

ASSIGNMENT, AMENDMENT AND RESTATEMENT OF
MUNICIPAL WASTE DISPOSAL AGREEMENT

Between

CITY OF HARRISBURG

and

LANCASTER COUNTY
SOLID WASTE MANAGEMENT AUTHORITY

Dated as of August __, 2013

TABLE OF CONTENTS

ARTICLE I TERM	2
Section 1.01 Commencement Date.....	2
Section 1.02 Termination before Commencement.	2
Section 1.03 Termination after Commencement.	2
Section 1.04 Termination Fee.	3
Section 1.05 Extension of Term.....	3
ARTICLE II CONDITIONS PRECEDENT	3
Section 2.01 General.....	3
Section 2.02 Conditions to City Obligations.	3
Section 2.03 Conditions to LCSWMA Obligations.....	4
Section 2.04 Satisfaction of Conditions Precedent.	5
ARTICLE III DELIVERY AND DISPOSAL OF REGULATED MUNICIPAL WASTE.....	5
Section 3.01 Overall Responsibilities.....	5
Section 3.02 Receiving Time.....	6
Section 3.03 Weighing of City Regulated Municipal Waste; Weigh Scale Records.	6
Section 3.04 Haulers. So that LCSWMA can comply with the preceding Section of this Agreement:	7
Section 3.05 Delivery of Waste.	8
Section 3.06 Hazardous Waste and Unacceptable Waste.....	8
Section 3.07 Residual Waste, Municipal Waste Sludge and Special Handling Municipal Waste.	8
ARTICLE IV TIPPING FEE.....	8
Section 4.01 Tipping Fees.....	8
Section 4.02 Host Fee.	9
Section 4.03 Billing and Payments.	9
Section 4.04 Shortfall Fee; Security for Payment; Tipping Fee Rebate.	9
ARTICLE V ADDITIONAL CITY OBLIGATIONS.....	10
Section 5.01 City Approvals.	10
Section 5.02 Removal of City Property.	11
Section 5.03 Steam Lines.....	11
Section 5.04 Water and Sewer.	11
Section 5.05 Cooperation.....	12
ARTICLE VI INDEMNIFICATION	12
Section 6.01 Indemnification by LCSWMA.	12
Section 6.02 Indemnification by the City.	12
ARTICLE VII UNCONTROLLABLE CIRCUMSTANCES.....	13
Section 7.01 Excuse for Nonperformance.	13
Section 7.02 Mitigation.....	13
Section 7.03 Notices.	13

Section 7.04	Adjustment to the Tipping Fee for Uncontrollable Circumstances.	13
Section 7.05	Arbitration.....	13
ARTICLE VIII EVENTS OF DEFAULT		13
Section 8.01	Events of Default by LCSWMA.....	13
Section 8.02	Events of Default by the City.....	14
ARTICLE IX REMEDIES		14
Section 9.01	Remedies of the City.....	14
Section 9.02	Remedies of LCSWMA.....	15
Section 9.03	Manner of Termination Payment.....	15
ARTICLE X DISPUTE RESOLUTION		16
Section 10.01	Scope.....	16
Section 10.02	Resolution.....	16
ARTICLE XI DEFINITIONS.....		16
Section 11.01	Definitions.....	16
Section 11.02	Terms Generally.....	23
Section 11.03	Notices Generally.....	23
ARTICLE XII MISCELLANEOUS.....		24
Section 12.01	Representations of the City.....	24
Section 12.02	Representations of LCSWMA.....	24
Section 12.03	Interest on Payments.....	25
Section 12.04	Compliance with Laws.....	25
Section 12.05	Assignment.....	25
Section 12.06	Notices.....	25
Section 12.07	Relationship of the Parties.....	26
Section 12.08	Waiver.....	26
Section 12.09	Section Captions; References.....	27
Section 12.10	Severability.....	27
Section 12.11	Amendment.....	27
Section 12.12	Agreement Governed by Commonwealth Law.....	27
Section 12.13	No Other Agreements.....	27
Section 12.14	Successors and Assigns.....	27
Section 12.15	Execution of Documents.....	27
SCHEDULE I -- TIPPING FEE SCHEDULE		29

**ASSIGNMENT, AMENDMENT AND RESTATEMENT OF
MUNICIPAL WASTE DISPOSAL AGREEMENT**

THIS ASSIGNMENT, AMENDMENT, AND RESTATEMENT OF MUNICIPAL WASTE DISPOSAL AGREEMENT (this "Agreement") is made and entered into as of the ___ day of August, 2013, by and between the City of Harrisburg (the "City"), a Third Class City of the Commonwealth of Pennsylvania, and the Lancaster County Solid Waste Management Authority ("LCSWMA"), a municipal authority incorporated under the Authorities Act.

