COMMERCIAL, LEGAL AND CONTRACTUAL CONSIDERATIONS IN PROCURING A FOOD WASTE-TO-ENERGY AGREEMENT

Presented by Rick Sapir
HAWKINS DELAFIELD & WOOD LLP
973-642-1188
esapir@hawkins.com
MARKET STATUS

- Significant Buzz
- Projects Occurring in Pockets Nationally
- Limited Number of Projects in New Jersey
PROJECT DRIVERS

• Legislative/Regulatory Requirements
• Economics
• Environmental/Sustainability Benefits
LEGISLATIVE/REGULATORY REQUIREMENTS

• Large Food Waste Generator Requirements – MA, RI, CT, CA, NYC
• European Union
NO LEGAL MANDATE IN NEW JERSEY

• PROPOSED NEW JERSEY LEGISLATION
  -SB No. 2494
    -October, 2014 by Senator Lesniak
  -AB No. 4397
    -May, 2015 by Assemblywoman Spencer
  -SB No. 771
    -January, 2016 by Senators Smith and Bateman
ECONOMIC FEASIBILITY

- Costs
- Revenues
- Avoided Costs
- Risks
PROJECT COSTS

• Cap X for Several Project Components
• Operation and Maintenance Costs
• Product/Solids Transportation and Disposal
PROJECT REVENUES

- Tip Fees
- Off-Take Sales
- RECs/RINs
- Tax Benefits
AVOIED COSTS

- On-Site Demand for Gas/Electricity
- Value Driven by Market Price
RISKS

- Attract Feedstock
- Market for Products
- Residue Disposal
- Facility Performance
- System Upsets
- Odors
LOW HANGING FRUIT-WASTEWATER TREATMENT FACILITIES

• In-Place Infrastructure - Lowers Cap X
• Significant 24/7 Electricity Demand
• Bio-Solids Feedstock
• Generally, Okay with “Specified” Liquid Feedstock – Not Solid Waste
RAHWAY VALLEY SEWERAGE AUTHORITY

• Very Well Positioned
  - Existing Digesters with Excess Capacity
  - Existing Co-Gen Facilities
  - Tank Available for Receiving/Feed Station
  - 24/7 Demand for Electricity
  - Post-Sandy Resiliency Objectives
  - Proximity to NYC
RAHWAY VALLEY SEWERAGE AUTHORITY

CONSIDERATIONS

• Commercial
• Legal
• Contractual
COMMERCIAL CONSIDERATIONS

• Appropriate Allocation of Scope of Services
  - No Feedstock Sourcing Responsibility
  - No Solid Waste Deliveries to WWTP

• Assured Revenue Stream

• Generate Additional Digester Gas

• Concerned About Affect on Digesters

• Concerned About Increase in Solids and Disposal Cost
• Concerned About Odors
• Long-Term Commitments
• Digester Optimization
• Financing of Capital Improvements
LEGAL CONSIDERATIONS

• Procurement Authority
• Authority for Long-Term Contracts
• Affect on Outstanding Tax-Exempt Bonds
CONTRACTUAL CONSIDERATIONS

- Only “Liquid Waste” Accepted
- Specified Feedstock Definition
- Specified Feedstock Delivery Guarantee
  - Ramp Up
  - Damages
- Solids Production Guarantee
  - Damages
CONTRACTUAL CONSIDERATIONS (Cont’d)

- Odor Guarantee
- Term
- Digester Optimization
- Security
- On-Site Design-Build Improvements
- Financing of On-Site Improvements
STATUS

- Finalizing Negotiations
- Discussions with NJEIT
- Discussion with Clean Energy Program
NEXT STEPS

• Public Hearing
• DCA Approval
• Permits
• Finance Capital Improvements
• Company Obligations
WRAP UP

COMMENTS AND QUESTIONS

Rick Sapir
Hawkins Delafield & Wood LLP
973-642-1188
esapir@hawkins.com