

BOARD OF SUPERVISORS

Brown County



305 E. WALNUT STREET

P. O. BOX 23600

GREEN BAY, WISCONSIN 54305-3600

PHONE (920) 448-4013 FAX (920) 448-6221

E-mail BrownCountyCountyBoard@co.brown.wi.us.

GUY ZIMA, CHAIR

MARY SCRAY, VICE CHAIR

PUBLIC NOTICE OF MEETING

Pursuant to Section 19.85 and 59.094, Wis. Stats., notice is hereby given to the public that a **special** meeting of the **BROWN COUNTY BOARD OF SUPERVISORS** will be held on **Thursday, September 29, 2011 at 7:00 p.m.** in the Legislative Room #203, 100 N. Jefferson Street, Green Bay, Wisconsin.

The following matters will be considered:

Call to order.

Invocation.

Pledge of Allegiance to the Flag.

Opening Roll Call.

1. Adoption of Agenda.
2. Consideration of adoption of the Brown County redistricting Plan 29D as amended by the Brown County Board as Brown County's Supervisory District map and to cover the cost of adding three new supervisors by making appropriate adjustments to the County Board budget at the County's annual budget meeting in November.
3. To discuss and potentially approve an agreement between Brown County and Oneida Energy, Inc. including the opportunity to go into closed session to discuss the competitive nature of the agreement.
 - a. **Closed Session:** Wis. Stat. 19.85 (1)(e) "Deliberating or negotiating the purchase of public properties, the investing of public funds or conducting other specified public business whenever competitive or bargaining reasons require a closed session" (pertaining to the Brown County/Oneida Energy, Inc., Waste Transfer and Hauling Project negotiation and Agreement.)
4. Such other matters as authorized by law.
5. Closing Roll Call.
6. Adjournment to regularly scheduled meeting Wednesday, October 19, 2011 at 7:00 p.m., Legislative Room #203, 100 N. Jefferson Street, Green Bay, Wisconsin.

Submitted by:

A handwritten signature in black ink, appearing to read "Guy Zima".

Guy Zima

County Board Chair

Notice is hereby given that action by the County Board of Supervisors may be taken on any of the items which are described or listed in this agenda. The Committee at their discretion may suspend the rules to allow comments from the public during the meeting.

Red-delete
Blue-add back

SW Board and County Board Amendments to OEI Contract

5b. Motion to approve the contract language as drafted with the following exceptions and those exceptions would be:

1. Brown County would deliver 54,750 tons of waste annually to OEI, which would exclude Green Bay from directly contracting with OEI.
2. Brown County would be made whole due to loss of revenues if Oneida energy project decreases the amount of char and nonprocessable waste that would be made available to the county for final disposal.

Proposed changes to address SW Board and County Board Amendments (Not approved by OEI as of Friday September 23, 2011 9:30 am)

Article 1

1. Acceptable Waste. Wastes consisting solely of nonhazardous, mixed municipal solid wastes, which Wastes consist primarily of combustible materials permitted **the landfill designated by Brown County** and by the Facility's licenses and permits (copies of which OEI shall provide to Brown County before the Initial Operating Date) and which are not Discretionary Waste

3. Annual Tonnage. The number of Tons of Acceptable Waste that Brown County is obligated to deliver to the Facility and that OEI is obligated to process during an Operating Year. The Annual Tonnage shall be up to 54,750 Tons per Operating Year based on (approximately 1,052 tons per week or 210 tons per day Monday through Friday, excluding holidays) and Brown County shall use good faith efforts to ensure the Annual Tonnage is delivered in an even manner over the course of each Operating Year. **Annual tonnage shall include acceptable waste from the City of Green Bay.** The Annual Tonnage shall be prorated during the first Operating Year to the extent it less than a full calendar year. OEI shall cause to be delivered all waste generated at the Facility to the landfill designated by Brown County approximately 8,395 tons of non processable waste and 14,600 tons of char based on (approximately 161 tons per week or 23 tons per day of non processable, waste and approximately 280 tons per week or 40 tons/day of char). OEI shall use good faith efforts to ensure the estimation of annual tons is delivered in an even manner over the course of each Operating Year.

Article 3

D. OEI may recover recyclable or otherwise reusable materials from accepted Waste prior to processing, but all remaining Waste that is accepted by the Facility shall be processed in the Facility or delivered to the landfill designated by Brown County within allowable time limits **and permits** imposed by local, State or federal regulations. OEI shall be solely responsible for and exclusively entitled to the benefits of the marketing of any materials it may recover from Waste delivered to the Facility and accepted by OEI. Resale of or the supply of recovered materials as retail commodities to others in their original form is prohibited. Materials may be recovered as scrap.

E. OEI shall not contract with Brown County's Customers (defined below) for procurement of Waste handled as a part of Brown County's Solid Waste Management System for landfill disposal without Brown County's prior written permission. OEI shall not allow Brown County Customers to dispose of Wastes at the Facility without Brown County's prior written permission. For purposes of this provision, "Customers" means those having a solid-waste disposal contracts with Brown County, or who have delivered Waste to Brown County within the preceding six months, other than the Oneida Tribe of Indians of Wisconsin, **the City of Green Bay** and private haulers currently contracted with OEI delivering non-Brown County Acceptable waste

Article 5 C.

Failure to Deliver Annual Tonnage. If Brown County fails to deliver in an Operating Year the Annual Tonnage, it shall pay a Tipping Fee in the amount of the then current Tipping Rate multiplied by the number of Tons by which Brown County's deliveries to the Facility are less than the Annual Tonnage (e.g., if Brown County delivers only 50,000 Tons, the 4,750 Ton shortfall shall be multiplied by the then current Tipping Rate and Brown County shall pay such amount to OEI). If the Facility fails to process any portion of the Annual Tonnage delivered by Brown County and accepted by OEI within five days of delivery and acceptance, OEI will pay Brown County the Tipping Rate per Ton for such unprocessed portion of the Annual Tonnage. If OEI fails to deliver in an Operating Year the estimated annual tonnage of non processable waste and char, it shall pay a Tipping Fee in the amount of the negotiated landfill tipping fee multiplied by the number of Tons by which OEI deliveries to the designated landfill are less than the estimated annual tonnage of non processable waste and char.

BROWN COUNTY/ONEIDA ENERGY, INC. WASTE TRANSFER AND HANDLING AGREEMENT

This Waste Transfer and Handling Agreement (hereinafter the "Agreement") is entered into as of October 1, 2011 by and between BROWN COUNTY, WISCONSIN, a Wisconsin body corporate ("Brown County"), through its Port and Solid Waste Department, and ONEIDA ENERGY, INC., a Wisconsin corporation ("OEI").

RECITALS

- A. OEI Oneida Energy waste to energy project (the "Project"), the purpose of which is to convert Waste (defined below) into hydrocarbon gas that will be combusted to generate clean energy.
- B. As part of the Project, OEI is developing a waste gasification facility (the "Facility"), which will be located at 1230 Hurlbut St., Green Bay, Wisconsin
- C. Brown County currently receives Waste collected from its residents, industry and commercial sources at the Waste Transfer Station (defined below), from which it is transported to a licensed municipal solid waste landfill pursuant to the Brown County, Outagamie County and Winnebago County Solid Waste Agreement.
- D. In furtherance of the Project, Brown County will transfer (or cause to be transferred) a certain amount of Waste to the Facility. The Facility will accept deliveries of such Waste pursuant to the terms of this Agreement.

AGREEMENTS

In consideration of the mutual covenants, representations, warranties and agreements set forth herein, the parties agree as follows:

ARTICLE ONE. DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings ascribed to them in this Article:

1. Acceptable Waste. Wastes consisting solely of nonhazardous, mixed municipal solid wastes, which Wastes consist primarily of combustible materials permitted to accept by the landfill designated by Brown County and the Facility's licenses and permits (copies of which OEI shall provide to Brown County before the Initial Operating Date) and which are not Discretionary Waste.

2. Agreement. This Agreement, as it may be amended from time to time.

3. Annual Tonnage. The number of Tons of Acceptable Waste that Brown County is obligated to deliver to the Facility and that OEI is obligated to process during an Operating Year. The Annual Tonnage shall be up to 54,750 Tons per Operating Year based on (approximately 1,052 tons per week or 210 tons per day Monday through Friday, excluding holidays) and Brown County shall use good faith efforts to ensure the Annual Tonnage is delivered in an even manner over the course of each Operating Year. **Annual tonnage shall include acceptable waste from the City of Green Bay.** The Annual Tonnage shall be prorated during the first Operating Year to the extent it less than a full calendar year. OEI shall cause to be delivered all waste generated at the Facility to the landfill designated by Brown County approximately 8,395 tons of non processable waste and 14,600 tons of char based on (approximately 161 tons per week or 23 tons per day of non processable, waste and approximately 280 tons per week or 40 tons/day of char). OEI shall use good faith efforts to ensure the estimation of annual tons is delivered in an even manner over the course of each Operating Year.

Municipal waste not accepted at the facility due to a shutdown will be directed to the Brown County Transfer Station and disposed of at a BOW landfill. This tonnage may reduce the Annual tonnage delivered to the OEI facility.

4. Delivery Hours. The hours set by OEI during which deliveries of Acceptable Waste shall be accepted at the Facility, which shall be at least eight hours per day between 7:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays. OEI shall provide notice of the Delivery Hours to Brown County from time to time. OEI

may suspend Delivery Hours due to Shutdowns, Force Majeure events, emergencies, unsafe conditions or governmental orders to do so. If the Delivery Hours at the Facility are materially limited for any of the above listed reasons in a manner that makes delivery of Waste impracticable, Brown County's obligation to deliver the Annual Tonnage shall be suspended until the Delivery Hours are no longer materially limited.

5. Discretionary Waste. Wastes, not otherwise defined as Acceptable Waste or Unacceptable Waste, which OEI may accept, at its sole discretion, but which it is not otherwise obligated to accept for processing and disposal, including but not limited to the following: inorganic demolition or construction debris containing nonmaterial amounts of concrete and any other Waste that in the good faith judgment of OEI (a) could reasonably be expected to cause jam-ups, slowdowns, stoppage, failure or damage to the Facility; (b) could reasonably be expected to cause adverse consequences to the Facility or its operation because of excessive moisture, high non-combustible content or similar reasons; or (c) is an item similar in kind or effect to inorganic demolition or construction debris containing an excessive amount of concrete.

