

# **REAL ESTATE SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS**

THIS REAL ESTATE SALE AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_\_ day of February, 2012, by the **TIOGA COUNTY SOLID WASTE DISTRICT** (herein "Seller") and \_\_\_\_\_ (herein "Purchaser").

**1. REAL ESTATE.** Seller agrees to sell and Purchaser agrees to purchase, all upon the terms and subject to the conditions contained in this Agreement, that certain real property located at 1216 Route 17c, Barton, NY 13734, which is also identified as Tax Map No. 157.00-2-31 and Tioga County Deed Book 527, Page 248. Said property is located in the Town of Barton, County of Tioga, State of New York as more particularly described in Exhibit A to this Agreement (the "Real Estate"). The Real Estate is popularly known as the "Barton Transfer Station" and it includes all real property, improvements, and the New York State Department of Environmental Conservation Solid Waste Management Permit No. 7-4920-00050/00001 for that location.

**The Purchaser acknowledges that the buildings and scales on this property were impacted by the flood event of September 2011, but have since been cleaned and the scales have been recalibrated.**

**2. PURCHASE PRICE.** Purchaser agrees to purchase the Subject Property at a price of \_\_\_\_\_ (the "Purchase Price"), payable as follows:

2.1 Earnest money in the amount of twenty five percent (25%) of the Purchase Price (\$ \_\_\_\_\_) paid in accordance with the provisions of Paragraph 4 of this Agreement; and

2.2 The balance of the Purchase Price paid in accordance with Paragraph 4 of this Agreement, subject to adjustments and pro-rations as provided for herein.

**3. DEED OF CONVEYANCE; STATUS OF TITLE.** At closing of the purchase and sale of the Subject Property pursuant to this Agreement (the "Closing"), Seller shall convey title to the Real Estate to the Purchaser by a bargain and sale deed for the property (the "Deed"), subject only to the Permitted Exceptions (as such term is defined below).

**4. ESCROW; EARNEST MONEY; PAYMENT OF BALANCE OF PURCHASE PRICE.** Contemporaneously with the execution of this Agreement by Purchaser, Purchaser will deposit directly with the office of Coughlin & Gerhart, LLP, (attention Jeffrey M. Jacobs, Esq.) 27-29 Lake Street, Owego, New York 13827, attorneys for the Seller, in the form of a wire transfer of funds or a bank cashier's check ("Cash Equivalent") the sum of twenty five percent (25%) of the Purchase Price (\$ \_\_\_\_\_) (the "Escrow Deposit"). The

Escrow Deposit will be held by Coughlin & Gerhart LLP, in a non-interest bearing trust or escrow account and disbursed by Coughlin & Gerhart LLP strictly in accordance with the provisions hereof. On the "Closing Date" (as that term is defined in Paragraph 5, below), but in no event later than required to permit the timely closing of the Agreement by the Closing Date, Purchaser will cause the balance of the Purchase Price, plus all costs and prorations for which Purchaser is responsible hereunder, but less all proper credits due Purchaser from Seller hereunder, to be paid, in the form of Cash Equivalent, to Coughlin & Gerhart LLP, for the benefit of Seller. Escrow Agent shall disburse the Escrow Deposit and any other sums received from Purchaser on account as follows:

(i) To Seller, if and when the Closing occurs; or

(ii) To either Seller or Purchaser (as the case may be) after receiving written notice from one of said parties stating that the other party to this Agreement is in default, and requesting remittance of the Escrow Deposit; provided, however, that Escrow Agent shall not remit the Escrow Deposit until it has first delivered a copy of said notice to the other party and five (5) days have elapsed without the other party objecting to said disbursement. In the event of any objection to said disbursement by the said other party, Escrow Agent shall either continue to hold said Escrow Deposit in escrow until it receives written disbursement directions agreed to by both parties, or until a final court order with all appeals and appeals periods having expired; or it may, at any time, deposit the Escrow Deposit with a court of competent jurisdiction selected by it, and in such event, Escrow Agent shall be fully released and discharged from all obligations hereunder.

By its joinder in this Agreement, Escrow Agent agrees to act as escrow agent for Seller and Purchaser in accordance with the provisions of this Paragraph 4. The duties of Escrow Agent hereunder are only as specifically provided and are purely ministerial in nature. Escrow Agent shall incur no liability to the parties except for the good faith performance of its duties as described herein. Purchaser shall be responsible for the payment of all fees of Escrow Agent.

