall be maintained for all weather operations so as to minimize dusty conditions that may impact the public road right-of-way along Perinton Parkway. Measures will also be taken to prevent the track-out of such materials, including mud, stone, dirt, or other debris from the Facility to nearby and adjacent public roadways, particularly Perinton Parkway. Adequate and routine maintenance with a mechanical street sweeper and a water truck may be required in order to comply with this standard.

Sufficient parking, staging and turn around areas shall be provided for all vehicles accessing the Facility. Trucks or other vehicles intending to access the Facility are strictly

prohibited from staging or parking on Perinton Parkway, NYS Route 31F or any other nearby local roads.

WMNY shall request that all vehicles transporting solid waste to the Facility from sources controlled by the County of Monroe follow State Route 441 to State Route 350, south on State Route 350 to State Route 31F, and west on State Route 31F to Perinton Parkway. Any deviation from this routing must be approved in writing, in advance, by the Town.

## **X. RESIDENTIAL DISPOSERS**

During the term of this Benefit Agreement and while the Facility is accepting MSW for permanent landfilling, any resident of the Town or the Village of Fairport who wishes to transport in personal vehicles MSW, as defined above, to the Facility, shall be permitted access to the Facility during normal hours of operation as set forth by WMNY provided that:

- A. Such resident displays, in clear view, a window decal issued by the Town for purposes of residential identification. Decals shall be provided by WMNY to the Town for issuance;
- B. All such MSW was generated from their personal residence; and
- H. The quantity per trip shall be limited to one (1) cubic yard: Said cubic yard being defined as approximately 7 standard size (30 gallon) garbage bags or barrels. Irrespective of the residential charge set forth in subparagraph F of this Section, any amount delivered in excess of (1) cubic yard shall be charged at the gate rate in accordance with subparagraph F of this Section, with a minimum 1/4-ton charge for such excess.
- I. The payment of the disposal fee contained in subparagraph F of this Section is paid by the resident at the time of disposal.
- J. Construction and demolition materials are excluded from the materials permitted to be disposed of at the Residential Drop Off Center.
- F. Effective as of the date of the full execution and delivery hereof, residential disposers evidencing the decals required pursuant to this section will be charged a residential disposal fee posted at the Facility, which will initially be set at six dollars (\$6.00) per residential vehicle per trip. The residential disposal fee shall not increase by more than One Dollar (\$1.00) in any twelve (12) month period and such increase shall require Town Board approval. WMNY will establish a drop-off location for residential vehicles.

## **XI. CURB-SIDE RECYCLING**

- A. WMNY has historically provided curbside recycling collection to residents of the Town who participate in the Blue Box Program, however, WMNY does not provide such service to commercial establishments under this Agreement. WMNY shall continue such service hereunder for as long as the Facility is accepting MSW for permanent landfilling. WMNY shall provide containers to the residents as may be required under applicable law. WMNY shall not be liable for the costs of any deviations from the current Blue Box Program. WMNY will provide the Town a quarterly report, within thirty (30) days of the end of a quarter, as to the volume of recyclable material collected by WMNY in the Town. In addition, WMNY will rebate the Town \_\_\_\_ dollars (\$\_\_\_\_) per ton for each ton processed (paper and

commingled bottles and cans), excluding residue tonnage. This payment will be indexed based on the \_\_\_\_\_. Should the value of \_\_\_\_\_ exceed \_\_\_\_\_ per ton, WMNY will increase the rebate by \_\_\_\_\_ per ton for every \_\_\_\_\_ increase over the \_\_\_\_\_ benchmark. Conversely, should the value of \_\_\_\_\_ drop below \_\_\_\_\_ dollars \_\_\_\_\_ per ton, the rebate will be reduced by \_\_\_\_\_ dollars \_\_\_\_\_ per ton for every \_\_\_\_\_ dollars \_\_\_\_\_ decrease below \_\_\_\_\_ dollars \_\_\_\_\_. A minimum annual payment of \_\_\_\_\_ will be made to the Town by WMNY for recycled materials collected as part of this program. At no time will the Town of Perinton be charged disposal or processing fees for this material should these materials have zero or negative market value.

- B. If the Town should opt to perform such service or have all haulers provide curbside recycling to their customers in the Town, WMNY shall, for as long as WMNY is disposing at the Facility, assist the Town in its recycling efforts by paying to the Town a monthly payment in the amount of \_\_\_\_\_ until the aggregate sum of \_\_\_\_\_ is paid to the Town annually. If the Town decides to perform such services for its residents and the residents of the Village or have the existing haulers perform such service, then WMNY agrees to provide the Village with a serviceable Recycling Truck that is less than 5 years old.

## **XII. ANNUAL VOLUME**

- A. The Facility shall not accept a volume of waste materials, on a yearly basis, which is greater than: (1) permitted by law; (2) three thousand five hundred (3,500) tons per day based on an annualized daily average; or (3) as otherwise regulated by the NYSDEC.
- B. This volume limitation does not include Beneficial Use Determination materials, yard waste, recyclables, materials for construction, or volumes of materials delivered by the Village of Fairport, Town of Perinton, Town of Macedon, Village of Macedon, or the Resident Drop-Off Center. Any proposed increase beyond the 3,500 tons annualized daily average allowed pursuant to WMNY's current Part 360 Permit dated July 9, 2013 and modified October 4, 2013 would be subject to the Town's review and approval. The approval of such a request would not be unreasonably withheld.

## **XIII. WASTE DISPOSAL/COLLECTION SERVICES**

- A. WMNY has established a gate rate for disposal fees for MSW and other materials disposed of at the Facility. WMNY shall have the right to increase or decrease said gate rate at its discretion. Price increases or decreases by WMNY are not to be subject to Town approval. However, WMNY shall notify the Town of any such changes within 30 days of implementation.
- B. During the term of this HCA and while the Facility is accepting MSW for permanent disposal, no disposal fee will be charged to the Town, including from any department of same during the term of this HCA for up to 5,000 tons per year (averaged over the contract term) of waste materials generated as a result of Town special projects (e.g. road ditch cleaning, vegetation maintenance, street sweeping and general spoils from excavation, demolition materials from Town-owned buildings/properties, or contaminated soils from Town-owned properties). All MSW hereunder shall be delivered by Town vehicles or their designees. Any Town designees seeking to dispose of MSW pursuant to this

provision shall present to WMNY a letter from the Town certifying that any such MSW to be disposed of, was generated by the Town or one of its departments and is not excluded pursuant to this paragraph.

- C. During the term of this HCA and while the Facility is accepting MSW for permanent disposal no disposal fee will be charged to the Village of Fairport for the first \_\_\_\_ tons per month of MSW delivered by Village of Fairport or Village of Fairport contractors with written authorization from the Village of Fairport; tonnage in excess of \_\_\_\_ tons per month shall be charged a disposal fee in accordance with posted gate rates at the Facility. WMNY will also accept from the Village of Fairport, at no cost to the Village, all leaf debris generated during the spring and the fall for purpose of composting such materials provided WMNY continues to maintain a permit for such operation and at the time of delivery of such material there is capacity to accept the leaf debris.
- D. WMNY will also accept at no cost to the Town, all leaf debris generated during the spring and fall leaf collection timeframes for the purpose of composting the materials, all brush / trees material, and yard debris (garden material, miscellaneous leaves, vines, ivy, weeds, etc.; excluding grass clippings) originating from the Town that is delivered by Town vehicles or Town-contractor vehicles. This material is not subject to the volume restrictions of subparagraph B of this Section. Wood debris (trees, brush, limbs, etc.) that is a result of natural disasters (which shall be defined to include, but not be limited to, weather events that are designated as “declared disasters” by the Federal Emergency Management Agency or New York State) shall be excluded from this material exemption and may be subject to the gate rate fees.

The right of the Town to deliver leaf, tree/brush, and yard debris to WMNY shall at all times be subject to WMNY maintaining a permit to accept such materials and WMNY having capacity to accept such material at the time of delivery. During the term of the HCA, WMNY shall continue to maintain such a permit for the acceptance of this waste and shall continue to operate the leaf, tree/brush, yard debris composting/wood mulch operation as long as the Facility continues to accept MSW for permanent landfilling. The specifications and requirements for delivery of this material by the Town to the Facility are outlined in Exhibit D. The Town acknowledges that it is the primary source of yard debris for the compost and yard waste operations located at the Facility. WMNY shall permit the Town to pick-up at the Facility at no cost double-ground wood mulch and composted leaf materials assuming that the raw materials have been provided by the Town. WMNY shall guarantee the quantity, but not the quality of any of these products, except that provided WMNY maintains its NYSDEC permit to compost, such that the source material shall create wood chips and compost in a quantity of up to 4,500 yards per year (compost and wood chips).