6. Effective Date. October 1, 2011.

7. Facility. OEI's waste gasification facility and ancillary facilities, together with any ancillary facilities that may hereafter be acquired and/or constructed by OEI at 1230 Hurlbut St. , and that are used for, or in conjunction with, the processing of Waste and the production of energy.

8. Force Majeure. With regard to the performance of any obligation under this Agreement, events such as an act of God, act of public enemy, sabotage, wars, blockade, insurrection, riots, explosions, fires, floods, storm, lightning, earthquake, wind, ice, perils of the sea, strikes, lockouts or other industrial disturbances, drought, appropriation and other causes not reasonably within the control of either party, including, without limitation, public or political reaction to events at facilities similar to the Facility.

9. Hauler. Any entity or person delivering Waste to the Facility on behalf of Brown County, including Brown County and its agents, employees and customers.

10. Hazardous Waste. Waste defined as hazardous by federal or state law, including but not limited to the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation and Liability Act, including amendments thereof, or any federal or state laws, regulations, orders or other actions promulgated or taken at any time and from time to time, or which if were processed at the Facility would be deemed hazardous at any time during the term of this Agreement.

11. Infectious Waste. Waste which has disease-causing potential, including, but not limited to, pathological and surgical Wastes, medical clinic Wastes, Wastes from biological laboratories, syringes, needles, blades, tubing, bottles, drugs, chemicals, personal hygiene Wastes and carcasses used for medical purposes. Tissues, diapers, sanitary napkins, kitty litter and similar items commonly disposed of in ordinary household Waste shall not be deemed to be Infectious Waste if included in small amounts customarily found in Waste from residential sources so long as the disposal and processing of such material by OEI at the Facility is permitted by, and shall not cause or result in OEI being in violation of, applicable laws, statutes, rules, regulations, permits and orders of any and all governmental entities having jurisdiction over OEI and/or the Facility.

12. Initial Operating Date. The date on which the Facility first becomes fully operational.

13. OEI. Oneida Energy, Inc., 1239 Flightway Drive, DePere, Wisconsin 54115, a Wisconsin corporation.

14. Operating Month. A calendar month.

15. Operating Year. A 12-month period beginning January 1 and concluding December 31 of the same year. The first Operating Year shall be the period beginning on the Initial Operating Date and concluding on December 31 of the same year.

16. Person or Persons. Any individual, corporation, partnership, joint venture, association, joint stock company, trust company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other entity.

17. Residue. Materials, residues and byproducts derived from the acceptance and processing of Waste and combustion of Waste-derived fuel at the Facility, including, but not limited to, ash.

18. Shutdown. A temporary cessation of operation of the Facility resulting from any event, other than a Force Majeure event, which prevents or limits the Facility from accepting Waste for a limited period of time.

19. Shutdown Waste. All Acceptable Waste that cannot be accepted at the Facility for processing during a Shutdown, but which OEI otherwise would be required to accept at the Facility during the period of time constituting said Shutdown.

20. State. The State of Wisconsin.

21. Termination of All Operations. The voluntary or involuntary cessation of waste processing, recycling, gasification and disposal at the Facility with no intention or no capacity on the part of OEI, or its successors and/or assigns, to resume operations.

22. Tipping Fees. The payments required to be made under this Agreement by Brown County to OEI for accepting and processing Waste at the Facility or OEI to Brown County for landfill tipping fees at the landfill designated by Brown County. Tipping Fees are calculated by multiplying the Tipping Rate by the Tons of Waste delivered or that should have been delivered to the Facility on behalf of Brown County or to the landfill by OEI.

23. Tipping Rate. The price Brown County shall pay per Ton for Waste delivered or that should have been delivered under this Agreement or the price that OEI shall pay per Ton for waste delivered or that should have been delivered to a landfill designated by Brown County.

24. Ton. A quantity of 2,000 pounds. For purposes of this Agreement, Tons shall be calculated to the nearest hundredth of a Ton.

25. Unacceptable Waste. Any Waste deemed unacceptable for processing at the Facility by federal or state laws, regulations, rules or orders, or by the Facility's licenses or permits, or otherwise deemed unacceptable for processing at the Facility by OEI. OEI & Brown County both acknowledge that the wastes listed below are found in municipal solid waste. Unacceptable Waste includes, but is not limited to, the following:

- (a) Hazardous Waste;
- (b) Infectious Waste;
- (c) electronic devices identified in Wisconsin Statutes section 287.07(5);
- (d) lead acid batteries;
- (e) firearms, ammunition and explosives;
- (f) propane tanks;
- (g) municipal wastewater treatment plant sludge;
- (h) agricultural wastes;
- (i) soil; and

(j) concrete, stone and other noncombustible inorganic materials, except to the extent that such materials are present in the nonmaterial quantities typically found in mixed municipal waste or demolition and construction debris.

26. Waste. All personal property discarded for being of little use or useless.

27. Waste Transfer Station. The waste transfer station operated by the Brown County Port and Solid Waste Department located at 3734 West Mason Street (State Highway 54), Oneida, Wisconsin 54155.

ARTICLE TWO. REPRESENTATIONS AND WARRANTIES

A. OEI warrants and represents to Brown County the following as of the Effective Date:

1. OEI is a corporation duly organized and validly existing under the laws of the State, is in good standing and authorized to do business under the laws of the State and has full power and authority to execute, deliver and perform this Agreement in accordance with its terms.

2. The execution and delivery of this Agreement has been duly authorized by all appropriate corporate actions and this Agreement constitutes the legal, valid and binding obligation of OEI.

3. The execution, delivery and performance of this Agreement will not (a) violate any provision of law or any order of any court or other agency of government applicable to OEI or (b) conflict with, result in a breach of, or constitute a default under any material indenture, agreement or other instrument to which OEI is now a party.

4. With respect to the ownership and operation of the Facility, the OEI has or will obtain by the Initial Operating Date all permits, certificates, licenses, approvals, consents and other authorizations required by law. OEI shall provide copies of these documents to Brown County before the Initial Operating Date.

5. To the best of its knowledge, there is no pending or threatened litigation or governmental proceeding which would affect its legal ability to sign this Agreement or perform its obligations hereunder.

B. Brown County warrants and represents to OEI the following:

1. The execution and delivery of this Agreement has been duly authorized by all appropriate actions of the Brown County Solid Waste Board, the Brown County Board of Supervisors and signed by the County Executive. This Agreement has been duly executed and delivered by Brown County's authorized officers, and this Agreement constitutes the legal, valid and binding obligation of Brown County, as applicable, enforceable in accordance with its terms.

2. To the best of its knowledge, there is no pending or threatened litigation or governmental proceeding which would affect its legal ability to sign this Agreement or perform its obligations hereunder.

3. It is a corporate body duly organized and validly existing and organized under the laws of the State and has full power and authority to enter into and to perform this Agreement in accordance with its terms, including, without limitation, the power to levy and collect taxes to pay its obligations under this Agreement.

4. The execution, delivery and performance of this Agreement will not (a) violate any provision of law or any order of any court or other agency of government or (b) conflict with, result in breach of, or constitute a default under any material indenture, agreement or other instrument to which Brown County is now a party.

5. Brown County has contracts to meet its obligations under this agreement.

ARTICLE THREE. OPERATION OF THE FACILITY

A. Beginning no later than the Initial Operating Date, OEI shall, except as otherwise expressly provided for herein, operate and maintain the Facility, or cause it to be operated and maintained, as to be capable of receiving Acceptable Waste from Brown County or its customers during Delivery Hours in quantities up to the Annual Tonnage.

B. OEI agrees to procure and maintain any needed local, State or federal approvals and permits necessary to operate the Facility, and shall provide copies of these documents to Brown County before the Initial Operating Date. OEI agrees to operate the Facility in compliance with applicable laws, regulations and permit requirements.

C. Brown County shall keep OEI informed as to the identity of all Haulers licensed or authorized to deliver Waste to the Facility on behalf of Brown County and/or its customers, and of any change in such authorizations.

D. OEI may recover recyclable or otherwise reusable materials from accepted Waste prior to processing, but all remaining Waste that is accepted by the Facility shall be processed in the Facility or delivered to the landfill designated by Brown County within allowable time limits and permits imposed by local, State or federal regulations. OEI shall be solely responsible for and exclusively entitled to the benefits of the marketing of any materials it may recover from Waste delivered to the Facility and accepted by OEI. Resale of or the supply of recovered materials as retail commodities to others in their original form is prohibited. Materials may be recovered as scrap.

E. OEI shall not contract with Brown County's Customers (defined below) for procurement of Waste handled as a part of Brown County's Solid Waste Management System for landfill disposal without Brown County's prior written permission. OEI shall not allow Brown County Customers to dispose of Wastes at the Facility without Brown County's prior written permission. For purposes of this provision, "Customers" means those having a solid-waste disposal contracts with Brown County, or who have delivered Waste to Brown County within the preceding six months, other than the Oneida Tribe of Indians of Wisconsin, the City of Green Bay and private haulers currently contracted with OEI delivering non-Brown County Acceptable waste

F. OEI shall be solely responsible for and exclusively entitled to the benefits of the marketing of energy produced by the Facility.

G. OEI may contract for Wastes for the Facility other than those involved with this Agreement, but processing other Wastes shall not interfere with the Facility's ability to process Brown County's Annual Tonnage.

ARTICLE FOUR. WEIGHING

A. OEI shall construct and maintain at the Facility a State-certified vehicle scale and related equipment to allow vehicles delivering Waste to the Facility to be accurately weighed and for each delivery of Waste to be recorded as a separate transaction for billing purposes. OEI shall weigh all Waste originating from Brown County and its Customers that is delivered to the Facility. The scale shall be capable of accurately weighing vehicles to within 20 pounds. The scale and related equipment shall include the following components:

1. A linked computer for recording and processing scale transactions.
2. A modem or other means to transmit billing information to Brown County or its designated location to bill its customers for the transactions.
3. A software system that is capable of processing vehicle weights, recording the transactions and transmitting transaction data to an external invoicing center.
4. A printer capable of printing a receipt for the customer.
5. A credit card verification system.
6. A telephone/fax system for communication.

7. A video surveillance system that captures at a minimum the vehicle scale, the license plate of the vehicle making the delivery and the transaction information as displayed on the computer monitor's display.