**5. CLOSING DATE.** The Closing shall take place on or before **May 1, 2012**, (the "Closing Date"), at the law offices of Coughlin & Gerhart, LLP, at 27-29 Lake Street, Owego, New York 13827, or at such other date, time or place upon which the parties mutually agree or by mail.

**6. PERMITTED EXCEPTIONS.** At Closing, the Subject Property shall be conveyed to Purchaser free and clear of all liens and encumbrances except as follows: (i) the lien of any real estate taxes which are not yet due and payable, (ii) matters of record or of character which do not interfere substantially with or affect materially and adversely the continued use of the Subject Property as it is presently being used; (iii) water, sewer, gas, oil, electric, cable television, and telephone lines or easements of record or as presently installed; (iv) prior grants, reservations or leases of water, coal, oil, gas or other minerals; (v) building and use restrictions of record; (vi) any matters apparent from an inspection of the Subject Property, and (vii) any

charges or installments for municipal improvements not assessed and due and payable as of the date of this Agreement. (The matters set forth in clauses (i) through (vii) are hereinafter referred to as the "Permitted Exceptions.")

Purchaser will, at Purchaser's sole cost and expense, obtain a preliminary title report for the Subject Property from a title company of Purchaser's selection (the "Preliminary Title Report"). If the Preliminary Title Report discloses any matter which needs to be released or removed in order for title to the Subject Property to be conveyed to Purchaser in accordance with the provisions of this Paragraph 6 (other than release or satisfaction of any mortgage or security interest granted by Seller with respect to the Subject Property, which Seller hereby agrees to release or satisfy at Closing), at least thirty (30) days following the date of this Agreement, time being of the essence, Purchaser will notify Seller in writing of such matter (a "Title Objection"). The failure of Purchaser to give notice to Seller within thirty (30) days following the date of this Agreement of any matter to which Purchaser has objection shall constitute an irrevocable waiver of Purchaser's right to raise such matter as a Title Objection. Upon receipt of a timely notice of a Title Objection, Seller will undertake such steps as Seller, acting in good faith, deems reasonable under the circumstance either (a) to cause such Title Objection to be released or satisfied or (b) to induce the title insurance company which issued the Preliminary Title Report to issue a title insurance policy to Purchaser without the Title Objection, it being understood that Seller shall have no obligation whatsoever to expend any sum or undertake any actual or potential liability in excess of \$500 in connection therewith. If at Closing, any Title Objection has not been released or removed despite Seller's good faith efforts as aforesaid, then Purchaser shall have the option to either (x) terminate this Agreement forthwith (in which event the Escrow Deposit and all other sums paid on account shall be repaid to Purchaser), or (y) accept title to the Subject Property subject to the Title Objection without any change in the Purchase Price.

**7. PRORATE EXPENSES.** General real estate taxes for 2012, if any, and municipal service charges shall be adjusted ratably between Purchaser and Seller as of the Closing Date based on a fiscal year, and all based upon the most current available bills. Said proration shall be final. Purchaser shall be solely responsible for any and all charges for municipal improvements assessed or becoming due from and after the date of Closing including future installments thereof.

**8. TAXES ON TRANSACTION.** Purchaser shall be fully responsible for any transfer taxes (including, without limitation, real estate transfer taxes) and real estate recording taxes and fees due in respect of the sale of the Real Estate pursuant to this Agreement.

**9. TITLE INSURANCE COSTS AND SURVEY.** Purchaser shall pay any cost of Title insurance. Purchaser shall pay any cost of a survey.

**10. SELLER'S CLOSING DELIVERIES.** Seller shall deliver the following documents at Closing:

10.1 Bargain and Sale deed conveying the Real Estate; and

10.2 Such other instruments of conveyance and transfer as shall be reasonably necessary to transfer to Purchaser all of Seller's right, title and interest to the Subject Property.

**11. PURCHASER'S DELIVERIES.** The following shall be delivered by Purchaser at Closing:

11.1 The payment as set forth in Paragraph 4; and

11.2 Any documentation needed for a Title Insurance policy (to be provided to Seller's attorney seven (7) days prior to closing.