- E. Should the Town or its agents, representatives or designees engage in the scheduled collection of MSW in all or in any part of the Town, the Town shall be subject to the posted gate rate for the disposal of such materials.
- F. WMNY shall accept at no cost to the Town, MSW delivered via Town or Town-contractor vehicles subject to the volume limitations in subparagraph B of this Section.
- G. WMNY shall pay for a third party contractor to televise/evaluate, flush/clean and remove with sewer cleaning equipment accumulated bio-rock material from the public sanitary sewer along Perinton Parkway from #183 Perinton Parkway east to the Facility on a

quarterly basis. WMNY and its contractor shall notify and coordinate with the Perinton Public Works Department prior to the start of this operation.

- H. During the term of this Agreement and while the Facility is accepting MSW for permanent landfilling WMNY also agrees to provide containerized solid waste collection services as set forth in the Table of Services below, including containers to Perinton's Town Hall, DPW garage, and Town Parks at no cost or fee to the Town. These services shall be provided weekly, in-season and off-season or as often as agreed to by WMNY and the Town, so long as WMNY is accepting MSW for permanent disposal at the Facility. The Table of Services shall be reviewed and mutually agreed to on an annual basis by WMNY and the Town's supervisor. Notwithstanding the above, the average annualized benefit to the Town for these services shall not exceed the amount of \$\_\_\_\_\_.

Location	Account #	Location	Dumpster Size
Center Park East	806150388	Ayrault Road	6 yard
Egypt Park	8066083	Victor-Egypt Road	6 yard
Fellows Road Park	8066959	Fellows Road	8 yard
Kreag Road Park	8066084	Kreag Road	6 yard
Park Operation Center	806145057	50 Cobb's Lane	8 yard
Perinton Park	8066082	O'Connor Road	10 yard
Spring Lake Park	8065775	West Whitney Road	6 yard
Perinton Town Hall	80634004	1350 Turk Hill Road	8 yard
White Brook Park	806296313	Aldrich Road	4 yard
Department of Public Works		100 Cobb's Lane	20 yard 4 yard (cardboard recycling)

- I. WMNY and the Town mutually agree to discuss the creation of a residential organics recycling/composting program. The Town and WMNY will develop and implement a pilot program to compost organic wastes from residential properties in the Town of Perinton and determine the efficacy and public interest in this program.

#### **XIV. BENEFIT AGREEMENT PAYMENTS**

Commencing on January 1, \_\_\_\_, WMNY shall make waste volume payments to the Town as provided for herein.

- A. During each full calendar year of Landfill operations, the waste volume payments shall be the greater of: (a) the Annual Per Ton Payment as defined in subparagraph C below; or (b) a Monthly Guaranteed Minimum Payment of \_\_\_\_\_ up to \_\_\_\_\_ per year so long as landfilled materials are being accepted and permanently landfilled on the Perinton-side of the Facility. Landfilled waste shall include MSW, construction debris, bulky wastes and solidified wastes (not including yard waste, recyclables and BUD materials). The Guaranteed Minimum payment shall be an advance of Benefits to be paid on the estimated air space available on the Perinton-side of the Facility and shall be based on the remaining estimated airspace of the Landfill on the Perinton-side. The Guaranteed Minimum Payments shall off-set all Benefits that may be due hereunder on a per ton basis, except for subparagraph E below, provided however, if the Perinton-side of the Facility averages accepting under 500 tons of MSW per day for permanent



landfilling, WMNY shall not be obligated to make the Guaranteed Payment, but shall be required to pay the Benefit based on a per ton basis. Except as set forth above, such Guaranteed payments shall be made until there is less than 300,000 cubic yards of airspace estimated remaining (available) on the Perinton-side of the Facility.

- B. In the event Facility operations during the calendar year of such operations do not extend for twelve full months, the waste volume payments for that partial calendar year shall be the greater of: (a) the Annual Per Ton Payment applicable for that calendar year; or (b) \_\_\_\_\_ times the number of months or partial months of Facility operations.
- C. The Annual Per Ton Payment shall be \_\_\_\_\_ per ton times the number of tons of Municipal Solid Waste placed into the Perinton-side of the Facility.

In addition, should WMNY collect any monies for the disposal of ordinary MSW, including construction/ demolition material, bulky wastes, special or profiled wastes (asbestos, sludge, etc.), and solidified wastes (not including yard waste, recyclables and BUD materials), above \_\_\_\_\_ dollars per ton, the Town shall receive \_\_\_\_\_ percent of the difference between \_\_\_\_\_ dollars per ton and the actual per ton rate charged. This fee adjustment shall include environmental surcharges collected but exclude any fuel surcharges and special handling fees. Yard waste, recyclables and any other material that may be handled and re-directed, but not permanently disposed at the Facility, shall not be subject to the HCA payment.

- D. During the term of this Agreement, and in addition to other payments and benefits due to the Town hereunder, WMNY shall pay an additional fee of \_\_\_\_\_ per ton for all material accepted & utilized on the Perinton-side of the Facility for which a Beneficial Use Determination (BUD) has been approved by the NYSDEC for alternative operating cover and for which the Landfill receives a fee. The per ton payment set forth herein shall be paid simultaneously with all fees in accordance with the provisions in subparagraph G below.
- E. WMNY shall pay to the Town a Renewable Energy Benefit Payment of \_\_\_\_\_ per ton times the number of tons of MSW placed into the Facility; regardless of whether WMNY is disposing of MSW in the Town of Perinton so long as MSW materials are being accepted and permanently disposed of at the Facility.
- F. Recordkeeping Responsibilities - WMNY shall assume full responsibility for weighing all quantities of MSW and determining the amount of landfilled materials for which payment is to be made hereunder and shall keep accurate records of monthly and annual tonnage of MSW deposited of in the Perinton and Macedon sides of the Facility, including all BUD/AOC material. WMNY shall calculate the Benefits based on the amount per ton of Landfilled Materials at the applicable per ton rate set forth above. Any such calculation shall include an estimate of the remaining airspace of the Perinton-side of the Facility.

Such accounting records shall be available for inspection by the Town during business hours upon reasonable prior notice to WMNY and shall within 30 days of the end of each month be summarized and included in the monthly benefits

payment from WMNY to the Town. In December of each year, a calculation will be made to determine if additional money is due to the Town based on the volume of Landfilled Materials placed in the Town and a payment will be made by December 31<sup>st</sup> of that year. Activity for December will be reconciled within 60 days of the close of each calendar year.

G. Timing of Waste Volume Payments

1. For each calendar month, or portion thereof, during which the Facility is operating (accepting and permanently disposing MSW on the Perinton-side), WMNY shall pay the Town the greater of: (a) the minimum monthly payment of \_\_\_\_\_ or (b) the per ton payment times the number of tons of MSW disposed of into the Perinton-side of the Facility for the month within 30-days after the close of the preceding calendar month.
2. For each calendar month, or portion thereof, during which the Facility is operating (accepting and permanently disposing of MSW), WMNY shall pay the Town the Renewable Energy Benefit Payment, as described in Section XIV (e) of this HCA. These payments are subject to the number of tons of MSW disposed of into the landfill; facility-wide.
3. In the event, the Annual Per Ton Payment made by WMNY for any full calendar year of Facility operations is less than the Annual Guaranteed Payment, the difference between said amounts shall be paid by WMNY within sixty (60) days of the close of such calendar year.

H. In the event legislation is passed which is applicable to the Facility, and which requires the payment of a benefit, royalty, or other compensation to the Town, WMNY shall be liable for payment to the Town of the greater of said compensation or the Town HCA hereunder, but not both.

I. Within 60-days of the end of each calendar year, engineering and accounting data will be prepared by WMNY and delivered to the Town in accordance with subparagraph A above, which shall include a good faith estimate of the remaining available airspace on the Perinton-side of the Landfill.

J. Notwithstanding the provisions of Section XI (Curb-side Recycling), should WMNY pay an annual per ton payment to the Town of Macedon greater than the payment being paid to the Town of Perinton under this Benefit Agreement for disposal of MSW in the Town of Macedon, such Benefit payment being paid by WMNY to the Town of Perinton shall be immediately increased to equal that of the Town of Macedon.