Background. The Harrisburg Materials Energy and Resource Recovery Facility (the "HMERRF" or "SRMC") is a solid waste acceptance, transfer and processing, steam and electric generation and ash disposal facility located at 1670 South 19th Street, Harrisburg, Pennsylvania, in the City of Harrisburg and Township of Swatara. The HMERRF was originally constructed, owned and operated by the City. The City sold the HMERRF to The Harrisburg Authority ("THA"), a municipal authority incorporated by the City under Authorities Act. THA owns the HMERRF as well as a sewer and water system serving the City and surrounding municipalities. THA is in financial distress due in part to high levels of debt upon the HMERRF (the "HMERRF Debt"). Most of the HMERRF Debt has been guaranteed by the City. In part due to the HMERRF Debt, a Receiver for the City (the "Receiver") has been appointed and is in the process of obtaining Court approval of a recovery plan for the City (the "Recovery Plan").

The HMERRF provides waste processing and disposal services to the City and others. On December 1, 1993, the City entered into a Municipal Solid Waste Disposal Agreement with THA, which was subsequently amended on June 4, 2003 to extend the term to 2036 and amended again on January 1, 2007 (as amended, the "THA Agreement"). The current City Regulated Municipal Waste Tipping Fee under the THA Agreement is Two Hundred Dollars (\$200.00) per Ton.

In order to provide efficient and effective municipal solid waste disposal services for the residents and businesses of the City, the HMERRF should be acquired and operated by LCSWMA (the "Acquisition"). The Acquisition and the other actions contemplated by the Recovery Plan will greatly contribute to the retirement in HMERRF Debt in excess of Three Hundred and Thirty Million Dollars (\$330,000,000) and to the return of the City to a sound financial footing.

In order for the Acquisition to generate a purchase price to THA sufficient to retire a significant portion of the HMERRF Debt and enable a successful Recovery Plan, it is necessary for, among other things, all certain solid waste generated within the City to be delivered, processed and disposed by LCSWMA under the long term rates as set forth in this Agreement. Without long term contracts the HMERRF has a very limited value. LCSWMA would not close under the Asset Purchase Agreement with THA at the Acquisition price stated in the Asset Purchase Agreement without the City's execution of this Agreement. Upon Acquisition, the HMERRF will be known as the Susquehanna Resource Management Complex.

Upon the Commencement Date, THA will assign the THA Agreement to LCSWMA, this Agreement will be an Amended and Restated THA Agreement, and THA will have no further responsibility under the THA Agreement. The City will collect, directly or indirectly, all City

Regulated Municipal Waste and arrange for its delivery to the SRMC. At present, the City collects certain City Regulated Municipal Waste and certain commercial City Regulated Municipal Waste is collected by private haulers under contract with the generators. The City has issued a request for proposals for a contract (a "Collection Contract") with a private Hauler or Haulers to collect and deliver to the R certain residential City Regulated Municipal Waste on behalf of the City. At this time, it is not known whether or not the City will enter into a Collection Contract or whether the City will continue to collect residential City Regulated Municipal Waste with the City's own forces.

This Agreement is intended to set forth the terms and conditions under which under which the SRMC will continue to accept, process and dispose of all City Regulated Municipal Waste delivered to the SRMC and under which the City, or its designated agent, will pay to LCSWMA certain Tipping Fees for City Regulated Waste delivered by the City and certain Shortfall Fees if receipts from City Regulated Municipal Waste fall below that which should be received by delivery of the Base Tonnage.

Capitalized terms used in this Agreement shall be defined as set forth in Article XI of this Agreement.

NOW, THEREFORE, with the foregoing background incorporated by reference and in consideration of the mutual obligations undertaken in this Agreement, and in consideration of LCSWMA entering into the Asset Purchase Agreement, the City and LCSWMA agree as follows:

ARTICLE I

TERM

Section 1.01 Commencement Date. Delivery and acceptance of waste under this Agreement shall commence on the date LCSWMA closes upon the Acquisition (the "Commencement Date"), which is expected to be on or about October 16, 2013, and shall continue until the twentieth (20th) anniversary of the Commencement Date (the "End Date") unless terminated early pursuant to this Agreement. If the conditions precedent set forth in Article II are not met on or before October 16, 2013, and neither party has terminated this Agreement pursuant to Section 1.03, the Commencement Date shall be the date LCSWMA closes upon the Acquisition.