**12. REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller hereby represents and warrants to Purchaser as follows:

**12.1 AUTHORITY.** Seller has the right, power and authority to enter into this Agreement and to sell, assign, transfer and convey to Purchaser the Subject Property and perform its obligations under the terms of this Agreement. All action necessary for the execution, delivery and performance of this Agreement by Seller has been taken and this Agreement is legally binding upon Seller.

**12.2 BROKERAGE OR FINDER'S FEES.** Neither Seller nor any of Seller's officers, agents, employees or stockholders has employed any brokers, finders or other intermediaries, or incurred any liability for any brokerage fees, finder's fees, commissions or other amounts, with respect to the transaction contemplated by this Agreement, which liabilities can be asserted against Purchaser or the Subject Property, or require payment by Purchaser.

**12.3 DISCLAIMER. SELLER IS MAKING NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER WITH RESPECT TO THE SUBJECT PROPERTY, (INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY AS TO THE CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS OF THE SUBJECT PROPERTY FOR A PARTICULAR PURPOSE), EXCEPT FOR THE WARRANTIES OF TITLE SPECIFICALLY SET FORTH IN THE DEED OF CONVEYANCE.**

**13. REPRESENTATIONS AND WARRANTIES OF PURCHASER.** Purchaser hereby represents and warrants to Seller as follows:

**13.1 ORGANIZATION.** Purchaser is a [REDACTED] duly organized, validly existing and in good standing under the laws of the State of [REDACTED].

**13.2 AUTHORITY.** Purchaser has the right, power and authority to enter into this Agreement and to purchase from Seller the Subject Property and perform its obligations under the terms of this Agreement. All action necessary for the execution, delivery and performance of this Agreement by Purchaser has been taken and this Agreement is legally binding upon Purchaser.

**13.3 BROKERAGE OR FINDER'S FEES.** Neither Purchaser nor any of Purchaser's officers, agents, employees or stockholders has employed any brokers, finders or other intermediaries, or incurred any liability for any brokerage fees, finder's fees, commissions or other amounts, with respect to the transaction contemplated by this Agreement, which liabilities can be asserted against Seller or the Subject Property, or require payment by Seller.

**14. DISCLAIMER BY PURCHASER OF WARRANTIES OF SELLER.** PURCHASER ACKNOWLEDGES THAT (I) IT AND ITS OFFICERS, AGENTS, EMPLOYEES, AND ADVISORS HAVE BEEN GIVEN FULL AND COMPLETE OPPORTUNITY TO EXAMINE THE SUBJECT PROPERTY AND RECORDS AND OTHER INFORMATION WITH RESPECT TO THE SUBJECT PROPERTY PRIOR TO ENTERING INTO THIS AGREEMENT AND SUCH PARTIES HAVE FULLY AVAILED THEMSELVES OF SUCH OPPORTUNITY TO THE EXTENT THAT THEY IN THEIR SOLE JUDGMENT DEEMED APPROPRIATE, DESIRABLE AND PRUDENT, (II) PURCHASER AND SUCH PARTIES TAKE FULL RESPONSIBILITY FOR DETERMINING THE SCOPE OF THEIR INVESTIGATIONS OF THE SUBJECT PROPERTY AND FOR THE MANNER IN WHICH SUCH INVESTIGATIONS HAVE BEEN CONDUCTED, (III) PURCHASER, TOGETHER WITH SUCH OTHER PARTIES, ARE FULLY CAPABLE OF EVALUATING THE ACCURACY OF THE INFORMATION AND MATERIAL OBTAINED BY PURCHASER IN THE COURSE OF SUCH INVESTIGATION, AND (IV) PURCHASER AND SUCH PARTIES HAVE NOT RELIED ON SELLER OR ON ANY OFFICER, EMPLOYEE OR AGENT OF SELLER OR UPON ANY WRITTEN OR ORAL INFORMATION, REPRESENTATION OR FACT PROVIDED BY ANY SUCH PARTY WITH RESPECT TO ANY MATTER IN CONNECTION WITH PURCHASER'S EVALUATION OF THE SUBJECT PROPERTY, INCLUDING, BUT NOT LIMITED TO THE PHYSICAL CONDITION THEREOF. **ACCORDINGLY, PURCHASER AGREES TO PURCHASE THE SUBJECT PROPERTY "AS IS" AND "WHERE IS," WITHOUT ANY WARRANTY WHATSOEVER EXPRESS OR IMPLIED FROM SELLER TO PURCHASER.**

**15. PURCHASER'S INDEMNITY.** Purchaser shall hold harmless, indemnify and defend Seller (by counsel reasonably satisfying to Seller) from and against any and all loss, claim damage, liability or expense which Seller may incur by reason of Purchaser's breach of or failure to perform any of its covenants, representations or warranties in this Agreement or in any schedule, certificate, exhibit, or other instrument furnished or to be furnished under this Agreement.