K. Future revenue sharing: WMNY agrees to discuss with the Town revenue-sharing opportunities for additional future revenue generating activities associated with the Facility. WMNY shall notify the Town at the earliest reasonable time in the development of such activities.

## XV. OFF-SITE IMPACTS

- A. The Town acknowledges that the Facility is an industrial site with various components, and that it is possible that off-site impacts such as visual, aural and olfactory may emanate from the Facility. WMNY shall take reasonable, necessary and immediate steps (as a minimum those outlined below) to mitigate these off-site impacts as required by its Operation and Maintenance (O&M) Plan. Additional steps beyond those identified in the O&M Plan, including those referenced in the Commitment Letter, appended hereto as Exhibit B, shall be implemented to control/mitigate off-site impacts.
- B. The categorical determination of an odor will be made pursuant to the ASTM Standard E 544-18 as it relates to the prescribed liquid and air levels of N-Butanol Scale, with an odor intensity scale of 1-8, appended hereto as Exhibit F, and further defined in the table below.
- C. In the event that undue off-site odors resulting from either gas or garbage reach an “Actionable” level as defined in the table below, WMNY shall recognize, determine cause and implement mitigation steps to reduce odors as described in the following sub-Sections XV(D), (E), and (F).

ODOR CATEGORIES	N-BUTANOL SCALE	N-Butanol Concentration in Air ppm (vol)	INTENSITY (word definition)	DURATION	FREQUENCY <sup>1</sup>
1	0	0	No odor	N/A	N/A
<b><u>ACTIONABLE LEVEL</u></b>					
2	0.5 to 1	15	Slight	Aggregate total of 45 confirmed odor complaints that occur within a rolling seven (7) day period.	
3	>1 to < 3	30	Moderate	48-hr period	20 confirmed complaints
4	3 to < 4	60	Distinct	24-hr period	10 confirmed complaints
5	4 OR GREATER	120+	Strong	12-hr period	5 confirmed complaints

1: All odor complaints must be received through the NYSDEC Complaint Hotline (or any follow-on official complaint method approved by the NYSDEC) as described in Section VII of this agreement from property specific addresses where a responder who is trained to evaluate odors on the N-Butanol Scale can rate the intensity and duration of odor from the corresponding complainant. The trained responder shall arrive at or near the corresponding complainant address in a timely manner, but shall not exceed 30-minutes. Drive-by complaints will not be considered. The confirmed odor intensity will be the average result of three (3) readings taken over a 30-minute period at the complaint location.

- D. Procedurally, the Town will notify WMNY of a documented “actionable” event that meets the intensity & duration thresholds defined above. WMNY then agrees to provide written justification or cause for the undue odors and what, if any mitigative steps will be taken to address off-site impacts. WMNY further agrees to provide this written documentation to the Town and the NYSDEC (if necessary) within 24-hours of the Town’s initial notification. WMNY further agrees that it shall have two (2) 10-day time periods, starting 24-hours following WMNY’s response to the Town’s initial notification, to address off-site odor impacts through the implementation of, but not limited to, the following:
1. Altering the hours/days of operation;
  2. Immediate placement of cover such as EPI Enviro-Cover system and/or application of thicker cover over odiferous waste;
  3. Additional application of neutralizers (liquid and granular) at the working face;
  4. Deploy additional portable odor control misting units to the working face;

5. Disposal of MSW into “lower” cells;
  6. Minimization of the working face;
  7. Additional gas collection wells / vacuum improvements;
  8. Temporary / permanent placement of geo-synthetic cover;
  9. Diversion of MSW;
  10. Implement additional operational modifications (temporary or permanent), to the extent reasonable and effective not described herein, but identified in the Operation & Maintenance Plan to control odors, all in accordance with the Facilities Permits and applicable laws; and
  11. Implement any other mitigative measure not described herein or listed in the Facility’s Operation and Maintenance Plan, but considered reasonable and necessary to effectively mitigate odors.
- E. If following the first 10-day mitigation period, the off-site odor impacts continue to meet any of the odor category thresholds identified above, WMNY agrees to provide the Town a written summary of what mitigative steps have been applied to date and what additional steps are to be implemented/planned during the next 10-day mitigation period.
- F. If following the second 10-day mitigation period, the off-site odor impacts cannot be resolved to the satisfaction of the Town and/or the NYSDEC, WMNY shall submit an odor specific work plan within 7-days of the end of the second 10-day mitigative period (20-days total) describing what other mitigative steps will be employed, including an implementation schedule, in order address fugitive off-site odors. This shall include consultation with outside industry experts. WMNY further agrees to restrict/divert waste streams and/or cover areas of the Landfill that are creating undue off-site odors until these odors can be resolved to the satisfaction of the Town.
- G. WMNY shall indemnify and hold harmless the Town pursuant to Section XXI for any cost incurred in connection with Section XV.

## **XVI. END USE PLAN AND POST CLOSURE OBLIGATIONS**

- A. Within the parameters of the Facility’s End Use Plan, WMNY agrees to consult with the Town regarding prospective uses of the Facility upon which it is located following cessation of active landfill operations. WMNY shall comply with all conditions of all permits issued by any governmental agency governing the operation and maintenance of the Site including the post closure maintenance and monitoring requirements (“Post Closure Maintenance Requirements”) as determined by the NYSDEC. WMNY shall comply with such Post Closure Maintenance Requirements until such time as the NYSDEC has approved the discontinuance of such Post Maintenance Requirements.
- B. Thereafter, WMNY shall perform, for a period not to exceed \_\_\_\_\_ years from the date of closure, the following Site Maintenance Activities: (i) yearly grass cutting; and (ii) routine ground water well monitoring of the Site for monitoring points located solely within the Town, once every five (5) years or on the schedule required by NYSDEC pursuant to the groundwater monitoring plan adopted for the Facility, whichever is more frequent.
- C. As a result, WMNY’s obligation to undertake post closure maintenance and monitoring is for a period of \_\_\_\_\_ years. At the conclusion of this \_\_\_\_\_ year period, NYSDEC shall assume responsibility for the Site Maintenance Activities and any other measures required pursuant to Environmental Laws, regardless of the Site’s future use.

## **XVII. COMPLIANCE WITH LAWS**

- A. WMNY shall operate and maintain the Facility in compliance with all applicable federal, state and local laws and all permits issued pursuant to those laws, and shall give special attention to daily cover, intermediate cover, landfill gas management, odor management and the management of MSW delivered to the Facility.
- B. Notwithstanding anything to the contrary contained herein, if WMNY's ability to operate the Facility is interrupted, terminated, or otherwise adversely affected by the rescission or modification of any permits, licenses, or approvals by any governmental agency, whether state, federal or local or because of any act of God or situation beyond the reasonable control of WMNY, then this HCA shall be null and void upon notice to the Town; however, WMNY shall continue to be responsible for the maintenance of the Facility, including the leachate collection system, gas collection system, and landfill cover system as well as the enhanced monitoring of those various systems, as outlined in its commitment letter appended hereto as Exhibit B. If, within one hundred twenty (120) days of such notice, the Facility is able to resume similar operations then this HCA shall be in force as if no interruption had occurred during the period in question. Neither party, therefore, shall have any cause of action for damages or consequential damages against the other arising from the termination of this HCA because of the inability of the Facility to receive MSW from the Town or Village if the said inability resulted from the termination or expiration of any permits, licenses, or approvals, or any emergency situation beyond the reasonable control of the parties.

## **XVIII. HOURS OF OPERATION**

- A. Hours of Operations directly related to the operation of the Facility, including acceptance and disposal of MSW, placement of cover, and other activities not directly related to the disposal of solid waste at the Facility shall be limited to the requirements and limitations set-forth in WMNY most current NYSDEC Part 360 and Title V Permit for High Acres Landfill, as shown in Exhibit E.
- B. Further, operations directly related to the acceptance (delivery) and disposal of MSW by rail at the Facility shall not take place on Saturdays except for those Saturdays that follow a major holiday. Major holidays shall include New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day and Christmas Day. Operations on Saturdays following major holidays shall be limited to 2:00pm.
- C. WMNY shall notify the Town, in writing, of operating hours for special projects before beginning the project. Special projects shall include such items as final cover system placement, liner construction, installation and decommissioning of groundwater monitoring wells, and the like.