B. Brown County shall be solely responsible for billing its Customers for Waste deliveries to the OEI Facility.

C. OEI shall provide for regular inspections of the scales by the appropriate public officials with responsibility for certifying weights and measures to ensure their reasonable accuracy, such inspections to be conducted as prescribed by State law.

D. Brown County shall provide the information reasonably necessary to allow proper identification of vehicles delivering Waste to the Facility. Each vehicle making a Waste delivery to the Facility shall be weighed full indicating gross truck weight, and weighed empty indicating tare truck weight, which information, together with Tons delivered (to the nearest hundredth of a Ton), time of delivery, source of incoming Waste, truck identification number and Hauler code, shall be recorded on a weight ticket and signed by the driver. Brown County, OEI and the driver of each weighed vehicle shall receive a copy of the weight ticket. OEI shall retain tickets for a period of not less than 18 months. Brown County shall have the right to inspect OEI's weight records during normal business hours.

E. With respect to the amount of Tons delivered by or on behalf of Brown County, the weight records maintained by the Facility in the ordinary course of business pursuant to this Article shall be conclusive and binding on OEI and Brown County absent manifest error, and such weight records shall be used as the basis for the calculations required herein.

ARTICLE FIVE. DELIVERY OF ANNUAL TONNAGE; RIGHT OF FIRST REFUSAL

A. Annual Tonnage. Each Operating Year, but beginning no earlier than the Initial Operating Date, Brown County shall cause to be delivered to the Facility Acceptable Waste (including Discretionary Waste accepted by the Facility) up to 54,750 Tons per Operating Year based on (approximately 1,052 tons per week or 210 tons per day Monday through Friday, excluding holidays) and shall use diligent, good faith efforts to adopt and enforce reasonable measures to prevent delivery of Unacceptable Waste and Discretionary Waste to the Facility. Brown County shall use good faith efforts to ensure the Annual Tonnage is delivered in an even manner over the course of each Operating Year. Upon the mutual written agreement of OEI and Brown County, the Agreement may be amended to increase or decrease the Annual Tonnage. OEI shall cause to be delivered all waste generated by the Facility to the landfill designated by Brown County. Estimates include approximately 8,395 tons of non processable waste (approximately 161 tons per week or 23 tons per day of non processable, waste and approximately 280 tons per week or 40 tons/day of char). OEI shall use good faith efforts to ensure the estimation of annual tons is delivered in an even manner over the course of each Operating Year.

B. Waste Credited Toward Annual Tonnage. Except as provided below, all Acceptable Waste delivered to the Facility (including any Discretionary Waste accepted by the Facility) by or on behalf of Brown County on or after the Initial Operating Date shall be credited against the Annual Tonnage. No credit shall be given to Brown County for any Unacceptable Waste, Discretionary Waste or other Waste rejected by OEI and returned to the Waste Transfer Station in accordance with the provisions of this Agreement, in its original vehicle only.

C. Failure to Deliver Annual Tonnage. If Brown County fails to deliver in an Operating Year the Annual Tonnage, it shall pay a Tipping Fee in the amount of the then current Tipping Rate multiplied by the number of Tons by which Brown County's deliveries to the Facility are less than the Annual Tonnage (e.g., if Brown County delivers only 50,000 Tons, the 4,750 Ton shortfall shall be multiplied by the then current Tipping Rate and Brown County shall pay such amount to OEI). If the Facility fails to process any portion of the Annual Tonnage delivered by Brown County and accepted by OEI within five days of delivery and acceptance, OEI will pay Brown County the Tipping Rate per Ton for such unprocessed portion of the Annual Tonnage. If OEI fails to deliver in an Operating Year the estimated annual tonnage of non processable waste and char, it shall pay a Tipping Fee in the amount of the negotiated landfill tipping fee multiplied by the number of Tons by which OEI deliveries to the designated landfill are less than the estimated annual tonnage of non processable waste and char.

D. Return of Waste. OEI shall have the right to return any and all Waste, including, without limitation, Residue and Shutdown Waste, to Brown County by delivering it to a landfill designated by Brown County at the tipping fee negotiated by Brown County and OEI. No other tipping fee shall apply. If the Facility's plant manager (or another OEI designee) discovers Unacceptable Waste or Discretionary Waste on the Facility's tip floor after a Hauler has left the Facility, the Facility's plant manager (or another OEI designee) shall immediately confer with Brown County's scale operator to determine the origin of the Waste. If it is determined that the Waste originated from a Hauler, Brown County shall contact the Hauler and direct the Hauler to return to the Facility and remove the rejected Waste. If neither the Hauler nor Brown County removes the rejected Waste from the Facility within a reasonable amount of time after receiving notice of rejection, OEI may transport the rejected Waste to a landfill designated by Brown County, and the costs for transporting and disposing of the Waste shall be borne as follows:

1. If the Waste is determined to be from a Brown County or one of its Customers, Brown County shall bear the cost for such transportation and disposal.
2. If the Waste is determined to not be from Brown County or one of its Customers, OEI shall bear the cost for such transportation and disposal.
3. If the origin of the Waste cannot be determined, OEI and Brown County shall each bear one-half of the cost for transportation and disposal.

E. Right of First Refusal. If, at any time during the term of this Agreement, Brown County proposes to transfer Waste (the "Transferred Waste") to a third-party transferee (the "Third-Party Transferee") (other than transfers Brown County is contractually required to make as of the Effective Date), Brown County shall first offer to transfer the Transferred Waste to OEI. Brown County shall provide written notice (a "Transfer Notice") to OEI at least 90 days prior to the effective date of the proposed transfer to the Third-Party Transferee. The Transfer Notice shall set forth the annual amount of the Transferred Waste, the identity of the proposed Third-Party Transferee, the applicable tipping rate and all other material terms and conditions of the proposed Transfer and shall include a copy of the Third-Party Transferee's written offer regarding the Transferred Waste, if any. OEI shall have the option to accept the Transferred Waste pursuant to the terms and conditions set forth in the Transfer Notice. OEI's option may be exercised at any time during the 30-day period immediately following receipt of the Transfer Notice by delivery of written notice to Brown County. If OEI fails to exercise its option during such 30-day period, Brown County may transfer the Transferred Waste to the Third-Party Transferee pursuant to the terms of the Transfer Notice.

ARTICLE SIX. DETERMINATION OF TIPPING FEES

A. Tipping Fees. Brown County shall pay Oneida Energy In. a tipping fee of \$28.00/ton for waste delivered to their facility. Tipping Fees shall be calculated by multiplying the Tipping Rate then in effect by the number of Tons of Waste that Brown County causes to be delivered to the Facility and that are accepted by OEI, based on the weight records referred to in Article Four, which shall be tallied and formulated into invoices on a monthly basis and submitted to Brown County. OEI shall provide such weight records to Brown County on a monthly basis for billing verification purposes. These invoices shall include any amounts in addition to or deducted from the Tipping Fees then due to OEI from Brown County in accordance with the terms of this Agreement.

Oneida Energy Inc. shall pay a tipping fee of \$36.25 per ton for non processable waste and char to Brown County for waste delivered to the designated landfill from the Oneida pyrolysis plant on Hurlbut St. All waste delivered to the designated landfill must be acceptable wastes under WDNR NR 500 state statutes. The landfill tipping fee for non processable waste and char may be annually adjustable by the annual rate increase imposed by the landfill designated by Brown County.

B. Invoices; Payment. Payment of the Tipping Fees and other amounts due to OEI shall be made by Brown County and payments of tipping fees and other amounts due to Brown County shall be made by OEI within 30 days of receipt of the invoice (net 30 days payment terms). Any late payments shall bear interest at a rate of 1.0% per month until paid.

C. Subsequent Periods. If extensions are agreed to after the initial 5 year agreement, the parties shall negotiate in good faith to agree on a new Tipping Rate to be effective on the first day of the new term.

D. Insufficient Direct Deliveries. Notwithstanding Article Six, Sections C and D above, if Brown County is unable to get its customers to deliver enough Waste directly to the Oneida Facility to meet this Agreement's Annual Tonnage requirement this will be considered a breach of this agreement.

E. Other Wastes. If OEI desires Brown County to deliver Wastes other than those termed Acceptable Waste to be processed at the Facility, the price Brown County pays OEI for those Wastes will be negotiated separate from this Agreement.

ARTICLE SEVEN. TERM OF AGREEMENT

Subject to the other terms herein, the term of this Agreement expires 5 years from the Initial Operating Date. Notwithstanding the foregoing, this Agreement may be extended upon written approval of both parties for additional terms of five years, such approval to be executed not less than one year before the expiration of the then current term.

ARTICLE EIGHT. UNACCEPTABLE AND DISCRETIONARY WASTE

A. OEI shall not accept, nor shall it be required to accept, Unacceptable Waste. OEI at its sole discretion may accept, but shall not be required to accept, Discretionary Waste. Any and all Unacceptable Waste delivered to the Facility, as well as Discretionary Waste delivered to and not accepted by the Facility, shall remain the property and be the sole responsibility of the Hauler or other responsible person(s) delivering such Waste. OEI hereby expressly reserves the right to recover from each such Hauler and any other responsible person any and all costs, fees, expenses, liabilities, claims or damages suffered or incurred by OEI in connection with or in any way arising out of or related to the presence, handling, processing or disposal of such Waste delivered to the Facility by such Hauler or other responsible person or their respective employees or agents, including, without limitation, all costs of loading, removing, transporting and disposing of such Waste delivered to the Facility by such Hauler or other responsible person or their respective employees or agents.

B. OEI and Brown County shall make reasonable efforts to prevent Unacceptable or Discretionary Waste from being delivered to the Facility and dumped on the Facility's tipping floor. Scale operator shall question each Hauler making a Waste delivery to the Facility about the nature of the Waste being delivered and its acceptability for delivery to the Facility. If the scale operator determines that the Waste contains Unacceptable Waste, the Hauler shall not be permitted to deliver such Unacceptable Waste. OEI shall have the right, but shall not be obligated, to make a visual inspection of every load of Waste delivered hereunder prior to such load being deposited on the Facility's tipping floor. If in the reasonable judgment of OEI circumstances so require, OEI retains the right to reject any load containing Unacceptable Waste or Discretionary Waste, either upon initial inspection or, with space and time permitting, after the load of Waste has been isolated on the tipping floor for further inspection. After further inspection, OEI retains the right to reject the entire load of Waste if in the reasonable judgment of OEI circumstances so require. In addition, OEI retains the right to reject only the portion of any load which is Unacceptable Waste and/or Discretionary Waste. OEI shall make a reasonable effort to have any such Wastes found upon inspecting the loads returned to the Hauler and put back on the Hauler's vehicle before leaving. Unacceptable or Discretionary Wastes discovered and rejected by OEI after the Hauler has left shall be weighed at the Facility prior to such Wastes' return to the Waste Transfer Station in accordance with the procedure set forth in Article Four above. The determination of the Waste delivery coordinator or other authorized personnel of OEI, if made in good faith, shall be final and binding upon Brown County and its Haulers. The failure of OEI or its personnel to make such an inspection or to discover any Unacceptable Waste or Discretionary Waste during the course of such an inspection, whether or not pursuant to the protocol to be established by OEI as provided below in Article Eight, Section D, shall not relieve any Hauler or other responsible person of its liability for delivering Unacceptable Waste or Discretionary Waste to the Facility, and such failure to inspect or discover any such Unacceptable Waste or Discretionary Waste shall not impose any liability on OEI.