**16. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS.** All obligations of Seller under this Agreement are subject to the fulfillment, on or prior to Closing, of each of the following conditions:

**16.1 PERFORMANCE OF OBLIGATIONS.** All the terms, conditions, covenants and obligations of this Agreement to be complied with and performed by Purchaser on or before Closing shall have been complied with and performed in all material respects.

**16.2 REPRESENTATIONS AND WARRANTIES TRUE AT CLOSING.** The representations and warranties made by Purchaser herein shall be correct in all material respects on and as of Closing, with the same force and effect as though such representations and warranties had been made on and as of Closing, and by consummation of the transactions contemplated by this Agreement, Purchaser shall be deemed to affirm that the representations and warranties made by Purchaser herein are correct in all material respects on and as of Closing, with the same force and effect as though such representations and warranties had been made on and as of Closing.

**16.3 NO INJUNCTION.** No injunction, temporary restraining order or other administrative or judicial order shall have been issued enjoining or restraining the transactions contemplated hereby in whole or in part.

**17. CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATIONS.** All obligations of Purchaser under this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions:

**17.1 PERFORMANCE OF OBLIGATIONS.** All the terms, conditions, covenants and obligations of this Agreement to be complied with and performed by Seller on or before the Closing Date shall have been complied with and performed in all material respects.

**17.2 REPRESENTATIONS AND WARRANTIES TRUE AT CLOSING.** The representations and warranties made by Seller herein shall be correct in all material respects on and as of Closing, with the same force and effect as though such representations and warranties had been made on and as of Closing, and by consummation of the transactions contemplated by this Agreement, Seller shall be deemed to affirm that the representations and warranties made by Seller herein are correct in all material respects as though such representations and warranties had been made on and as of Closing.

**17.3 NO INJUNCTION.** No injunction, temporary restraining order or other administrative or judicial order shall have been issued enjoining or restraining the transactions contemplated hereby in whole or in part.

**18. SURVIVAL OF REPRESENTATIONS AND WARRANTIES.** All covenants, other representations and warranties made by Seller or Purchaser contained in this Agreement shall terminate at Closing.

**19. MISCELLANEOUS PROVISIONS.**

**19.1 FURTHER ASSURANCES.** Each of the parties hereto agrees to execute such further documents and to take such further actions as may be reasonably necessary in order to effect consummation of the transactions contemplated hereby.

**19.2 CONTINGENCIES.** This Agreement shall be contingent upon the following:

(a) Purchaser may, at Purchaser's sole cost and expense, obtain a Phase I environmental audit of the Subject Property (the "Audit"). If the Audit discloses that the Subject Property has been used for the handling, treatment, storage or disposal of any hazardous or toxic substances as defined under any applicable state or federal laws or regulations ("Contamination"), then at least thirty (30) days following the date of this Agreement, time being of the essence, Purchaser will so notify Seller in writing. The failure of Purchaser to give such notice to Seller within thirty (30) days following the date of this Agreement shall constitute an irrevocable waiver of this contingency and the parties shall proceed to Closing. Upon receipt of a timely notice that the Audit discloses Contamination, Purchaser shall provide Seller with a copy of such audit and Seller may undertake such steps as Seller deems reasonable under the circumstances to cause such Contamination to be remedied, it being understood that Seller shall have no obligation whatsoever to expend any sum or undertake any actual or potential liability in excess of \$500 in connection therewith. If at Closing, any Contamination has not been remedied, then Purchaser shall have the option to either (a) terminate this Agreement forthwith (in which event the Escrow Deposit shall be repaid to Purchaser), or (b) accept title to the Subject Property subject to the Contamination without any change in Purchase Price.