## **XIX. INSURANCE**

WMNY shall provide the Town annually with evidence of insurance, issued by a carrier qualified to do business in the State of New York, in the amounts and coverage set forth below or such other amounts as the parties may agree from time to time:

- A. Commercial General and Umbrella Liability Insurance. WMNY shall maintain commercial general Liability (CGL) and, if necessary, commercial umbrella insurance with a limit of

not less than \$10,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location. The Umbrella Liability shall follow the underlying forms and it shall be so stated on the Certificate of Insurance.

- B. CGL insurance shall be written on an ISO occurrence form CO 00 01 01 96 (or a substitute form providing equivalent coverage and equivalent exclusions) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- C. The Town shall be included as an additional insured under the CGL for the policy identified above, using ISO additional insured endorsement "CG 20 11" or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Town but only respects the services performed by WMNY under this contract. There shall be no endorsement or modification of the CGL to make it excess coverage over other available insurance; alternatively, the COL shall state: "That it is excess or pro rata, the policy shall be endorsed to be primary and noncontributory with respect to the additional insured."
- D. Waiver of Subrogation. WMNY waives all rights against the Town and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Commercial General Liability or Commercial Umbrella Liability insurance maintained pursuant to subparagraph A of this Section XIX.
- E. Contractor's Pollution Liability with a limit of \$10,000,000 each claim and an annual aggregate of \$10,000,000.
- F. WMNY shall purchase pollution legal liability coverage and maintain same in force for the duration of this HCA applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; third party offsite cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims; all in connection with any loss arising from the insured Site. Such coverage shall be maintained in an amount of at least \$10,000,000 per loss, with an annual aggregate of at least \$20,000,000.
- G. Coverage as required in subparagraph F of this section shall be written to include sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants.
- H. Automobile Liability -WMNY shall provide evidence of Business Automobile Liability insurance with limits not less than \$1,000,000 each accident. The Business Automobile Liability must include coverage for liability arising out of the use of all owned, leased, hired and non-owned automobiles.
- I. Workers Compensation and Employers Liability -WMNY shall provide evidence of Statutory Employers Liability insurance limits of \$100,000 each accident, \$100,000 each employee and \$500,000 policy limit as required for New York State.

- J. Coverage as required in subparagraph F of this section shall be placed with an Insurer reasonably acceptable to the Town.
- K. If coverages are written on a claims-made basis, WMNY warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 5 years beginning from the time that work under this contract is completed.
- L. WMNY shall provide to the Town a certificate of insurance documenting the existence of coverages as required in this HCA. The certificate shall be signed by a person authorized by the insurer to bind coverage on its behalf as described in the certificate. Such certificate shall be delivered to Town before work under this HCA shall commence.
- M. The Town shall receive a minimum of 60 days prior written notice of cancellation, non-renewal or material change of any insurance coverages required by this Section. Such notice shall be made to the Supervisor of the Town.
- N. WMNY will provide 100% of the obligations required by the appropriate authorities in the event of the closure/post closure of the Facility. The collateral required will be decided by the overseeing authority and can be bonds, letters of credit, cash or appropriate insurance.

WMNY shall direct its insurance carriers to name the Town as an additional insured where appropriate in the context of the coverage. Such coverage is to be primary and non-contributory in so far as the Town of Perinton and its insurance program.

## **XX. ARBITRATION**

All claims, disputes and other matters in question between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall:

1. Be decided by arbitration in accordance with the rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise; and
2. Notice of demand for arbitration shall be filed in writing with the other party to this Agreement and the American Arbitration Association. The demand shall be made within a reasonable time frame after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

The award rendered by the arbitrator shall be final, and judgement may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

## **XXI. INDEMNIFICATION**

WMNY agrees to indemnify and hold harmless the Town from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, and costs and expenses incidental thereto (including cost of defense, settlement and attorney and consultant fees), which the Town may hereafter suffer, incur, be responsible for or pay out as a result of bodily or personal injuries (including death) to any person, damage (including loss of use) to any property (public or private), including clean up and related costs directly or indirectly caused by or arising

out of breach of any of the terms hereof by WMNY, any violation of WMNY's Part 360 Permit or the willful misconduct or negligent act or omission of WMNY, its employees or subcontractors in the performance of this HCA whether occasioned by environmental pollution or other cause arising from the general operation of the Facility. The foregoing notwithstanding, WMNY shall not indemnify the Town from any such liabilities or costs arising from the negligence or willful misconduct of the Town, its employees, residents and agents or third parties not under contract to or control of WMNY. In addition, WMNY agrees to reimburse the Town for all reasonable legal and consultant fees and expenses should any entity bring any action or proceeding to challenge the issuance of any special use permit or the HCA that may be issued by the Town to WMNY.

## **XXII. GOVERNING LAW**

This HCA shall be governed by the internal laws of the State of New York without regard to New York's conflicts of law rules.

## **XXIII. ENTIRE AGREEMENT**

The parties hereto understand and acknowledge that this HCA and the terms herein represent the entire and complete agreement between the parties, and all prior agreements between the parties, whether written or oral, are deemed to have been merged herein.

## **XXIV. NOTICES**

All notices, consents, waivers, and other communications under this HCA must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) sent by registered mail, return receipt requested, or (c) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses set forth below (or to such other addresses as a party may designate by notice to the other parties):

Town: Town of Perinton  
1350 Turk Hill Road  
Fairport, NY 14450  
Attn: Then serving Town Supervisor

WMNY: Waste Management of New York, L.L.C.  
425 Perinton Parkway  
Fairport, NY 14450  
Attn: District Manager

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.]



IN WITNESS WHEREOF, the parties hereto have signed this HCA the day and year first written above.

**THE TOWN OF PERINTON**

**WASTE MANAGEMENT OF  
NEW YORK, L.L.C.**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

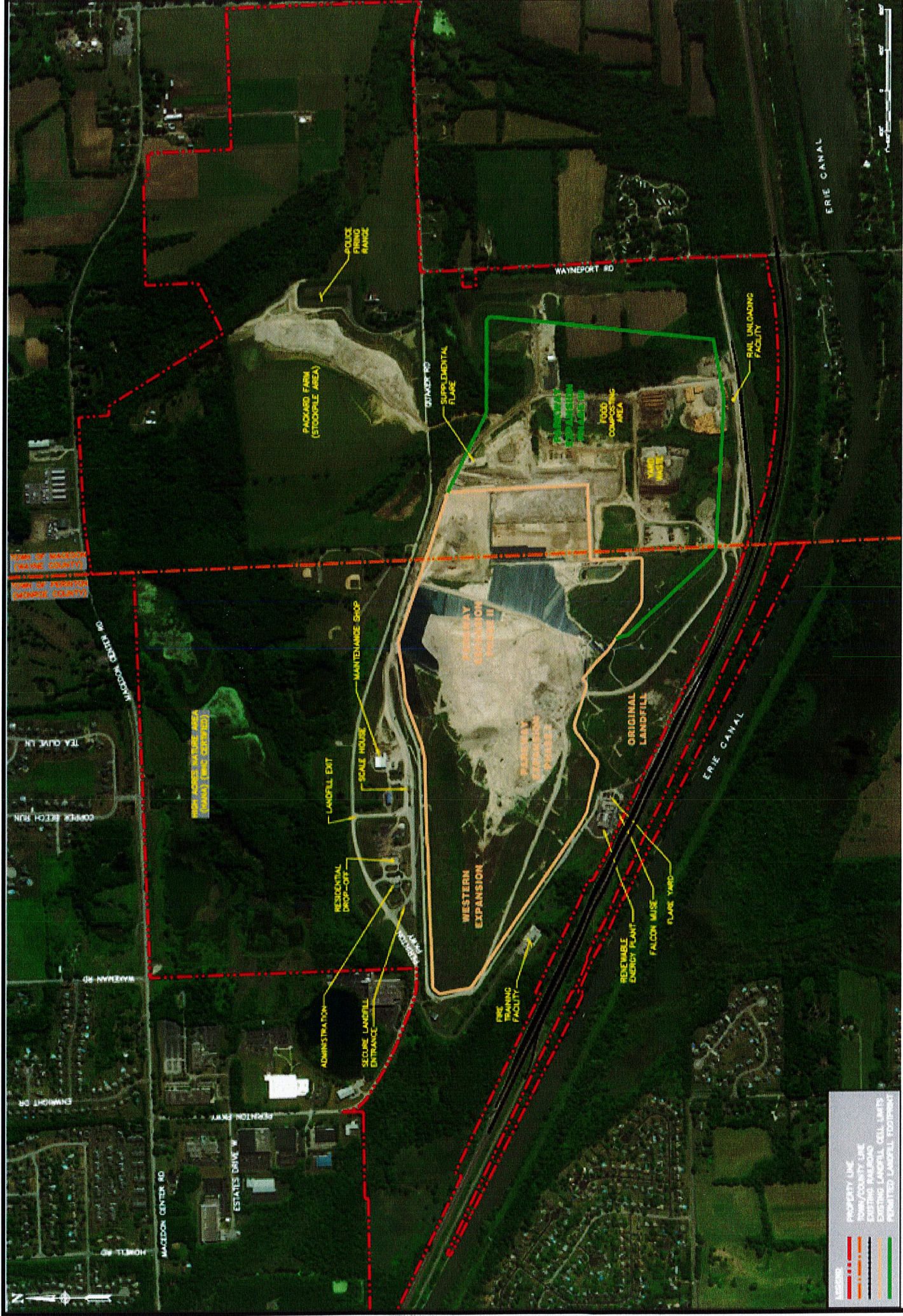
Its: \_\_\_\_\_

Approved by Resolution of the Town Board on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