C. OEI shall promptly notify Brown County of any rejected loads and shall, to the extent reasonably possible, provide to it particulars about the Hauler, the reason for rejection and the information on the weight ticket provided for by Article Four.

D. OEI agrees to maintain a reasonable protocol (consistent with industry standards and practices) for inspection of Waste delivered to the Facility and agrees to use reasonable efforts to observe such protocol in the operation of the Facility.

E. Brown County agrees to use diligent, good faith efforts to enforce its municipal solid waste agreements to require each Hauler delivering Waste on behalf of Brown County (1) to comply with the municipal agreement with respect to the delivery of Waste, including without limitation, any such regulation and/or ordinance prohibiting delivery of Unacceptable Waste or Discretionary Waste to the Facility, (2) to obtain a license, when the State requires from the State prior to, and as a condition for, delivering Waste to the Facility on behalf of Brown County and (3) to notify scale operator and OEI personnel if the Hauler's load contains Discretionary Waste or Unacceptable Waste.

F. Nothing in this Article Eight shall limit OEI's right to return Waste set forth in Article Five, Section D.

G. Notwithstanding anything to the contrary in this Agreement, OEI shall have no obligation to accept Waste from Brown County prior to the Initial Operating Date.

ARTICLE NINE. DISPOSAL OF RESIDUE AND SHUTDOWN WASTE

Brown County acknowledges and agrees that OEI may deliver the Facility's nonhazardous Residue and Shutdown Waste to a landfill designated by Brown County, in each case for disposal in compliance with all applicable laws, ordinances, rules, regulations and governmental orders. If the Residue and Shutdown Waste require procedures that increase the cost of disposal, those costs will be paid for by OEI. For each Ton of Residue OEI delivers to a landfill designated by Brown County and each Ton of Shutdown Waste OEI delivers to the Waste Transfer Station for disposal, OEI shall pay Brown County the tipping fee negotiated in Article 6 A above.

ARTICLE TEN. DAMAGE OR DESTRUCTION; CONDEMNATION; TERMINATION OF OPERATIONS

A. Involuntary Termination of Operations. If all or part of the Facility is damaged or destroyed by fire, the elements or other casualty, or taken by eminent domain or other condemnation proceedings, then OEI may, at its sole option, and notwithstanding any other provisions of this Agreement to the contrary, either (1) restore, repair or reconstruct the Facility or (2) terminate operations within 120 days after the date of damage or destruction or condemnation. OEI shall, at all times this Agreement is in effect, maintain insurance sufficient to repair, restore or reconstruct the Facility in the event of such casualty. At Brown County's request, OEI shall provide Brown County with evidence of the existence of adequate insurance to restore, repair or reconstruct the Facility. In the event of condemnation or a taking by eminent domain, termination of operations shall not take effect until all government orders or decisions have either been fully appealed or the time for such appeals has passed if no appeal is taken by OEI.

B. Termination of All Operations. In the event of voluntary termination of all operations before the end of the term of this Agreement, OEI shall be responsible for disposing of the Annual Tonnage through the end of the term of this Agreement, but no longer; provided further such obligation is dependent upon Brown County paying the Tipping Fees for such waste disposal as set forth in Article Six.

ARTICLE ELEVEN. INDEMNIFICATION

Each party shall indemnify, defend and hold harmless the other party (including such party's officers, directors, employees, contractors, agents and shareholders) from and against any and all liabilities, damages, claims, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from such party's negligence, willful misconduct or any inaccuracy in or breach of any of such party's representations, warranties or agreements contained in or made pursuant to this Agreement.

ARTICLE TWELVE. FORCE MAJEURE

A. If either party is rendered temporarily unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement that party shall give to the other party prompt written notice of the Force Majeure with reasonably full particulars concerning it. Thereupon the obligations of the party giving the notice, so far as they are affected by the Force Majeure, and any dependent obligations of the other party shall be suspended during, but no longer than the continuance of, the Force Majeure, and for a reasonable time thereafter if required to remedy any physical damages and/or place the Facility back in operation.

B. The inability to comply with one portion of this Agreement by virtue of Force Majeure, unless caused by one of the parties, shall not relieve the parties of complying with other provisions of this Agreement.

ARTICLE THIRTEEN. SHUTDOWNS

A. As used herein, a full or partial "Shutdown" or "Shutdowns" shall occur when OEI temporarily cannot accept delivery of Acceptable Waste at the Facility for processing, for any reason other than Force Majeure, up to the total amount of all of Acceptable Waste that OEI is contractually bound to accept from Brown County and others. OEI shall promptly advise Brown County in writing of the occurrence or anticipated occurrence of any full or partial Shutdown, the effect thereof on the ability of the OEI to accept Acceptable Waste from Brown County at the Facility, and the probable duration of such Shutdown. During the period of any Shutdown of the Facility (except as provided in Article Thirteen, Section C below), OEI shall at its option either (1) make arrangements, at OEI's expense, to dispose of Brown County's Shutdown Waste deliverable to the Facility by or on behalf of Brown County, in which case Brown County shall pay its Tipping Fees for such Shutdown Waste to OEI ("Option 1"), or (2) direct Brown County to make its own arrangements for the disposal of such Shutdown Waste and agree to reimburse Brown County for its incremental costs of handling, transportation and disposal of such Shutdown Waste in excess of Tipping Fees which would have been otherwise payable by Brown County hereunder if such Shutdown Waste had been accepted by OEI as provided herein, including, but not limited to, the incremental cost of transportation and fees of disposing of Brown County's Shutdown Waste (up to the Annual Tonnage) that OEI does not accept at the Facility for processing; provided Brown County shall use its reasonable efforts to limit its incremental costs ("Option 2"). If OEI elects Option 2, Brown County may choose to either (a) be reimbursed directly for such incremental costs of handling, transportation and disposal (any reimbursement not fully made prior to a termination of this Agreement to be made within 30 days after termination) or (b) apply its incremental costs as an offset against future Tipping Fees once OEI again accepts Waste. Brown County shall be entitled to retain any savings if the alternate handling, transportation and disposal costs payable by it under Option 2 are less than the Tipping Fees and costs of handling and transportation which would have been payable by Brown County if OEI had elected Option 1. In either case the Shutdown Waste which Brown County can demonstrate was disposed of under the Option 1 or Option 2 shall be credited against the Annual Tonnage. OEI shall use its best efforts to resume normal operation at the Facility at the earliest practicable time.

B. OEI may have periodic Shutdowns for maintenance purposes and shall use its reasonable efforts to schedule such maintenance Shutdowns at periods when a low quantity of Waste is anticipated based on historical data, at times of an energy purchaser's off-peak demand or when the State has highway weight limits enforced on overweight loads (the months of March, April and May). OEI shall use its reasonable efforts to give 30 days' prior written notice to Brown County of each scheduled or reasonably foreseeable Shutdown. Such notice shall indicate the expected time, duration and nature of such Shutdown.

C. Notwithstanding any other provision herein to the contrary, OEI may request Brown County to curtail Waste deliveries during a Shutdown for a period not to exceed 48 hours without OEI incurring any liability therefore or being in breach of this Agreement. Brown County shall accommodate the request if it deems the request reasonable and the request would not cause Brown County to violate State waste holding requirements or incur costs above the usual cost Brown County is accustomed to pay for handling and disposing of Waste.

ARTICLE FOURTEEN. ASSIGNMENT OF AGREEMENT; TRANSFER OF FACILITY

A. This Agreement shall not be assigned or delegated in whole or in part by Brown County or OEI without the prior written consent of the other party.

ARTICLE FIFTEEN. TERMINATION

This Agreement may be terminated by either party (the "Terminating Party") in the event of material breach or nonperformance by the other party (the "Breaching Party") upon 180 days' prior written notice to the Breaching Party, if the Breaching Party has not cured such breach or nonperformance within 90 days of receiving notice of such breach or nonperformance from the Terminating Party. Such termination shall not terminate or affect any other rights of the Terminating Party against the Breaching Party. Additionally, this Agreement may be terminated by Brown County if the Facility is not fully operational within 18 months of the Effective Date or Brown County elects to permanently cease to operate the Brown County Solid Waste Management System. Brown County shall provide OEI a 18 month notice of

a permanent shutdown. Notwithstanding the foregoing, Brown County acknowledges and agrees that it currently has no plans to cease to operate the Brown County Solid Waste Management System.

ARTICLE SIXTEEN. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the State, without regard to principles of conflicts of law.

ARTICLE SEVENTEEN. SEVERABILITY

In the event any covenant, condition or provision of this Agreement is held to be invalid or unenforceable by a final judgment of a court of competent jurisdiction, the invalidity or unenforceability thereof shall in no way affect any of the other covenants, conditions or provisions hereof; provided, however, that such remaining covenants, conditions and provisions can thereafter be applicable and effective without materially changing the obligations of any party.

ARTICLE EIGHTEEN. RELATIONSHIP OF THE PARTIES

Nothing herein shall be deemed to constitute or make any party a partner, joint venturer, agent, fiduciary or representative of another party. The obligations created hereunder shall run solely and exclusively between Brown County and OEI.