(b) Inspections. Seller authorizes Purchaser and its engineer and/or other experts, at Purchaser's expense, to go upon the Property, at any reasonable time for the purpose of making inspections (including but not limited to the inspection(s) contemplated in Paragraph 19.2(a) above). Such inspections shall be performed to cause no damage to the Property or improvements thereon, and Purchaser shall repair any damage to the Property or improvements caused by Purchaser's or its agent's entry. Purchaser agrees to defend and hold Seller and the Property harmless from all claims and liabilities (including reasonable attorney's fees, costs and expenses) for personal injury, physical damage to any person or the Property, or mechanic's or materialmen's liens which may be asserted against the Property solely as a result of any such entry by Purchaser, its agents or designees.

### **19.3 DEFAULT.**

(a) By Purchaser. In the event of a default under this Agreement by Purchaser, Seller may terminate this Agreement by written notice to Purchaser and, in addition, at Seller's option, elect to: (i) accept payment of the Escrow Deposit as liquidated damages, in which event Seller shall waive all claims for loss of bargain, and for all direct, out-of-pocket costs and expenses incurred by Seller, including, but not limited to attorney's fees, or (ii) seek relief in an action for specific performance; provided, however, that an election by Seller to pursue one or the other of the foregoing remedies shall not preclude Seller from pursuing the other remedy until full satisfaction shall have been received on the remedy pursued.

(b) By Seller. In the event of a default under this Agreement by Seller, Purchaser may terminate this Agreement by written notice to Seller and, in addition, at Purchaser's option, elect to: (i) waive any claim for loss of bargain, in which event all monies paid on account, including, but not limited to, the Escrow Deposit, shall be repaid to Purchaser and in addition, Seller shall pay to Purchaser an amount equal to all of Purchaser's direct out-of-pocket costs and expenses arising out of the transactions contemplated by this Agreement including, but not limited to, title examination and attorney's fees (in a total amount not exceeding \$1,000), or (ii) seek relief in an action for specific performance; provided, however, that an election by Purchaser to pursue one or the other of the foregoing remedies shall not preclude Purchaser from pursuing the other remedy until full satisfaction shall have been received on the remedy pursued.

**19.4 ASSIGNMENT.** Purchaser may not assign this Agreement or any of its rights, interests or obligations hereunder without the express prior written consent of Seller; provided that Purchaser may assign the contract to an entity to be formed after the date hereof as long as Purchaser continues to be obligated hereunder and the appropriate representations and warranties are incorporated into the assignment. Any assignment by Purchaser which is consented to by Seller shall not relieve Purchaser of any further liability under this Agreement even though the assignee assumes all of Purchaser's obligations hereunder. Any attempted assignment which fails to comply with this Paragraph 19.4 shall be void.

**19.5 APPLICABLE LAW.** This Agreement shall be interpreted, construed and enforced in accordance with the internal laws of the State of New York.

**19.6 NOTICE.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given or made when (i) delivered by hand, or (ii) five (5) business days after deposit in the United States Mail, certified or registered, postage pre-paid, return receipt requested, or (iii) the business day immediately following timely deposit with a nationally recognized overnight courier service (which shall include Federal Express) to the parties at the following addresses:

**If to Purchaser, to:**

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**With a copy to:**

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**If to Seller, to:**

Judith M. Quigley, Esq.  
Tioga County Attorney  
56 Main Street  
Owego, New York 13827  
Phone (607) 687-8253  
Fax (607) 223-7003

**With a copy to:**

Jeffrey M. Jacobs, Esq.  
Coughlin & Gerhart LLP  
PO Box 2039  
Binghamton, New York 13902  
Phone (607) 723-9511  
Fax (607) 723-1530

By notice complying with the requirements of this Paragraph 19.6, each party shall have the right to change the address for all future notices, or other communications and payments to such party; provided, however, that the designation of a change of addressee or address, or both, by notice given hereunder shall not be effective until actually received. Any addressee designated above to whom copies of notices are designated to be sent shall be provided copies of notices for informational purposes only, any such copies may be sent via regular mail and a failure to give or to receive copies of notices shall not affect the validity of notice given to the parties or otherwise be construed as a failure to give notice.

**19.7 AMENDMENT AND WAIVER.** No term or provision of this Agreement may be altered, amended, changed, waived, terminated or modified in any respect or particular except by written instrument signed by or on behalf of the party to be charged therewith. No waiver by either party of any breach hereunder shall be deemed a waiver of any other or any subsequent breach.