DRAFT

**EXHIBIT "A"**  
**WASTE MANAGEMENT OF NEW YORK, L.L.C.**  
**MAP DRAWING OF THE HIGH ACRES FACILITY**





**LEGEND**

- PROPERTY LINE
- TOWNSHIP/COUNTY LINE
- EXISTING RAILROAD
- EXISTING LANDFILL CELL LIMITS
- PERMITTED LANDFILL FOOTPRINT



**EXHIBIT “B”**  
**WASTE MANAGEMENT OF NEW YORK, L.L.C.**  
**WM Commitment Letter**



**HIGH ACRES LANDFILL &  
RECYCLING CENTER**  
A WASTE MANAGEMENT COMPANY  
418 Perinton Parkway  
Fairport, New York 14450  
Fax: 213-6130  
Fax: 213-6898 Fax

September 14, 2018

Honorable Michael G. Barker  
Perinton Town Supervisor  
1350 Turk Hill Road  
Fairport, New York 14450

Dear Supervisor Barker:

We write to provide an update to you and to the Town Board concerning the extensive efforts undertaken by Waste Management of New York, LLC ("Waste Management" or "WMNY") to address community concerns and improve operations at the High Acres Landfill and Recycling Center ("High Acres" or "Facility"). We also want to reiterate Waste Management's commitment to continue to work with the Town of Perinton, and the New York State Department of Environmental Conservation ("DEC") on implementing and documenting meaningful and actionable improvements and enhancements at the Facility, including providing additional information on those which have already been implemented.

Waste Management is committed to addressing the Town's concern with off-site migration of undue odors through the modification of the O&M manual or if appropriate, instituted as part of other agreements that concern facility operations. Both the Town and Waste Management acknowledge that some off-site odors will be generated as part of any landfill operation; however, Waste Management remains fully committed to the community and the Town's leadership to operate as a good neighbor as it has been for nearly 50 years.

To that end, WMNY is committed to undertaking and implementing the following measures to minimize to the extent feasible off-site odor concerns. Waste Management and the Town are actively engaged in defining reasonable timeframes to complete these measures, and an approximate timeline for the implementation of these measures is provided in *italics*. The implementation of some of these measures may be reliant on third parties outside the control of Waste Management or the Town, therefore further discussions to refine certain scopes of work and completion dates will continue through to the end of the month.

These measures include the following:

- Reviewing and adopting an appropriate procedure using the more objective ASTM standard based on the N-butanol scale to gauge odor intensity/duration and determine the need for further actions (*on-going & 2-months*);

- Implement real time responses to odor complaints and verification thereof by trained third-party consultant using the N-butanol scale (*on-going*);
- The installation of an enhanced permanent mist barrier system and an enhanced perimeter mist barrier system (*3-months*);
- Reviewing, identifying and implementing additional operational and/or technical measures that would effectively address any undue off-site gas and garbage odors (*on-going*);
- Continue monitoring currently in place for H2S and methane (*on-going*);
- WMNY will provide the Town of Perinton on an annual basis with a 5 year fill progression plan (or update) that demonstrates sufficient constructed capacity to allow for high/low fill scenarios for operational flexibility, as appropriate;
- Implementing bi-weekly progress meetings with the Town and DEC to discuss operations at the landfill (*1-month*);
- DEC Inspection Staff and Waste Management operations staff to appropriately address any deficiencies that DEC and WMNY conclude contributed or likely contributed to undue off-site odors within specific timeframes to be established by the Town, WMNY and DEC (*3-months*);
- Provide copies of specific engineering details for tying into the membrane covered upper side-slopes of Cells 10 and 11, with those plans being reviewed and approved by DEC after consultation with the Town (*6-months prior to tie-in*);
- Undertaking a study of materials delivered by both truck and rail to the Facility to determine the nature and extent of undue odors, if any, contributed by the same; identify additional mitigative measures to reduce as feasible undue odors and implement those measures, to the extent practical and effective, to control odors (*Initiate the study within 1-month. The overall duration of the study will be 10-12 months in order to evaluate potential seasonal affects. However, Waste Management and the Town will develop interim milestone deadlines for various phases of the study and implement recommended measures from each phase as/if it is determined they will effectively reduce odors, prior to completing the entirety of the study*).

In addition to the commitment of future resources to address undue off-site odors, this letter summarizes the status of the various improvements already undertaken in a collaborative effort by the Town and Waste Management at High Acres to minimize such off-site odors. The

extensive infrastructure measures implemented cost more than \$4 million to design and construct, and were constructed by Waste Management on an expedited basis, including during extended hours on holidays and weekends. Indeed, the work Waste Management undertook as detailed herein would have normally taken approximately a year and a half to complete, but was finished in less than five months.

We note that off-site gas odors which were a concern and resulted in Waste Management constructing numerous enhancements to the Facility (as well as extensive operations and other modifications), are not currently prevalent to the point of presenting a significant concern. However, WMNY will continue to monitor and address any future off-site odor concerns as appropriate, as well as fully maintain those enhancements at the Facility. Please also note that while Waste Management has been and remains ready and willing to work with the community to address legitimate issues, it does not concede the validity of any claims asserted or the relief sought by a non-governmental organization and its supporters in a Petition concerning the Facility recently filed with DEC, nor does Waste Management concede the validity of any claims filed or relief sought by such NGO and by others regarding proceedings filed in federal or state court concerning the Facility, as Waste Management is vigorously defending each of those proceedings. As such, neither this letter, nor the commitments made in it constitute admissions of any kind.

Further, in addition to the infrastructure associated with gas collection and control system and other measures that were constructed, the following cover enhancements and operational improvements were implemented, as well as instituting a monitoring program not seen at any other operating facility.

#### **INFRASTRUCTURE ENHANCEMENTS FOR GAS COLLECTION, COVER ENHANCEMENTS, MONITORING PROGRAM AND OTHER OPERATIONAL IMPROVEMENTS**

- Replaced underperforming gas extraction wells and impaired gas conveyance pipes;
- Installed a new 18"-24" diameter vacuum header pipe from the gas plant and flare location to Cell 11;
- Installed approximately 20,000 lineal feet of additional horizontal gas collection line as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board;
- Implemented free draining slip form wells and additional horizontal collection in Cell 12;
- Installed 60 mil HDPE liner in the drainage swale for Cell 11;



- Weekly gas well balancing conducted in Cells 10 and 11, and bi-weekly for the remainder of the Facility site, to maximize gas collection and odor reduction as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board;
- Installed a new utility flare in the area of Cells 10, 11 and 12 to enhance odor reduction (in addition to the extensive infrastructure improvements referenced herein);
- Installed approximately 2,600 lineal feet of horizontal gas collection pipes in Cell 12A;
- Replaced 8" and 12" sub-headers in Cell 11 and installation of approximately 800 feet of sub-header in Cell 5;
- Upgraded of the gas dewatering system to include over 100 wells focusing on the Cell 10/11 Area;
- Committed to install a backup power generator to operate the LFG collection and control system when power is not available as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board;
- Installed over 18 acres of geo-synthetic cover;
- Committed to the placement of two-foot-thick interim soil cover on top of the plateau of Cells 10 and 11;
- Quarterly surface scans conducted at a 200 ppm action level and taking concomitant measures when such scans show results above such action level when the regulations and requirements at issue provide for action levels at a much higher level (500 ppm) as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board;
- Continuous H<sub>2</sub>S monitoring conducted around the perimeter of the Facility and at the Northside/Dudley Elementary School as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board;
- Installed automated valves and well monitor units to enhance monitoring and control of the gas collection system in various portions of the Facility;



- Installed automated flare reverberation control measures to monitor and control the Facility gas blowers if low levels of reverberations begin on either flare to prevent undue vibrations as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board; and
- Utilized alternative equipment on cover soils to better seal intermediate cover materials.