ARTICLE NINETEEN. NOTICES

All notices herein required or permitted to be given or furnished under this Agreement by either party to the other shall be in writing, and shall be deemed sufficiently given and served upon the other party if sent by regular mail, postage prepaid, or hand delivered by courier service addressed as follows:

If to OEI: Oneida Energy, Inc.
1239 Flightway Drive
DePere, Wisconsin 54115
Attention: Chief Executive Officer

If to Brown County Brown County
c/o Brown County Port and Solid Waste Department
2561 South Broadway
Green Bay, Wisconsin 54304
Attention: Port and Solid Waste Director

Each party shall have the right, from time to time, to designate different person(s) and/or address (es) by notice given in conformity with this Article.

ARTICLE TWENTY. OTHER DOCUMENTS

Each party shall execute, attach and deliver any instruments and perform any acts that may be necessary or reasonably required by this Agreement.

ARTICLE TWENTY-ONE. ENTIRE AGREEMENT; AMENDMENT

This Agreement and the other documents to be delivered pursuant hereto constitute the entire agreement among the parties hereto and there are no agreements, representations or warranties which are not set forth herein. All prior negotiations, agreements and understandings are superseded hereby. This Agreement may not be amended or revised except by a writing signed by the parties hereto. All parties are represented by counsel, and no one party shall be deemed the drafter of this Agreement with respect to its interpretation.

ARTICLE TWENTY-TWO. COUNTERPARTS; FACSIMILE SIGNATURES

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and both of which together shall constitute one document. This Agreement may be signed by facsimile or electronically in portable document format ("pdf"), and facsimile or pdf signatures shall be binding, but the parties shall provide each other with originally signed copies of this Agreement upon request.

ARTICLE TWENTY-THREE. WAIVER OF SOVEREIGN TRIBAL IMMUNITY

As an affiliate of the Oneida Tribe of Indians of Wisconsin, OEI waives any claim of sovereign immunity in connection with any dispute arising out of or relating to this Agreement. The waiver of sovereign immunity shall apply to any theory of recovery and for any allowable damages, but shall only apply to claims made by Brown County.

ARTICLE TWENTY-FOUR. GOVERNING LAW

The parties agree that this Agreement and the interpretation thereof shall be governed by the laws of the State, without regard to principles of conflicts of laws.

ARTICLE TWENTY-FOUR. ARBITRATION

All disputes concerning the interpretation or enforcement of this Agreement shall be resolved by binding arbitration. In case of such a dispute, the parties shall nominate an attorney or reserve judge to serve as single arbitrator. If the parties are unable to agree on an arbitrator, they shall each nominate an arbitrator and those two arbitrators shall select a third arbitrator and the third arbitrator shall serve as the sole arbitrator. The parties shall each be responsible for one half of any arbitrator fees regardless of the outcome of the arbitration. The arbitrator's award shall be binding upon the parties and shall be enforceable as a judgment. The arbitrator shall make a finding in the arbitration as to the prevailing party in the arbitration, and the prevailing party shall be entitled to collect their actual attorney fees and costs from the other party excluding their one-half share of the arbitrator's fee.

IN WITNESS WHEREOF, the parties have executed this Agreement as of January 1, 2011.

BROWN COUNTY, WISCONSIN

By: _____
Troy Streckenbach, County Executive

By: _____
Dean Haen, Interim-Director,
Brown County Port and Solid Waste Department

ONEIDA ENERGY, INC.

By: _____
Kevin Cornelius, Chief Executive Officer

BROWN COUNTY/ONEIDA ENERGY, INC. WASTE TRANSFER AND HANDLING AGREEMENT

This Waste Transfer and Handling Agreement (hereinafter the "Agreement") is entered into as of October 1, 2011 by and between BROWN COUNTY, WISCONSIN, a Wisconsin body corporate ("Brown County"), through its Port and Solid Waste Department, and ONEIDA ENERGY, INC., a Wisconsin corporation ("OEI").

RECITALS

- A. OEI Oneida Energy waste to energy project (the "Project"), the purpose of which is to convert Waste (defined below) into hydrocarbon gas that will be combusted to generate clean energy.
- B. As part of the Project, OEI is developing a waste gasification facility (the "Facility"), which will be located at 1230 Hurlbut St., Green Bay, Wisconsin
- C. Brown County currently receives Waste collected from its residents, industry and commercial sources at the Waste Transfer Station (defined below), from which it is transported to a licensed municipal solid waste landfill pursuant to the Brown County, Outagamie County and Winnebago County Solid Waste Agreement.
- D. In furtherance of the Project, Brown County will transfer (or cause to be transferred) a certain amount of Waste to the Facility. The Facility will accept deliveries of such Waste pursuant to the terms of this Agreement.

AGREEMENTS

In consideration of the mutual covenants, representations, warranties and agreements set forth herein, the parties agree as follows:

ARTICLE ONE. DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings ascribed to them in this Article:

1. Acceptable Waste. Wastes consisting solely of nonhazardous, mixed municipal solid wastes, which Wastes consist primarily of combustible materials permitted to accept by the landfill designated by Brown County and the Facility's licenses and permits (copies of which OEI shall provide to Brown County before the Initial Operating Date) and which are not Discretionary Waste.
2. Agreement. This Agreement, as it may be amended from time to time.
3. Annual Tonnage. The number of Tons of Acceptable Waste that Brown County is obligated to deliver to the Facility and that OEI is obligated to process during an Operating Year. The Annual Tonnage shall be up to 54,750 Tons per Operating Year based on (approximately 1,052 tons per week or 210 tons per day Monday through Friday, excluding holidays) and Brown County shall use good faith efforts to ensure the Annual Tonnage is delivered in an even manner over the course of each Operating Year. **Annual tonnage shall include acceptable waste from the City of Green Bay.** The Annual Tonnage shall be prorated during the first Operating Year to the extent it less than a full calendar year. OEI shall cause to be delivered all waste generated at the Facility to the landfill designated by Brown County approximately 8,395 tons of non processable waste and 14,600 tons of char based on (approximately 161 tons per week or 23 tons per day of non processable, waste and approximately 280 tons per week or 40 tons/day of char). OEI shall use good faith efforts to ensure the estimation of annual tons is delivered in an even manner over the course of each Operating Year.

Municipal waste not accepted at the facility due to a shutdown will be directed to the Brown County Transfer Station and disposed of at a BOW landfill. This tonnage may reduce the Annual tonnage delivered to the OEI facility.

4. Delivery Hours. The hours set by OEI during which deliveries of Acceptable Waste shall be accepted at the Facility, which shall be at least eight hours per day between 7:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays. OEI shall provide notice of the Delivery Hours to Brown County from time to time. OEI

may suspend Delivery Hours due to Shutdowns, Force Majeure events, emergencies, unsafe conditions or governmental orders to do so. If the Delivery Hours at the Facility are materially limited for any of the above listed reasons in a manner that makes delivery of Waste impracticable, Brown County's obligation to deliver the Annual Tonnage shall be suspended until the Delivery Hours are no longer materially limited.

5. Discretionary Waste. Wastes, not otherwise defined as Acceptable Waste or Unacceptable Waste, which OEI may accept, at its sole discretion, but which it is not otherwise obligated to accept for processing and disposal, including but not limited to the following: inorganic demolition or construction debris containing nonmaterial amounts of concrete and any other Waste that in the good faith judgment of OEI (a) could reasonably be expected to cause jam-ups, slowdowns, stoppage, failure or damage to the Facility; (b) could reasonably be expected to cause adverse consequences to the Facility or its operation because of excessive moisture, high non-combustible content or similar reasons; or (c) is an item similar in kind or effect to inorganic demolition or construction debris containing an excessive amount of concrete.

6. Effective Date. October 1, 2011.

7. Facility. OEI's waste gasification facility and ancillary facilities, together with any ancillary facilities that may hereafter be acquired and/or constructed by OEI at 1230 Hurlbut St. , and that are used for, or in conjunction with, the processing of Waste and the production of energy.

8. Force Majeure. With regard to the performance of any obligation under this Agreement, events such as an act of God, act of public enemy, sabotage, wars, blockade, insurrection, riots, explosions, fires, floods, storm, lightning, earthquake, wind, ice, perils of the sea, strikes, lockouts or other industrial disturbances, drought, appropriation and other causes not reasonably within the control of either party, including, without limitation, public or political reaction to events at facilities similar to the Facility.

9. Hauler. Any entity or person delivering Waste to the Facility on behalf of Brown County, including Brown County and its agents, employees and customers.

10. Hazardous Waste. Waste defined as hazardous by federal or state law, including but not limited to the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation and Liability Act, including amendments thereof, or any federal or state laws, regulations, orders or other actions promulgated or taken at any time and from time to time, or which if were processed at the Facility would be deemed hazardous at any time during the term of this Agreement.

11. Infectious Waste. Waste which has disease-causing potential, including, but not limited to, pathological and surgical Wastes, medical clinic Wastes, Wastes from biological laboratories, syringes, needles, blades, tubing, bottles, drugs, chemicals, personal hygiene Wastes and carcasses used for medical purposes. Tissues, diapers, sanitary napkins, kitty litter and similar items commonly disposed of in ordinary household Waste shall not be deemed to be Infectious Waste if included in small amounts customarily found in Waste from residential sources so long as the disposal and processing of such material by OEI at the Facility is permitted by, and shall not cause or result in OEI being in violation of, applicable laws, statutes, rules, regulations, permits and orders of any and all governmental entities having jurisdiction over OEI and/or the Facility.

12. Initial Operating Date. The date on which the Facility first becomes fully operational.

13. OEI. Oneida Energy, Inc., 1239 Flightway Drive, DePere, Wisconsin 54115, a Wisconsin corporation.

14. Operating Month. A calendar month.

15. Operating Year. A 12-month period beginning January 1 and concluding December 31 of the same year. The first Operating Year shall be the period beginning on the Initial Operating Date and concluding on December 31 of the same year.

16. Person or Persons. Any individual, corporation, partnership, joint venture, association, joint stock company, trust company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other entity.

17. Residue. Materials, residues and byproducts derived from the acceptance and processing of Waste and combustion of Waste-derived fuel at the Facility, including, but not limited to, ash.

18. Shutdown. A temporary cessation of operation of the Facility resulting from any event, other than a Force Majeure event, which prevents or limits the Facility from accepting Waste for a limited period of time.

19. Shutdown Waste. All Acceptable Waste that cannot be accepted at the Facility for processing during a Shutdown, but which OEI otherwise would be required to accept at the Facility during the period of time constituting said Shutdown.

20. State. The State of Wisconsin.

21. Termination of All Operations. The voluntary or involuntary cessation of waste processing, recycling, gasification and disposal at the Facility with no intention or no capacity on the part of OEI, or its successors and/or assigns, to resume operations.