**19.8 SUCCESSORS AND ASSIGNS.** All covenants, representations, warranties and agreements of the parties contained herein shall be binding upon and inure to the benefit of its respective successors and permitted assigns.

**19.9 ENTIRE AND SOLE AGREEMENT.** This Agreement and the schedules hereto constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, promises and understandings, whether written or oral, with respect to the subject matter hereof and thereof. Neither party hereto shall be bound by or charged with any written or oral agreements, representations, warranties, statements, promises or understandings not specifically set forth in this Agreement or in the exhibits hereto, or in the documents and instruments to be delivered on or before Closing.

**19.10 SEVERABILITY.** Whenever possible, each provision of this Agreement and any other statement, instrument or transaction contemplated hereby or relating hereto shall be interpreted in such manner as to be effective and valid under such applicable law, but, if any provision of this Agreement or any other statement, instrument or transaction contemplated hereby or relating hereto shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement or any other statement, instrument or transaction contemplated hereby or relating hereto.

**19.11 COUNTERPARTS; CAPTIONS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. All paragraph headings and other captions used in this Agreement and the table of contents are for convenience only, are not a part of this Agreement and shall not be used in construing it.

**19.12 EXPENSES.** Except as otherwise expressly set forth herein, each party shall pay and be solely responsible for the expenses incurred by it under this Agreement or in connection herewith, including counsel fees and expenses of its representatives, whether or not the transactions contemplated by this Agreement are consummated.

**19.13 CASUALTY OR CONDEMNATION.** If, prior to Closing, all or a material part of the Subject Property is destroyed or is subject to condemnation, Seller shall so notify Purchaser and either party shall have the right to terminate this Agreement. If the

Agreement is not so terminated, there will be no adjustment in the Purchase Price provided for herein; however, at Closing, Seller shall assign to Purchaser any insurance or condemnation proceeds to which Seller may be entitled in connection with such casualty or condemnation.

**19.14 TIME.** Time is of the essence in this Agreement and of each and every provision contained in this Agreement. If the date for performance of either Purchaser's or Seller's obligations under this Agreement falls on a Saturday, Sunday or a legal holiday, the time for performance shall be extended to the next succeeding business day.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement on the day and year first above written.

ATTEST:

SELLER: Tioga County Solid Waste District

\_\_\_\_\_  
Maureen Dougherty, Legislative Clerk  
Tioga County

By: \_\_\_\_\_  
Dale Weston, Legislative Chairman  
Tioga County

PURCHASER:

\_\_\_\_\_  
*Name of Individual or Corporation*

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name (type)*

\_\_\_\_\_  
*Title*

ATTEST: (BY SECRETARY OF A CORPORATION)

Address:

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_

\_\_\_\_\_  
*Name (type)*

\_\_\_\_\_

\_\_\_\_\_  
*Title*

\_\_\_\_\_

**JOINDER**

AND, NOW, this \_\_\_\_\_ day of February, 2012, Coughlin & Gerhart, LLP joins in this Real Estate Sale Agreement with Joint Escrow Instructions for the purposes stated in Paragraph 4, agreeing to act as Escrow Agent as therein provided.

ATTEST:

ESCROW AGENT: Coughlin & Gerhart, LLP

\_\_\_\_\_

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

Jeffrey M. Jacobs, Esq. Partner

Exhibit A

(Copy of Referee Deed dated and recorded on July 22, 1992 at the Tioga County Clerk's Office at Book 527 of Deeds at page 248)

**This Deed,**

Book 527 of Deeds 248

Made the 22nd day of July Nineteen Hundred and Ninety-Two

Between MARTIN H. TILLAPPAUGH,

Referee duly appointed in the action hereinafter mentioned, grantor, and THE TIOGA COUNTY SOLID WASTE DISTRICT, 56 Main Street, Owego, New York 13827

grantee :