In addition to the extensive infrastructure enhancements and cover improvements, Waste Management also instituted (and is instituting) numerous operational enhancements that include:

- The hiring of additional staff to monitor and maintain the Facility's gas infrastructure with 24/7 availability;
- Increased the frequency and content of community outreach and communication both by direct correspondence and other methods;
- The placement of enhanced daily and intermediate cover;
- Stockpiling and placement of cover throughout the working day to minimize working face size;
- Utilized alternative equipment on cover soils to better seal intermediate cover materials;
- Relocated waste operations from Cell 10 and 11 to Cell 12 as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board;
- Reconfigured site development to delay filling on the plateau of Cells 10 and 11 as recommended by the Perinton Conservation Board and concurred with by the Perinton Town Board and utilize larger cells to provide more operational flexibility;
- Reconfigured site development to proceed from North to South instead of West to East, to move the next area of cell construction further away from Perinton Parkway;
- Performed expanded waste stream evaluations to identify and limit potentially odorous special waste material;
- Implemented of additional odor neutralizers and misters and continued evaluation of multiple odor neutralizer and delivery mechanisms;


- Applied odor agents to waste containers during the summer season at the intermodal rail transfer stations;
- Installed additional perimeter misting systems as well as the use of portable misting units; and
- Provided Odor monitoring, including certified training conducted for in-house and third-party personnel, as well as provided third-party routine offsite monitoring and follow up, along with providing results of same to site operations personnel and to the Town.

Furthermore, while the DEC issued a Notice of Violation dated February 2, 2018 ("NOV"), Waste Management had already proposed most of the measures identified in the NOV. In fact, it had already begun substantial construction of these measures with some actually completed at the time the NOV was issued. Moreover, Waste Management complied with each of the NOV's requirements and as indicated, would have done so even in the absence of an NOV being issued because of Waste Management's commitment to the community, and the Town's leadership. Please find enclosed summaries that set out each of the enhancements completed, as well as the dates they were constructed or implemented.

Last, Waste Management is also committed to adopt additional measures not currently being implemented or identified herein to improve operations and as feasible, to address undue off-site odors. Waste Management will also provide the Town with information concerning soil cover to ensure it is appropriate. We will continue to work with the Town and DEC to respond in real time (as we have already begun to do as referenced above) regarding concerns when significant events warrant such a response.

Waste Management is proud of its nearly 50 year positive and collaborative working relationship with the Town of Perinton. We remain ready, willing and able to work with the Town to implement and document meaningful and actionable enhancements at the Facility as discussed herein. Waste Management will make staff available at the Town's convenience to work out the details of the measures it has committed to undertake with Town representatives (in addition to that already in process and being implemented).

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jeffrey G. Richardson", with a stylized flourish at the end.

Jeffrey G. Richardson  
Sr. District Manager  
Waste Management of New York, LLC



# High Acres Landfill | Odor Management Enhancements

## Infrastructure Improvements and Modifications

### Gas Collection System

#### Vertical Collection Wells

- Installation of 26 vertical gas wells since June 2017

#### Horizontal Collection

- Approximately 20,000 additional lineal feet of horizontal collection piping installed in Cells 10 and 11
- Approximately 2600 lf of horizontal gas collection pipes installed in Cell 12A to date

#### Future Commitment

- Gas Collection Phasing Plans revised to incorporate new regulatory guidance for horizontal well spacing

### Gas Conveyance and Control

#### Header Replacement

- Replaced 12 & 8-inch sub headers in Cell 10
- Installation of approx. 800-ft of sub header in Cell 5
- Installation of approx. 2,600 lineal feet of 18- and 24-inch gas collection header from the enclosed flare and WMRE plant to Cell 11
- Installation of approx. 4,000 lineal feet of lateral piping to new collection

#### Gas Well Dewatering

- Expansion of Gas Well Dewatering system to include over 100 wells

#### Improved Control

- Installation of 3,000 scfm utility flare to increase available vacuum in Cells 10, 11 and 12

#### Backup Power

- Commitment to install backup power generator for LFG control system

### Cover Enhancements

#### Exposed Geomembrane Cap

- Installation of approximately 18 acres of exposed geomembrane cap along the northern and eastern slopes of Cells 10 and 11

#### Enhanced Interim Cover

- Two foot thick interim soil cover being placed on top of intermediate cover soils along plateau on Cells 10 and 11

#### Cell 11 Road Side Swale

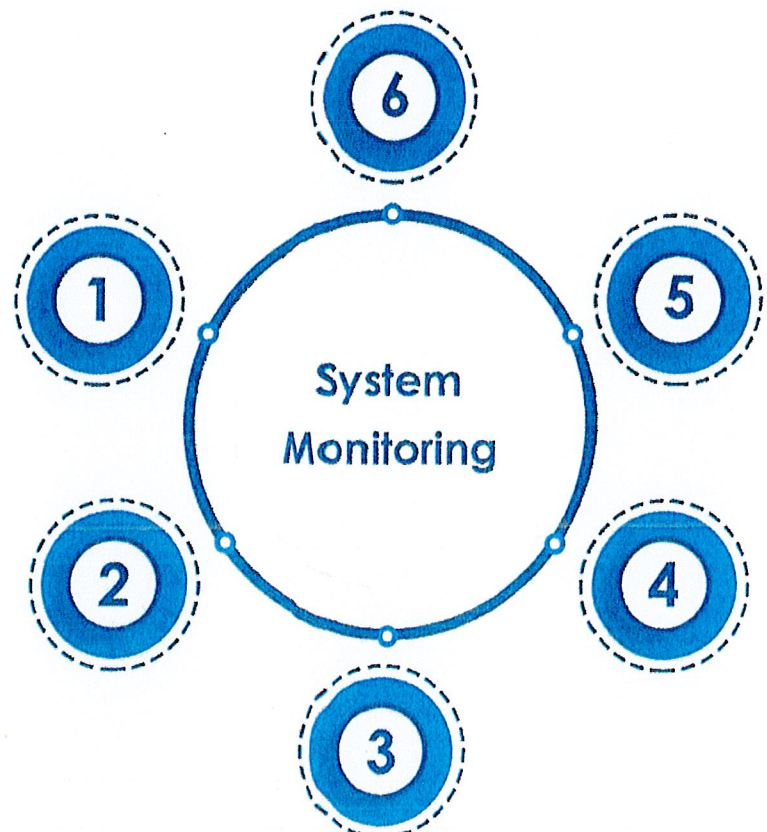
- Installation of 60mil HDPE Liner in the drainage swale

#### Future Commitment

- Revision of O&M Manual to reaffirm commitment to evaluate cover conditions and install additional geomembrane cover if conditions warrant.

## System Monitoring

1. Hired two additional fulltime staff members to support infrastructure construction and increase maintenance of landfill gas collection and conveyance system
2. Weekly well balancing being conducted in Cells 10/11 area
3. Quarterly surface scans being conducted at 200ppm action level
4. Continuous H<sub>2</sub>S monitoring being conducted around the perimeter of the site and at Northside Dudley Elementary Schools
5. Loci® Sentry H Automated Valves and Well Monitor Units installed to enhance monitoring and control of the gas collection system in various portions of the landfill
6. Automated Flare Reverberation Control installed to monitor and control the landfill gas blowers if low levels of reverberations begin on either flare to prevent vibrations.