22. Tipping Fees. The payments required to be made under this Agreement by Brown County to OEI for accepting and processing Waste at the Facility or OEI to Brown County for landfill tipping fees at the landfill designated by Brown County. Tipping Fees are calculated by multiplying the Tipping Rate by the Tons of Waste delivered or that should have been delivered to the Facility on behalf of Brown County or to the landfill by OEI.

23. Tipping Rate. The price Brown County shall pay per Ton for Waste delivered or that should have been delivered under this Agreement or the price that OEI shall pay per Ton for waste delivered or that should have been delivered to a landfill designated by Brown County.

24. Ton. A quantity of 2,000 pounds. For purposes of this Agreement, Tons shall be calculated to the nearest hundredth of a Ton.

25. Unacceptable Waste. Any Waste deemed unacceptable for processing at the Facility by federal or state laws, regulations, rules or orders, or by the Facility's licenses or permits, or otherwise deemed unacceptable for processing at the Facility by OEI. OEI & Brown County both acknowledge that the wastes listed below are found in municipal solid waste. Unacceptable Waste includes, but is not limited to, the following:

- (a) Hazardous Waste;
- (b) Infectious Waste;
- (c) electronic devices identified in Wisconsin Statutes section 287.07(5);
- (d) lead acid batteries;
- (e) firearms, ammunition and explosives;
- (f) propane tanks;
- (g) municipal wastewater treatment plant sludge;
- (h) agricultural wastes;
- (i) soil; and

(j) concrete, stone and other noncombustible inorganic materials, except to the extent that such materials are present in the nonmaterial quantities typically found in mixed municipal waste or demolition and construction debris.

26. Waste. All personal property discarded for being of little use or useless.

27. Waste Transfer Station. The waste transfer station operated by the Brown County Port and Solid Waste Department located at 3734 West Mason Street (State Highway 54), Oneida, Wisconsin 54155.

ARTICLE TWO. REPRESENTATIONS AND WARRANTIES

A. OEI warrants and represents to Brown County the following as of the Effective Date:

1. OEI is a corporation duly organized and validly existing under the laws of the State, is in good standing and authorized to do business under the laws of the State and has full power and authority to execute, deliver and perform this Agreement in accordance with its terms.

2. The execution and delivery of this Agreement has been duly authorized by all appropriate corporate actions and this Agreement constitutes the legal, valid and binding obligation of OEI.

3. The execution, delivery and performance of this Agreement will not (a) violate any provision of law or any order of any court or other agency of government applicable to OEI or (b) conflict with, result in a breach of, or constitute a default under any material indenture, agreement or other instrument to which OEI is now a party.

4. With respect to the ownership and operation of the Facility, the OEI has or will obtain by the Initial Operating Date all permits, certificates, licenses, approvals, consents and other authorizations required by law. OEI shall provide copies of these documents to Brown County before the Initial Operating Date.

5. To the best of its knowledge, there is no pending or threatened litigation or governmental proceeding which would affect its legal ability to sign this Agreement or perform its obligations hereunder.

B. Brown County warrants and represents to OEI the following:

1. The execution and delivery of this Agreement has been duly authorized by all appropriate actions of the Brown County Solid Waste Board, the Brown County Board of Supervisors and signed by the County Executive. This Agreement has been duly executed and delivered by Brown County's authorized officers, and this Agreement constitutes the legal, valid and binding obligation of Brown County, as applicable, enforceable in accordance with its terms.

2. To the best of its knowledge, there is no pending or threatened litigation or governmental proceeding which would affect its legal ability to sign this Agreement or perform its obligations hereunder.

3. It is a corporate body duly organized and validly existing and organized under the laws of the State and has full power and authority to enter into and to perform this Agreement in accordance with its terms, including, without limitation, the power to levy and collect taxes to pay its obligations under this Agreement.

4. The execution, delivery and performance of this Agreement will not (a) violate any provision of law or any order of any court or other agency of government or (b) conflict with, result in breach of, or constitute a default under any material indenture, agreement or other instrument to which Brown County is now a party.

5. Brown County has contracts to meet its obligations under this agreement.

ARTICLE THREE. OPERATION OF THE FACILITY

A. Beginning no later than the Initial Operating Date, OEI shall, except as otherwise expressly provided for herein, operate and maintain the Facility, or cause it to be operated and maintained, as to be capable of receiving Acceptable Waste from Brown County or its customers during Delivery Hours in quantities up to the Annual Tonnage.

B. OEI agrees to procure and maintain any needed local, State or federal approvals and permits necessary to operate the Facility, and shall provide copies of these documents to Brown County before the Initial Operating Date. OEI agrees to operate the Facility in compliance with applicable laws, regulations and permit requirements.

C. Brown County shall keep OEI informed as to the identity of all Haulers licensed or authorized to deliver Waste to the Facility on behalf of Brown County and/or its customers, and of any change in such authorizations.

D. OEI may recover recyclable or otherwise reusable materials from accepted Waste prior to processing, but all remaining Waste that is accepted by the Facility shall be processed in the Facility or delivered to the landfill designated by Brown County within allowable time limits and permits imposed by local, State or federal regulations. OEI shall be solely responsible for and exclusively entitled to the benefits of the marketing of any materials it may recover from Waste delivered to the Facility and accepted by OEI. Resale of or the supply of recovered materials as retail commodities to others in their original form is prohibited. Materials may be recovered as scrap.

E. OEI shall not contract with Brown County's Customers (defined below) for procurement of Waste handled as a part of Brown County's Solid Waste Management System for landfill disposal without Brown County's prior written permission. OEI shall not allow Brown County Customers to dispose of Wastes at the Facility without Brown County's prior written permission. For purposes of this provision, "Customers" means those having a solid-waste disposal contracts with Brown County, or who have delivered Waste to Brown County within the preceding six months, other than the Oneida Tribe of Indians of Wisconsin, the City of Green Bay and private haulers currently contracted with OEI delivering non-Brown County Acceptable waste

F. OEI shall be solely responsible for and exclusively entitled to the benefits of the marketing of energy produced by the Facility.

G. OEI may contract for Wastes for the Facility other than those involved with this Agreement, but processing other Wastes shall not interfere with the Facility's ability to process Brown County's Annual Tonnage.

ARTICLE FOUR. WEIGHING

A. OEI shall construct and maintain at the Facility a State-certified vehicle scale and related equipment to allow vehicles delivering Waste to the Facility to be accurately weighed and for each delivery of Waste to be recorded as a separate transaction for billing purposes. OEI shall weigh all Waste originating from Brown County and its Customers that is delivered to the Facility. The scale shall be capable of accurately weighing vehicles to within 20 pounds. The scale and related equipment shall include the following components:

1. A linked computer for recording and processing scale transactions.
2. A modem or other means to transmit billing information to Brown County or its designated location to bill its customers for the transactions.
3. A software system that is capable of processing vehicle weights, recording the transactions and transmitting transaction data to an external invoicing center.
4. A printer capable of printing a receipt for the customer.
5. A credit card verification system.
6. A telephone/fax system for communication.

7. A video surveillance system that captures at a minimum the vehicle scale, the license plate of the vehicle making the delivery and the transaction information as displayed on the computer monitor's display.

B. Brown County shall be solely responsible for billing its Customers for Waste deliveries to the OEI Facility.

C. OEI shall provide for regular inspections of the scales by the appropriate public officials with responsibility for certifying weights and measures to ensure their reasonable accuracy, such inspections to be conducted as prescribed by State law.

D. Brown County shall provide the information reasonably necessary to allow proper identification of vehicles delivering Waste to the Facility. Each vehicle making a Waste delivery to the Facility shall be weighed full indicating gross truck weight, and weighed empty indicating tare truck weight, which information, together with Tons delivered (to the nearest hundredth of a Ton), time of delivery, source of incoming Waste, truck identification number and Hauler code, shall be recorded on a weight ticket and signed by the driver. Brown County, OEI and the driver of each weighed vehicle shall receive a copy of the weight ticket. OEI shall retain tickets for a period of not less than 18 months. Brown County shall have the right to inspect OEI's weight records during normal business hours.

E. With respect to the amount of Tons delivered by or on behalf of Brown County, the weight records maintained by the Facility in the ordinary course of business pursuant to this Article shall be conclusive and binding on OEI and Brown County absent manifest error, and such weight records shall be used as the basis for the calculations required herein.

ARTICLE FIVE. DELIVERY OF ANNUAL TONNAGE; RIGHT OF FIRST REFUSAL

A. Annual Tonnage. Each Operating Year, but beginning no earlier than the Initial Operating Date, Brown County shall cause to be delivered to the Facility Acceptable Waste (including Discretionary Waste accepted by the Facility) up to 54,750 Tons per Operating Year based on (approximately 1,052 tons per week or 210 tons per day Monday through Friday, excluding holidays) and shall use diligent, good faith efforts to adopt and enforce reasonable measures to prevent delivery of Unacceptable Waste and Discretionary Waste to the Facility. Brown County shall use good faith efforts to ensure the Annual Tonnage is delivered in an even manner over the course of each Operating Year. Upon the mutual written agreement of OEI and Brown County, the Agreement may be amended to increase or decrease the Annual Tonnage. OEI shall cause to be delivered all waste generated by the Facility to the landfill designated by Brown County. Estimates include approximately 8,395 tons of non processable waste (approximately 161 tons per week or 23 tons per day of non processable, waste and approximately 280 tons per week or 40 tons/day of char). OEI shall use good faith efforts to ensure the estimation of annual tons is delivered in an even manner over the course of each Operating Year.

B. Waste Credited Toward Annual Tonnage. Except as provided below, all Acceptable Waste delivered to the Facility (including any Discretionary Waste accepted by the Facility) by or on behalf of Brown County on or after the Initial Operating Date shall be credited against the Annual Tonnage. No credit shall be given to Brown County for any Unacceptable Waste, Discretionary Waste or other Waste rejected by OEI and returned to the Waste Transfer Station in accordance with the provisions of this Agreement, in its original vehicle only.