Witnesseth, that the grantor, the referee appointed in an action between THE COUNTY OF TIOGA, NEW YORK, ON BEHALF OF THE TIOGA COUNTY SOLID WASTE DISTRICT,

plaintiff, and

'SOLID WASTE INDUSTRIES, INC.; THE COUNTY OF TIOGA; BENTON B. KENDIG, III; 'SENECA MEADOWS, INC.; 'MARINE MIDLAND BANK, N.A.; WILLIAM DANIELS; ROSEMARY DANIELS; 'RON PARMENTER MOTORS, INC.; 'PEOPLE OF THE STATE OF NEW YORK; and 'ELKAY, INC.,

defendants,

foreclosing a certain Conditional Mortgage recorded on the 4th day of February, 1986 in the office of the Clerk of the County of Tioga in Liber 266 of Mortgages, at page 191, which Mortgage instrument was assigned to the Tioga County Solid Waste District by Assignment of Mortgage dated November 11, 1987 and recorded in the Tioga County Clerk's Office on December 4, 1987, in pursuance of a judgment entered at a special term of the

Supreme Court of the State of New York

on the 28th day of May, 1992

and in consideration of

FIVE MILLION 00/100 Dollars (\$ 5,000,000.00) paid by the grantee, being the highest sum bid at the sale under said judgment, does hereby grant and convey unto the grantee, all the right, title and interest which the said

SOLID WASTE INDUSTRIES, INC.,

the mortgagor~~s~~ <sup>its</sup> aforesaid, had at the time of the execution or recording of said mortgage, it being ~~their~~ <sup>its</sup> interest in said premises which was so sold and is hereby conveyed, together with all the right, title and interest of the parties to the aforesaid action, of, in and to.

SCHEDULE A IS ATTACHED HERETO AND MADE A PART HEREOF.

SCHEDULE A

ALL THAT TRACT, PIECE OR PARCEL OF LAND SITUATE in the Town of Barton, County of Tioga, State of New York, and being part of Lot 2 of the Douglas Tract, bounded and described as follows:

Beginning at a point in the easterly bound of the Waverly-Owego Part 2 State Highway No. 5168 at its intersection with the westerly bound of the former Lehigh Valley Railroad now owned by Ralph Porter, being marked by a concrete marker located 75' easterly, measured at right angles, from station 225+00 of the survey baseline for the state highway as described in Deed Book 220 at Page 152, filed in the Tioga County Clerk's Office; thence along the easterly bound of the said state highway on a curve to the right having a radius of 3,648.41', a length of 237.76' and a chord running N 6°08'25" W a distance of 237.72' to a point; thence along the easterly bound of the said state highway on a curve to the right having a radius of 3098.21', a length of 342.12' and a chord running N 1°05'36" W a distance of 341.95' to a point; thence along the easterly bound of the said state highway N 8°06'16" E a distance of 607.00' to a point; thence along the southerly bound of property now or formerly of Elmira Transit Mix, Inc. as described in Deed Book 337 at Page 463 and in Deed Book 343 at Page 1104 filed in the Tioga County Clerk's Office, S 75°44'57" E a distance of 99.02' to a point marked by an iron pin; thence continuing on the same course a distance of 789.74' to a point marked by an iron pin; thence continuing on the same course a distance of 11.68' to a point marked by an iron pin; thence along an old wire fence marking the westerly bound of property of Consolidated Rail Corporation on a curve to the left having a radius of 5,945.31', a length of 226.32', and a chord running S 38°22'11" W a distance of 226.31' to a point; thence continuing along the westerly bound of Consolidated Rail on a curve to the left having a radius of 2384.19', a length of 386.95' and a chord running S 32°37'47" W a distance of 386.52' to a point; thence continuing along the westerly bound of Consolidated Rail on a curve to the left having a radius of 3804.60', a length of 454.97' and a chord running S 24°33'16" W a distance of 454.70' to a point; thence continuing along Consolidated Rail S 21°07'43" W a distance of 382.27' to a point; thence continuing along the westerly bound of Consolidated Rail on a curve to the left having a radius of 3,675.52', a length of 357.82', and a chord running S 18°20'21" W a distance of 357.68' to a point; thence continuing along the westerly bound of Consolidated Rail on a curve to the left having a radius of 1,464.60' a length of 343.92' and a chord running S 8°49'28" W a distance of 343.13' to a point marked by an iron pin located in the easterly bound of the aforesaid state highway; thence along said easterly bound N 455°02" W a distance of 997.82' to the point of beginning, containing 19.688 acres of land, more or less.

Tax Map No. 157.00-2-31.00

Tax Mailing Address: 56 Main Street  
Owego, New York 13827

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REFEREE'S DEED

Dated: July 22, 1992  
Rec'd: July 22, 1992  
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