## Operational Improvements



### Cover Placement

- Limited Alternate Operational Cover and supplement with soil cover
- Incorporated fine grained soils as daily cover
- Placement of enhanced daily and intermediate cover
- Stockpiling and placement of cover throughout working day to minimize working face size
- Pad foot roller utilized to "seal" working face cover at end of day



### Waste Acceptance/Screening

- Relocated waste operations from Cell 10/11 into Cell 12
- Reconfigured site development
  - Larger cells to provide more operational flexibility
  - Delay filling on plateau area of cells 10/11
  - Allow for high/low filling flexibility to account for weather conditions
  - Site development reconfigured from west-east to north-south to move operations further away from residents
- Extensive waste stream evaluation performed to identify and limit receipt of potentially odorous special waste materials
- Limited weekend waste acceptance/hours of operation



### Odor Neutralizers/Misters

- Use of granular odor control neutralizer at working face
- Application of neutralizer to waste at intermodal rail transfer station prior to container shipment
- Evaluate multiple odor neutralizer products and delivery mechanisms
- Use of water based neutralizer product in site water trucks and application to haul roads
- Install additional perimeter misting systems
- Implement portable misting units at working face
- Continued evaluation and field testing of odor neutralizer systems



### Odor Monitoring

- Certified odor training conducted for in house and third party personnel
- Third party routine off-site odor monitoring being conducted twice per day
- Real time odor investigations conducted in response to hotline calls
- Investigation results relayed to site operations personnel and Town real time



## Communications

- Onsite tours and individual meetings with residents
- Neighborhood updates tab was created on [www.highacreslandfill.wm.com](http://www.highacreslandfill.wm.com)
- Email notification system implemented for neighbors, state and local officials regarding completed and upcoming site activities
- Regular updates are provided to the NYSDEC and Towns of Perinton and Macedon
- Community connection group formed to allow more regular feedback and communication with residents
- Bi-monthly meetings with the Town of Perinton to discuss operational improvements and current construction.
- Community information meeting held at High Acres on Dec. 11, 2017
- Mitigation plan presented to Perinton Conservation Board Jan. 16, 2018
- Community informational meeting held at High Acres on March 20, 2018



# High Acres Landfill | Odor Mitigation Status Update

## ACTIVITIES TO DATE

## STATUS

### June 2017

- Landfill Gas Collection Wells - Installation of 8 vertical gas wells

COMPLETE

### October 2017

- Cell 5 Sub Header Replacement - Installation of approx. 800-ft of sub header
- Cell 10 Sub Header Replacement - Replace 12- and 8-inch sub headers in Cell 10

COMPLETE

COMPLETE

### November 2017

- Horizontal Collectors in Cells 10 and 11 - Installation of 4 additional collectors
- Cell 11 Road Side Swale - Installation of 60mil HDPE Liner in the drainage swale
- Gas Header Restriction - Locate and remove restriction in 24-inch gas header

COMPLETE

COMPLETE

COMPLETE

### December 2017

- Cell 11 Horizontal Gas Collection - Design, approval and installation of approx. 10,000 lineal feet of horizontal gas collection piping in Cell 11
- High Acres Landfill Information Fair - Community information meeting held on Dec. 11, 2017
- Gas Collection Phasing Plans - Revision of the Gas Collection Phasing plan to include additional horizontal/well spacing

COMPLETE

COMPLETE

COMPLETE

### January 2018

- Waste Placement in Cell 12A - Waste placement activities initiated on Jan. 9, 2018
- Town of Perinton Conservation Board Presentation - Mitigation Plan presented to Board Jan. 16, 2018
- Cell 11 Exposed Membrane Cap - Installation of approx. 9 acres of Exposed Membrane Cap on the North Slope of Cell 11
- Gas Header Installation - Approx. 2,600 lineal feet of 18- and 24-inch jumper Gas collection header from the enclosed flare and WMRE plant to Cell 11
- Flare Reverberation Control System - To eliminate any reverberations caused by the landfill gas flares, an automated control system was installed to monitor and control the landfill gas blowers if low levels of reverberations begin on either flare

COMPLETE

COMPLETE

COMPLETE

COMPLETE

COMPLETE

### February 2018

- Additional Fulltime Staff Members - Hired two additional fulltime staff members to support infrastructure construction, increase maintenance of landfill gas collection and conveyance system
- Landfill Gas Collection Wells - Installation of 18 gas collection wells in Cells 10/11

COMPLETE

COMPLETE

### March 2018

- Loc@ Sentry H Automated Valves and 6 Well Monitor Units - Installed to enhance monitoring and control of the gas collection system in various portions of the landfill
- Collection Installation - Installation of an additional 6 horizontal collectors across Cells 10 and 11 (4,900 lf total)
- Lateral Piping Installation - Installation of approx. 4,000 lineal feet of lateral piping to new collection
- Cell 12A Horizontal Gas Collection - Installation of the second layer of horizontal gas collection pipes in Cell 12A (approx. 2,600 lf total)
- East Slope Cell 11 Horizontal Collectors - Installation of 8 horizontal gas collection pipes on the East slope
- High Acres Information Fair - Community informational meeting held on March 20th

COMPLETE

COMPLETE

COMPLETE

COMPLETE

COMPLETE

COMPLETE

### May 2018

- Exposed Membrane Cap - Completion of exposed membrane cap and wind defender
- Utility Flare - Installation of 3,000 scfm utility flare to increase available vacuum in Cells 10, 11 and 12

COMPLETE

COMPLETE

### On-Going Communications

- Onsite tours and individual meetings with residents
- Neighborhood Updates tab on [www.highacreslandfill.wm.com](http://www.highacreslandfill.wm.com)
- Email notification system for neighbors, state and local officials regarding completed and upcoming site activities
- Monthly updates to NYSDC and Towns of Perinton and Macedon

ON-GOING

## PROPOSED/ON-GOING IMPROVEMENTS

## ANTICIPATED DATE

### Horizontal Collector Cell 12 A

June 2018

- Installation of third row of horizontal collectors in Cell 12 A

### Backup Power Generator for LFG Flares

September 2018

### Gas Well Dewatering System

September 2018

### Evaluation and Field Testing of Odor Neutralizer Systems

Ongoing

**EXHIBIT “C”**  
**PROPERTY PROTECTION VALUE PROGRAM**  
**(“Program”)**

**I. DEFINITIONS**

For the purposes of this Program:

- A. “Commencement Date” shall be \_\_\_\_\_.
- B. “Fair Market Value” shall be the most probable monetary price the property will bring in a competitive open market place under all conditions requisite to a fair sale not disturbed by undue stimulus and where both sellers and buyers are acting prudently, knowledgeably and at arm’s length.
- C. “Established Fair Market Value” shall be the Fair Market Value of a parcel established in accordance with Section III.B.1.
- D. “Approved Appraiser” shall mean a New York Certified Residential Appraiser.
- E. All other capitalized terms shall have the same meaning or definition as set forth in the HCA which this Exhibit “A” is a part of.

**II. SCOPE OF PROGRAM AND ELIGIBILITY**

- A. Scope of Program. Commencing with the Commencement Date and continuing until the date on which solid waste is no longer accepted at the Facility, WMNY agrees to provide property value protection for owners (“Program Lands” as defined hereafter) of those lands within the hatched area on Schedule “A”. Program Lands are defined as those owners of property depicted on Schedule “A”, who have previously opted, in writing, to participate in the Program pursuant to notices sent by the Town to all owners of property described on Schedule “A”.
- B. Eligible Properties. All the Program Lands while they are owned by the owners of record, or their immediate heirs or devisees, as of the Commencement Date will be eligible. No real property shall benefit from the Program more than twice.
- C. It is the intent of the Town that the Program not result in duplication of compensation to Owners. Consequently, any property for which Owner has commenced or participated in a legal action for or has obtained compensation or damages by another remedy for devaluation due to the presence of the Facility will be disqualified from the Program.
- D. Eligible Property Owners. This Program will apply only to the owners of record of the Program Lands as of the Commencement Date, their heirs and devisees and first subsequent owner who purchases a Program Land from an original Eligible Property Owner (“Owners”). This Program does not apply to owners who acquire Program Lands after the Commencement Date, except as defined above.
- E. Notification of Property Owners. Within fifteen (15) days after execution of the HCA, the Town shall send WMNY a list of the Owners with their mailing address and the tax account numbers of their respective Program Lands (the “Owners List”). The Town shall identify

in the Owners List those Owners who have conveyed their property after the Commencement Date. Within thirty (30) days thereafter, WMNY shall send a copy of the Program description to the Eligible Property Owners as set forth on the Owners List.

### **III. SALE OF PROPERTY**

The Owner shall take the following steps in connection with the sale of Owner's Program Lands:

Step 1 - Notification of Intention to Sell;  
Step 2 - Appraisal Process;  
Step 3 - Listing of Property for Sale;  
Step 4 - Sale of Property/Compensation from WMNY; and  
Step 5 - Release of WMNY.