C. Failure to Deliver Annual Tonnage. If Brown County fails to deliver in an Operating Year the Annual Tonnage, it shall pay a Tipping Fee in the amount of the then current Tipping Rate multiplied by the number of Tons by which Brown County's deliveries to the Facility are less than the Annual Tonnage (e.g., if Brown County delivers only 50,000 Tons, the 4,750 Ton shortfall shall be multiplied by the then current Tipping Rate and Brown County shall pay such amount to OEI). If the Facility fails to process any portion of the Annual Tonnage delivered by Brown County and accepted by OEI within five days of delivery and acceptance, OEI will pay Brown County the Tipping Rate per Ton for such unprocessed portion of the Annual Tonnage. If OEI fails to deliver in an Operating Year the estimated annual tonnage of non processable waste and char, it shall pay a Tipping Fee in the amount of the negotiated landfill tipping fee multiplied by the number of Tons by which OEI deliveries to the designated landfill are less than the estimated annual tonnage of non processable waste and char.

D. Return of Waste. OEI shall have the right to return any and all Waste, including, without limitation, Residue and Shutdown Waste, to Brown County by delivering it to a landfill designated by Brown County at the tipping fee negotiated by Brown County and OEI. No other tipping fee shall apply. If the Facility's plant manager (or another OEI designee) discovers Unacceptable Waste or Discretionary Waste on the Facility's tip floor after a Hauler has left the Facility, the Facility's plant manager (or another OEI designee) shall immediately confer with Brown County's scale operator to determine the origin of the Waste. If it is determined that the Waste originated from a Hauler, Brown County shall contact the Hauler and direct the Hauler to return to the Facility and remove the rejected Waste. If neither the Hauler nor Brown County removes the rejected Waste from the Facility within a reasonable amount of time after receiving notice of rejection, OEI may transport the rejected Waste to a landfill designated by Brown County, and the costs for transporting and disposing of the Waste shall be borne as follows:

1. If the Waste is determined to be from a Brown County or one of its Customers, Brown County shall bear the cost for such transportation and disposal.
2. If the Waste is determined to not be from Brown County or one of its Customers, OEI shall bear the cost for such transportation and disposal.
3. If the origin of the Waste cannot be determined, OEI and Brown County shall each bear one-half of the cost for transportation and disposal.

E. Right of First Refusal. If, at any time during the term of this Agreement, Brown County proposes to transfer Waste (the "Transferred Waste") to a third-party transferee (the "Third-Party Transferee") (other than transfers Brown County is contractually required to make as of the Effective Date), Brown County shall first offer to transfer the Transferred Waste to OEI. Brown County shall provide written notice (a "Transfer Notice") to OEI at least 90 days prior to the effective date of the proposed transfer to the Third-Party Transferee. The Transfer Notice shall set forth the annual amount of the Transferred Waste, the identity of the proposed Third-Party Transferee, the applicable tipping rate and all other material terms and conditions of the proposed Transfer and shall include a copy of the Third-Party Transferee's written offer regarding the Transferred Waste, if any. OEI shall have the option to accept the Transferred Waste pursuant to the terms and conditions set forth in the Transfer Notice. OEI's option may be exercised at any time during the 30-day period immediately following receipt of the Transfer Notice by delivery of written notice to Brown County. If OEI fails to exercise its option during such 30-day period, Brown County may transfer the Transferred Waste to the Third-Party Transferee pursuant to the terms of the Transfer Notice.

ARTICLE SIX. DETERMINATION OF TIPPING FEES

A. Tipping Fees. Brown County shall pay Oneida Energy In. a tipping fee of \$28.00/ton for waste delivered to their facility. Tipping Fees shall be calculated by multiplying the Tipping Rate then in effect by the number of Tons of Waste that Brown County causes to be delivered to the Facility and that are accepted by OEI, based on the weight records referred to in Article Four, which shall be tallied and formulated into invoices on a monthly basis and submitted to Brown County. OEI shall provide such weight records to Brown County on a monthly basis for billing verification purposes. These invoices shall include any amounts in addition to or deducted from the Tipping Fees then due to OEI from Brown County in accordance with the terms of this Agreement.

Oneida Energy Inc. shall pay a tipping fee of \$36.25 per ton for non processable waste and char to Brown County for waste delivered to the designated landfill from the Oneida pyrolysis plant on Hurlbut St. All waste delivered to the designated landfill must be acceptable wastes under WDNR NR 500 state statutes. The landfill tipping fee for non processable waste and char may be annually adjustable by the annual rate increase imposed by the landfill designated by Brown County.

B. Invoices; Payment. Payment of the Tipping Fees and other amounts due to OEI shall be made by Brown County and payments of tipping fees and other amounts due to Brown County shall be made by OEI within 30 days of receipt of the invoice (net 30 days payment terms). Any late payments shall bear interest at a rate of 1.0% per month until paid.

C. Subsequent Periods. If extensions are agreed to after the initial 5 year agreement, the parties shall negotiate in good faith to agree on a new Tipping Rate to be effective on the first day of the new term.

D. Insufficient Direct Deliveries. Notwithstanding Article Six, Sections C and D above, if Brown County is unable to get its customers to deliver enough Waste directly to the Oneida Facility to meet this Agreement's Annual Tonnage requirement this will be considered a breach of this agreement.

E. Other Wastes. If OEI desires Brown County to deliver Wastes other than those termed Acceptable Waste to be processed at the Facility, the price Brown County pays OEI for those Wastes will be negotiated separate from this Agreement.

ARTICLE SEVEN. TERM OF AGREEMENT

Subject to the other terms herein, the term of this Agreement expires 5 years from the Initial Operating Date. Notwithstanding the foregoing, this Agreement may be extended upon written approval of both parties for additional terms of five years, such approval to be executed not less than one year before the expiration of the then current term.

ARTICLE EIGHT. UNACCEPTABLE AND DISCRETIONARY WASTE

A. OEI shall not accept, nor shall it be required to accept, Unacceptable Waste. OEI at its sole discretion may accept, but shall not be required to accept, Discretionary Waste. Any and all Unacceptable Waste delivered to the Facility, as well as Discretionary Waste delivered to and not accepted by the Facility, shall remain the property and be the sole responsibility of the Hauler or other responsible person(s) delivering such Waste. OEI hereby expressly reserves the right to recover from each such Hauler and any other responsible person any and all costs, fees, expenses, liabilities, claims or damages suffered or incurred by OEI in connection with or in any way arising out of or related to the presence, handling, processing or disposal of such Waste delivered to the Facility by such Hauler or other responsible person or their respective employees or agents, including, without limitation, all costs of loading, removing, transporting and disposing of such Waste delivered to the Facility by such Hauler or other responsible person or their respective employees or agents.

B. OEI and Brown County shall make reasonable efforts to prevent Unacceptable or Discretionary Waste from being delivered to the Facility and dumped on the Facility's tipping floor. Scale operator shall question each Hauler making a Waste delivery to the Facility about the nature of the Waste being delivered and its acceptability for delivery to the Facility. If the scale operator determines that the Waste contains Unacceptable Waste, the Hauler shall not be permitted to deliver such Unacceptable Waste. OEI shall have the right, but shall not be obligated, to make a visual inspection of every load of Waste delivered hereunder prior to such load being deposited on the Facility's tipping floor. If in the reasonable judgment of OEI circumstances so require, OEI retains the right to reject any load containing Unacceptable Waste or Discretionary Waste, either upon initial inspection or, with space and time permitting, after the load of Waste has been isolated on the tipping floor for further inspection. After further inspection, OEI retains the right to reject the entire load of Waste if in the reasonable judgment of OEI circumstances so require. In addition, OEI retains the right to reject only the portion of any load which is Unacceptable Waste and/or Discretionary Waste. OEI shall make a reasonable effort to have any such Wastes found upon inspecting the loads returned to the Hauler and put back on the Hauler's vehicle before leaving. Unacceptable or Discretionary Wastes discovered and rejected by OEI after the Hauler has left shall be weighed at the Facility prior to such Wastes' return to the Waste Transfer Station in accordance with the procedure set forth in Article Four above. The determination of the Waste delivery coordinator or other authorized personnel of OEI, if made in good faith, shall be final and binding upon Brown County and its Haulers. The failure of OEI or its personnel to make such an inspection or to discover any Unacceptable Waste or Discretionary Waste during the course of such an inspection, whether or not pursuant to the protocol to be established by OEI as provided below in Article Eight, Section D, shall not relieve any Hauler or other responsible person of its liability for delivering Unacceptable Waste or Discretionary Waste to the Facility, and such failure to inspect or discover any such Unacceptable Waste or Discretionary Waste shall not impose any liability on OEI.

C. OEI shall promptly notify Brown County of any rejected loads and shall, to the extent reasonably possible, provide to it particulars about the Hauler, the reason for rejection and the information on the weight ticket provided for by Article Four.

D. OEI agrees to maintain a reasonable protocol (consistent with industry standards and practices) for inspection of Waste delivered to the Facility and agrees to use reasonable efforts to observe such protocol in the operation of the Facility.

E. Brown County agrees to use diligent, good faith efforts to enforce its municipal solid waste agreements to require each Hauler delivering Waste on behalf of Brown County (1) to comply with the municipal agreement with respect to the delivery of Waste, including without limitation, any such regulation and/or ordinance prohibiting delivery of Unacceptable Waste or Discretionary Waste to the Facility, (2) to obtain a license, when the State requires from the State prior to, and as a condition for, delivering Waste to the Facility on behalf of Brown County and (3) to notify scale operator and OEI personnel if the Hauler's load contains Discretionary Waste or Unacceptable Waste.

F. Nothing in this Article Eight shall limit OEI's right to return Waste set forth in Article Five, Section D.

G. Notwithstanding anything to the contrary in this Agreement, OEI shall have no obligation to accept Waste from Brown County prior to the Initial Operating Date.

ARTICLE NINE. DISPOSAL OF RESIDUE AND SHUTDOWN WASTE

Brown County acknowledges and agrees that OEI may deliver the Facility's nonhazardous Residue and Shutdown Waste to a landfill designated by Brown County, in each case for disposal in compliance with all applicable laws, ordinances, rules, regulations and governmental orders. If the Residue and Shutdown Waste require procedures that increase the cost of disposal, those costs will be paid for by OEI. For each Ton of Residue OEI delivers to a landfill designated by Brown County and each Ton of Shutdown Waste OEI delivers to the Waste Transfer Station for disposal, OEI shall pay Brown County the tipping fee negotiated in Article 6 A above.

