

**MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF PLATTSBURGH AND TOWN OF PLATTSBURGH
PLATTSBURGH ORGANICS RECYCLING PLANT**

This **MEMORANDUM OF AGREEMENT** (“MOA”), dated as of the 16th day of April, 2021, by and between the **CITY OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 41 City Hall Place, Plattsburgh, Clinton County, New York (the “City”) and the **TOWN OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 151 Banker Road, Plattsburgh, Clinton County, New York (the “Town”).

W I T N E S S E T H:

WHEREAS, the City and Town are municipal corporations duly established and validly existing under the laws of the State of New York; and

WHEREAS, in furtherance of the Plattsburgh Compact between the City and the Town (“Compact”), in which both municipalities recognize the vast public safety responsibility and economic power of quality organic waste treatment; and

WHEREAS, pursuant to the Compact, both the City and Town desire to enter into this MOA to explore opportunities related to enhancements to and resiliencies and efficiencies of each municipality’s individual infrastructure and that of shared infrastructure in the future which shall include a utilization of and reliance on the City owned Plattsburgh Organics Recycling Plant (“PORP”), particularly upon the annexation of the property underlying the PORP into the City; and

WHEREAS, the purpose of this MOA is to establish a framework of collaboration and communication upon which the City and Town may develop procedures and processes to ensure the safe, sustainable, and consistent operation of the PORP to service our communities for future generations; and

WHEREAS, the PORP, formerly known as the Clinton County Composting Facility, is a City-owned facility permitted by the NYSDEC to use alkaline treatment for converting wastewater treatment residuals (which includes sludge and bio-solids) into a marketable product used for enhancing soil and agricultural property. The NYSDEC permit authorizes the use of an alkaline treatment process for up to 40 wet tons per day. However, the PORP has not actively operated since 2005. Presently, the City has contracts to transport the wastewater bio-solids—which due to the interconnection of the City and Town waste-water treatment infrastructure includes wastewater bio-solids originating from Town properties—to two landfills and a recycling facility. The NYSDEC permit authorizes a fourth bio-solid disposal alternative, under local control, in case the

other three sites become impractical. As such, in the future, the PORP has the opportunity to be an important part of a regional organics management strategy; and

WHEREAS, the PORP is currently located within the Town and in addition to State and Federal regulations, is currently subject to the Town of Plattsburgh Solid Waste Management Facilities Local Law #6 of 2011. On December 11, 2012 the Town Planning Board issued a permit to operate PORP in accordance with the Town's Local Law and 22 conditions noted in the resolution of approval; and

WHEREAS, upon the annexation of the real property underlying the PORP into the City, both the Town and the City want to ensure that reasonable safeguards remain in place to allow the operation of the PORP in a way which will not cause undue adverse impacts to residents or patrons in either community.

WHEREAS, Section 20 of the General City Law of the State of New York authorizes, among other things, each city located in the State to contract and be contracted with; and

WHEREAS, Section 64 of the Town Law of the State of New York authorizes, among other things, incorporated Towns located in the State to contract and be contracted with; and

WHEREAS, by Resolution No. _____, duly adopted by the City on April 15, 2021, the City authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the "City Planning Resolution"); and

WHEREAS, by Resolution No. _____, duly adopted by the Town on April 15, 2021, the Town authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the "Town Planning Resolution"); and

NOW, THEREFORE, in consideration of the promises set forth herein, be it known that the parties agrees to the terms and conditions as follows:

1. The City and Town acknowledge the "special relationship" of interconnected and interdependent systems for the provision of wastewater services to City and Town residents—which necessarily includes the treatment and/or disposal of wastewater bio-solids.

2. Upon the annexation of the real property underlying the PORP into City, the City and Town acknowledge that Local Law #6 of 2011 would no longer have jurisdiction over the PORP. Nonetheless, the City and Town find it mutually beneficial, and the best opportunity to maximize the public health benefits, to commit to a framework of collaboration and communication for the future PORP operations.

3. As such, the PORP must at all times comply with all conditions and requirements set forth in DEC Permit Nos. 5-0942-00006/00006 (Solid Waste Management) & 5-0942-00006/00009 (Air State Facility).

4. The City shall notify the Town Board no less than 90 days prior to initiating and/or resuming operations at the PORP, except in the case of an emergency expected to be of finite duration.

5. The City shall notify the Town no less than 90 days prior to any application to modify the terms of DEC Permit Nos. 5-0942-00006/00006 or 5-0942-00006/00009. For example, this would include any application for modification with respect to quantity, source, and process.

6. Prior to the renewed operation of the PORP by the City shall require the establishment of a formal Council/Board authorized Citizens Advisory Committee (“CAC”) to review and investigate potential odor complaints. The CAC shall be comprised of three (3) City residents, appointed by City Council and three (3) Town residents, appointed by the Town Board. City staff shall provide technical support to the CAC. The CAC shall develop their own rules of procedures and bylaws, which shall include at the least the following duties and responsibilities:

- a. obtain operational knowledge of the PORP;
- b. meet as necessary to, at a minimum, review operational performance, odor control performance and odor complaint history;
- c. review odor complaints and if necessary investigate to provide an independent assessment to provide any enforcement or mitigation recommendations;
- d. otherwise advise the Town and City as appropriate; and
- e. report their findings and or recommendations to the City Council and Town Board.

7. All non-confidential PORP records (i.e. maintenance, product, and environmental reports) shall be available for inspection and review by authorized personnel. Members of the Town Board and the CAC shall be considered authorized personnel.

8. Operation of the PORP shall require the City to establish and maintain a Spill Contingency Plan which must be provided to the Town Board and local emergency services. The Spill Contingency Plan shall include hazard scenarios inclusive of hauling of sludge to, and product from site, as well as on-site spills.

9. Operation of the PORP shall require the City to establish and maintain a disaster and emergency plan for accidents, fires, weather events, and related emergency events, which must be provided to the Town Board and local emergency services.

10. General Covenants of the City and the Town.

(i) All necessary resolutions and actions authorizing the execution and delivery of this MOA, as well as the covenants and agreements contained herein, have been duly adopted and recorded.

(ii) This MOA is neither a fiscal nor a funds obligation document. This MOA is intended to set forth the general agreements among the parties and their respective rights and obligations. Any endeavor involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties.

11. Notice. The principal contacts for this agreement are:

Christopher Rosenquest, Mayor of the City of Plattsburgh
41 City Hall Place
Plattsburgh, NY 12901
Phone: (518) 563-7701
Email: mayor@cityofplattsburgh-ny.gov

Michael Cashman, Supervisor, Town of Plattsburgh
151 Banker Rd
Plattsburgh, NY 12901
Phone: (518) 562-6800
Email: michaelc@townofplattsburgh.org

12. Miscellaneous.

(i) Governing Law. This MOA, and any dispute, claim or controversy arising out of or in connection with it, shall be governed by and construed in accordance with the law of State of New York.

(ii) Limitation of Liability. This MOA in no way assumes either party liable for risks or injuries incurred on any part of the property identified in this document.

(iii) No Oral Modification. This MOA may be modified or amended upon written consent of both parties or may be terminated for cause with 30-day written notice of either party.

(iv) Term and Termination. Unless terminated in accordance with the terms set forth herein, this MOA will remain in force and-effect.

(v) Counterparts. This MOA may be executed in multiple counterparts, each counterpart of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement as of the day and year first written above.

Date: April 16, 2021

CITY OF PLATTSBURGH

By: _____

Name: Christopher Rosenquest

Title: Mayor

Date: April 16, 2021

TOWN OF PLATTSBURGH

By: _____

Name: Michael Cashman

Title: Town Supervisor