A. **Step 1 - Notification of Intention to Sell**

1. Before listing or offering their properties for sale, Owners must notify, in writing, WMNY or such other individual designated in the Program notice described above (the "WMNY Representative") of their intent to sell their Program Lands. Owners are encouraged to notify the WMNY Representative when they begin to consider selling.

B. **Step 2 - Appraisal Process**

1. Two Approved Appraisers, one chosen by the Owner, the other chosen by WMNY, will determine the Established Fair Market Value of a parcel by taking the average value of their two appraisals. The Owner and WMNY will pay for their own appraisals. In the event there is more than a 10% difference in these appraisals, either party may elect to request a third appraisal by a mutually agreed upon Approved Appraiser, the expense of which shall be shared equally by the parties. The three appraisals will then be averaged to determine the parcel's value.

C. **Step 3 - Listing of Property for Sale**

1. The Owner must place the property on the market for sale with a real estate broker licensed under the laws of the State of New York and in good faith and using reasonable best efforts endeavor to obtain the highest possible price for the property. Within thirty (30) days after the determination of the Established Fair Market Value, the Owner shall furnish WMNY with a copy of its listing contract with the real estate broker and an agreement from the broker that he/she shall provide to WMNY, at closing, an Affidavit listing all offers and counter offers on the property and marketing efforts to sell the property (the "Broker's Affidavit").
2. The property must be multiple listed for at least three (3) months and the initial asking price must equal or exceed the Established Fair Market Value.
3. If after the multiple listing of the property for at least three (3) months between the months of February and October, the Owner has been unable to sell it after making reasonable counter offers on all offers, then, upon delivery of the Broker's Affidavit and WMNY's reasonable satisfaction that Owner and Broker have been

using best efforts to sell the property at a reasonable price relative to the Established Fair Market Value, then Owner may reduce the asking price at his or her discretion. If and when the property is actually sold at such reduced asking price below the Established Fair Market Value, WMNY shall pay to the Owner the difference between the Established Fair Market Value and the actual sale price of the property limited to a maximum of 15% of the Established Fair Market Value.

D. Step 4 - Sale of Property/Compensation from WMNY

1. Payment shall be made to Owner within one (1) business day after closing on the property and recording of the deed, provided WMNY has received fifteen (15) days advance written notice of the closing date and a signed payment voucher. Before receipt of any compensation from WMNY under the Program, Owner must deliver to WMNY complete copies of all written offers received by the Owner for review, together with an Affidavit of Compliance with the terms, conditions and procedures of the Program and the Broker's Affidavit.

E. Step 5 - Release of WMNY

Upon payment of compensation by WMNY as provided in this HCA, the Owner shall provide WMNY a written release in recordable form of the subject property from the Program, and of WMNY from any further obligation, liability or responsibility to Owner, or his successors and assigns, for any devaluation of the property arising from the Program, or the presence of the Site (the "Release").

#### **IV. REMEDIES**

Except where specifically excused herein, failure of Owner to adhere to the terms, conditions, steps and procedures as set forth in this HCA, including but not limited to failure to notify the WMNY Representative prior to offering a property for sale, listing the property for sale at any time prior to the determination of the Established Market Value, appraisal shopping, or failure to market the property as prescribed herein, shall result in disqualification of the property from the protection of the Program.



**SCHEDULE "A"**

[Map/List of Addresses of Properties Covered]

**PROPERTY PROTECTION VALUE PROGRAM**

[illegible]

[illegible]

**EXHIBIT “D”**  
**WASTE MANAGEMENT OF NEW YORK, L.L.C.**  
**Wood and Brush Specification**

**EXHIBIT A**

**Wood and Brush Specifications**

<b>Material</b>	<b>Specifications</b>
<b>Wood and Brush</b>	Free of debris
	Trees less than 36 inches in diameter
	Less than 8 feet in length
	Only natural wood — no pallets, crates, furniture or other wood like products
<b>Leaves</b>	Receive “loose” in trucks
	Free of debris and garbage
	Free of plastic bags
	Free of wood, trees, and brush

**EXHIBIT "E"**  
**WASTE MANAGEMENT OF NEW YORK, L.L.C.**  
**NYSDEC Part 360 Permit: Hours of Operation**

**SPECIAL CONDITIONS**For Article 27 (Title 7, High Acres Western Expansion Landfill)

15. Extreme care and protective measures shall be taken to protect the integrity of the groundwater depression system, leak detection system, leachate collection system, liners, geotextiles and all other landfill structures. Only rubber tired vehicles shall be allowed in direct contact with HDPE liner.
16. All synthetic liner seams shall be fusion or extrusion welded. Welds shall be 100 percent tested for pinholes and other weld faults using a vacuum box tester or air tests, as appropriate, subject to Department approval. Records shall be kept showing weather conditions (cloudy, sunny) on days when welding is ongoing including air temperatures at beginning and end of the work day and precipitation. No welding shall take place when the ambient air or sheet temperature is below 32°F, when the sheet temperature exceeds 158°F, or when the air temperature is above 120°F.
17. Should any leachate enter by migration, spill or other means into any cell which has not yet received refuse, all liquids within that cell shall be removed and treated as leachate. When the leachate is first detected in any such cell, all pumping of liquids from the cell into the stormwater drainage system shall cease immediately. Pumping of liquid from that cell into the stormwater drainage system may only recommence upon written approval from the Department.
18. This Department shall be notified if any leachate, waste, gas or other conditions which may affect the integrity of the landfill are observed during construction, including excavation, of the landfill. Notification shall be provided verbally within 48 hours and followed up in writing within 7 days.

**III. LANDFILL OPERATION**

19. The approved design capacity for this landfill is 3500 tons/day, based on an annual average. Excluded from these limits is solid waste generated at the landfill facility and any Beneficial Use Determination (BUD) daily or intermediate cover wastes. By no later than the fifteenth day of each month, the permittee shall report in writing to the Region 8 Regional Solid & Hazardous Materials Engineer, the total amount of solid waste disposed at the facility during the previous month, the number of days of operation, and the amount of BUD cover wastes received.
20. Operation of the landfill and landfill related activities will be in accordance with the following:
  - (a) Operations directly related to the acceptance and disposal of solid waste at this facility shall be limited to the following:

DEC PERMIT NUMBER 8-9908-00162/00032	FACILITY ID NUMBER 28S32
PROGRAM NUMBER	PAGE 8 OF 15

**SPECIAL CONDITIONS****For Article 27 (Title 7, High Acres Western Expansion Landfill)**

Monday through Friday	6:00 a.m. to 4:30 p.m.
Saturday	6:00 a.m. to 2:00 p.m.
Saturday following a Major Holiday*	6:00 a.m. to 4:30 p.m.

The landfill shall not be operated on Sundays or Major Holidays.

\*Major Holiday shall include New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

- (b) Placement of daily cover shall be limited to the following:

Monday through Friday	6:00 a.m. to 6:30 p.m.
Saturday	6:00 a.m. to 4:30 p.m.
Saturday following a Major Holiday*	6:00 a.m. to 6:30 p.m.

- (c) Landfill activities not directly related to the disposal of solid waste may be conducted under the following schedule:

**October 1 to March 31:** Monday through Saturday 5:00 a.m. to 6:30 p.m.

**April 1 to September 30:** Monday through Saturday 4:30 a.m. to 8:30 p.m.

These activities include road maintenance, "dress-up" of landfill sideslopes, cleaning of sedimentation ponds, extension and connection of gas recovery wells, repair of drainage ditches and erosion control systems, repair of litter fences, etc.

- (d) There will be no restrictions on activities which do not require the operation of equipment. These activities shall include equipment maintenance, facility maintenance (such as electrical or phone repair), office personnel, etc.
- (e) The Permittee shall notify the Department, in writing, of operating hours for special projects before beginning the project. Special projects shall include such items as final cover system placement, installation and decommissioning of groundwater monitoring wells, cleaning of leachate collection lines, etc.

21. The following wastes shall not be disposed of at this facility:

- (a) waste identified in 6 NYCRR Part 360-1.5(b);
- (b) any intact steel or plastic drums larger than 10 gallon capacity, that has not been crushed and had at least one end removed or has not been shredded;
- (c) any container which has held hazardous waste and is not empty according to 6NYCRR Part 371.1(f);

DEC PERMIT NUMBER 8-9908-00162/00032	FACILITY ID NUMBER 28S32
PROGRAM NUMBER	PAGE 9 OF 15