ARTICLE TEN. DAMAGE OR DESTRUCTION; CONDEMNATION; TERMINATION OF OPERATIONS

A. Involuntary Termination of Operations. If all or part of the Facility is damaged or destroyed by fire, the elements or other casualty, or taken by eminent domain or other condemnation proceedings, then OEI may, at its sole option, and notwithstanding any other provisions of this Agreement to the contrary, either (1) restore, repair or reconstruct the Facility or (2) terminate operations within 120 days after the date of damage or destruction or condemnation. OEI shall, at all times this Agreement is in effect, maintain insurance sufficient to repair, restore or reconstruct the Facility in the event of such casualty. At Brown County's request, OEI shall provide Brown County with evidence of the existence of adequate insurance to restore, repair or reconstruct the Facility. In the event of condemnation or a taking by eminent domain, termination of operations shall not take effect until all government orders or decisions have either been fully appealed or the time for such appeals has passed if no appeal is taken by OEI.

B. Termination of All Operations. In the event of voluntary termination of all operations before the end of the term of this Agreement, OEI shall be responsible for disposing of the Annual Tonnage through the end of the term of this Agreement, but no longer; provided further such obligation is dependent upon Brown County paying the Tipping Fees for such waste disposal as set forth in Article Six.

ARTICLE ELEVEN. INDEMNIFICATION

Each party shall indemnify, defend and hold harmless the other party (including such party's officers, directors, employees, contractors, agents and shareholders) from and against any and all liabilities, damages, claims, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from such party's negligence, willful misconduct or any inaccuracy in or breach of any of such party's representations, warranties or agreements contained in or made pursuant to this Agreement.

ARTICLE TWELVE. FORCE MAJEURE

A. If either party is rendered temporarily unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement that party shall give to the other party prompt written notice of the Force Majeure with reasonably full particulars concerning it. Thereupon the obligations of the party giving the notice, so far as they are affected by the Force Majeure, and any dependent obligations of the other party shall be suspended during, but no longer than the continuance of, the Force Majeure, and for a reasonable time thereafter if required to remedy any physical damages and/or place the Facility back in operation.

B. The inability to comply with one portion of this Agreement by virtue of Force Majeure, unless caused by one of the parties, shall not relieve the parties of complying with other provisions of this Agreement.

ARTICLE THIRTEEN. SHUTDOWNS

A. As used herein, a full or partial "Shutdown" or "Shutdowns" shall occur when OEI temporarily cannot accept delivery of Acceptable Waste at the Facility for processing, for any reason other than Force Majeure, up to the total amount of all of Acceptable Waste that OEI is contractually bound to accept from Brown County and others. OEI shall promptly advise Brown County in writing of the occurrence or anticipated occurrence of any full or partial Shutdown, the effect thereof on the ability of the OEI to accept Acceptable Waste from Brown County at the Facility, and the probable duration of such Shutdown. During the period of any Shutdown of the Facility (except as provided in Article Thirteen, Section C below), OEI shall at its option either (1) make arrangements, at OEI's expense, to dispose of Brown County's Shutdown Waste deliverable to the Facility by or on behalf of Brown County, in which case Brown County shall pay its Tipping Fees for such Shutdown Waste to OEI ("Option 1"), or (2) direct Brown County to make its own arrangements for the disposal of such Shutdown Waste and agree to reimburse Brown County for its incremental costs of handling, transportation and disposal of such Shutdown Waste in excess of Tipping Fees which would have been otherwise payable by Brown County hereunder if such Shutdown Waste had been accepted by OEI as provided herein, including, but not limited to, the incremental cost of transportation and fees of disposing of Brown County's Shutdown Waste (up to the Annual Tonnage) that OEI does not accept at the Facility for processing; provided Brown County shall use its reasonable efforts to limit its incremental costs ("Option 2"). If OEI elects Option 2, Brown County may choose to either (a) be reimbursed directly for such incremental costs of handling, transportation and disposal (any reimbursement not fully made prior to a termination of this Agreement to be made within 30 days after termination) or (b) apply its incremental costs as an offset against future Tipping Fees once OEI again accepts Waste. Brown County shall be entitled to retain any savings if the alternate handling, transportation and disposal costs payable by it under Option 2 are less than the Tipping Fees and costs of handling and transportation which would have been payable by Brown County if OEI had elected Option 1. In either case the Shutdown Waste which Brown County can demonstrate was disposed of under the Option 1 or Option 2 shall be credited against the Annual Tonnage. OEI shall use its best efforts to resume normal operation at the Facility at the earliest practicable time.

B. OEI may have periodic Shutdowns for maintenance purposes and shall use its reasonable efforts to schedule such maintenance Shutdowns at periods when a low quantity of Waste is anticipated based on historical data, at times of an energy purchaser's off-peak demand or when the State has highway weight limits enforced on overweight loads (the months of March, April and May). OEI shall use its reasonable efforts to give 30 days' prior written notice to Brown County of each scheduled or reasonably foreseeable Shutdown. Such notice shall indicate the expected time, duration and nature of such Shutdown.

C. Notwithstanding any other provision herein to the contrary, OEI may request Brown County to curtail Waste deliveries during a Shutdown for a period not to exceed 48 hours without OEI incurring any liability therefore or being in breach of this Agreement. Brown County shall accommodate the request if it deems the request reasonable and the request would not cause Brown County to violate State waste holding requirements or incur costs above the usual cost Brown County is accustomed to pay for handling and disposing of Waste.

ARTICLE FOURTEEN. ASSIGNMENT OF AGREEMENT; TRANSFER OF FACILITY

A. This Agreement shall not be assigned or delegated in whole or in part by Brown County or OEI without the prior written consent of the other party.

ARTICLE FIFTEEN. TERMINATION

This Agreement may be terminated by either party (the "Terminating Party") in the event of material breach or nonperformance by the other party (the "Breaching Party") upon 180 days' prior written notice to the Breaching Party, if the Breaching Party has not cured such breach or nonperformance within 90 days of receiving notice of such breach or nonperformance from the Terminating Party. Such termination shall not terminate or affect any other rights of the Terminating Party against the Breaching Party. Additionally, this Agreement may be terminated by Brown County if the Facility is not fully operational within 18 months of the Effective Date or Brown County elects to permanently cease to operate the Brown County Solid Waste Management System. Brown County shall provide OEI a 18 month notice of

a permanent shutdown. Notwithstanding the foregoing, Brown County acknowledges and agrees that it currently has no plans to cease to operate the Brown County Solid Waste Management System.

ARTICLE SIXTEEN. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the State, without regard to principles of conflicts of law.

ARTICLE SEVENTEEN. SEVERABILITY

In the event any covenant, condition or provision of this Agreement is held to be invalid or unenforceable by a final judgment of a court of competent jurisdiction, the invalidity or unenforceability thereof shall in no way affect any of the other covenants, conditions or provisions hereof; provided, however, that such remaining covenants, conditions and provisions can thereafter be applicable and effective without materially changing the obligations of any party.

ARTICLE EIGHTEEN. RELATIONSHIP OF THE PARTIES

Nothing herein shall be deemed to constitute or make any party a partner, joint venturer, agent, fiduciary or representative of another party. The obligations created hereunder shall run solely and exclusively between Brown County and OEI.

ARTICLE NINETEEN. NOTICES

All notices herein required or permitted to be given or furnished under this Agreement by either party to the other shall be in writing, and shall be deemed sufficiently given and served upon the other party if sent by regular mail, postage prepaid, or hand delivered by courier service addressed as follows:

If to OEI: Oneida Energy, Inc.
1239 Flightway Drive
DePere, Wisconsin 54115
Attention: Chief Executive Officer

If to Brown County Brown County
c/o Brown County Port and Solid Waste Department
2561 South Broadway
Green Bay, Wisconsin 54304
Attention: Port and Solid Waste Director

Each party shall have the right, from time to time, to designate different person(s) and/or address (es) by notice given in conformity with this Article.

ARTICLE TWENTY. OTHER DOCUMENTS

Each party shall execute, attach and deliver any instruments and perform any acts that may be necessary or reasonably required by this Agreement.

ARTICLE TWENTY-ONE. ENTIRE AGREEMENT; AMENDMENT

This Agreement and the other documents to be delivered pursuant hereto constitute the entire agreement among the parties hereto and there are no agreements, representations or warranties which are not set forth herein. All prior negotiations, agreements and understandings are superseded hereby. This Agreement may not be amended or revised except by a writing signed by the parties hereto. All parties are represented by counsel, and no one party shall be deemed the drafter of this Agreement with respect to its interpretation.

ARTICLE TWENTY-TWO. COUNTERPARTS; FACSIMILE SIGNATURES

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and both of which together shall constitute one document. This Agreement may be signed by facsimile or electronically in portable document format ("pdf"), and facsimile or pdf signatures shall be binding, but the parties shall provide each other with originally signed copies of this Agreement upon request.

ARTICLE TWENTY-THREE. WAIVER OF SOVEREIGN TRIBAL IMMUNITY

As an affiliate of the Oneida Tribe of Indians of Wisconsin, OEI waives any claim of sovereign immunity in connection with any dispute arising out of or relating to this Agreement. The waiver of sovereign immunity shall apply to any theory of recovery and for any allowable damages, but shall only apply to claims made by Brown County.

ARTICLE TWENTY-FOUR. GOVERNING LAW

The parties agree that this Agreement and the interpretation thereof shall be governed by the laws of the State, without regard to principles of conflicts of laws.

ARTICLE TWENTY-FOUR. ARBITRATION

All disputes concerning the interpretation or enforcement of this Agreement shall be resolved by binding arbitration. In case of such a dispute, the parties shall nominate an attorney or reserve judge to serve as single arbitrator. If the parties are unable to agree on an arbitrator, they shall each nominate an arbitrator and those two arbitrators shall select a third arbitrator and the third arbitrator shall serve as the sole arbitrator. The parties shall each be responsible for one half of any arbitrator fees regardless of the outcome of the arbitration. The arbitrator's award shall be binding upon the parties and shall be enforceable as a judgment. The arbitrator shall make a finding in the arbitration as to the prevailing party in the arbitration, and the prevailing party shall be entitled to collect their actual attorney fees and costs from the other party excluding their one-half share of the arbitrator's fee.

IN WITNESS WHEREOF, the parties have executed this Agreement as of January 1, 2011.

BROWN COUNTY, WISCONSIN

By: _____
Troy Streckenbach, County Executive

By: _____
Dean Haen, Interim-Director,
Brown County Port and Solid Waste Department

ONEIDA ENERGY, INC.

By: _____
Kevin Cornelius, Chief Executive Officer