Section 1.02 Termination before Commencement. If the Acquisition and the Commencement Date have not occurred on or before December 31, 2013, then, if all of the conditions precedent set forth in the following Article II are not satisfied or are not waived by the Party whose obligations are conditioned thereon, then either Party may, by notice in writing to the other Party, terminate this Agreement as of the date of such notice. Nothing in this Section 1.02 shall be deemed to relieve the Parties of their obligations pursuant to Article II, including but not limited to Section 2.04(b).

Section 1.03 Termination after Commencement. On and after the Acquisition and the Commencement Date, the City may terminate this Agreement at any time upon one hundred and

eighty (180) days prior written notice to LCSWMA, provided that the notice of termination is accompanied by the Termination Fee.

Section 1.04 Termination Fee. In consideration of LCSWMA entering into the Asset Purchase Agreement and completing the Acquisition, in the event that, after the Commencement Date, this Agreement terminates for any reason other than by written notice of termination without cause by LCSWMA, or by termination by the City under Article IX by written notice after an uncured Event of Default of LCSWMA, then, in such event, the City shall pay, on or before earlier of the date the City gives notice of termination or the date of termination (the "Termination Date"), a dollar amount (the "Termination Fee") which is equal to the net present value, using a discount rate of three percent (3%), of a daily cash flow stream calculated as follows:

(95.9 for each day between the Termination Date and the End Date inclusive)

times

(the Tipping Fee in dollars applicable to such day minus \$21.00).

Section 1.05 Extension of Term. As part of the Acquisition, in order to enable certain subordinated debt to be issued by LCSWMA to repay more of the SRMC Debt and allow the Recovery Plan to be implemented, the County may agree to extend Waste Flow Control beyond the End Date. If this Agreement is still in effect and the County extends Waste Flow Control of County Regulated Municipal Waste to the SRMC beyond the End Date, then this Agreement shall be extended for as long as such Waste Flow Control continues, up to a maximum of the tenth (10th) anniversary of the End Date. This Agreement may also be extended by mutual agreement of the parties. During any extended term after the End Date, the City Tipping Fee for City Regulated Municipal Waste shall be lowered to the same rate as the Tipping Fee for the remainder of County Regulated Municipal Waste, with no Tipping Fee Rebate.

ARTICLE II

CONDITIONS PRECEDENT

Section 2.01 General.

All rights, obligations and liabilities of the City and the LCSWMA under this Agreement on and after the Commencement Date shall be subject to the satisfaction of each of the respective conditions precedent set forth in Sections 2.02 and 2.03 on or before the Commencement Date.

Section 2.02 Conditions to City Obligations.

Unless waived by the City, the Commencement Date shall not occur unless each of the following conditions has been met to the City's satisfaction:

(a) LCSWMA shall have delivered to the City a certificate of an authorized officer of LCSWMA, dated as of the Commencement Date, to the effect that each of the representations of LCSWMA set forth in Section 12.02 are true and correct as if made on such

date, and an opinion of counsel to LCSWMA, in customary form and acceptable to the City, to the effect set forth in clauses (a) through (d) of Section 12.02;

(b) all applicable permits and licenses necessary for the disposal of Municipal Waste at the SRMC shall be in full force and effect;

(c) the Acquisition shall have closed and LCSWMA shall own the SRMC.

Section 2.03 Conditions to LCSWMA Obligations.

Unless waived by LCSWMA, the Commencement Date shall not occur unless each of the following conditions has been met to LCSWMA's satisfaction:

(a) the Receiver shall have approved this Agreement and the Recovery Plan shall have been approved by the Commonwealth Court, all appeal periods having expired;

(b) the Mayor of the City and a majority of the City Council shall have approved this Agreement by resolution or ordinance, and shall have adopted a resolution or ordinance which approves the Acquisition, this Agreement, and the appropriate approval of the sale of electricity generated by the SRMC in accordance with Section 5607(b)(3)(i) of the Authorities Act;

(c) each condition to closing under the Asset Purchase Agreement shall be met or waived by LCSWMA;

(d) the Acquisition shall have closed and LCSWMA shall own the SRMC, provided that LCSWMA shall have no obligation to close the Acquisition unless all the terms and conditions of the Acquisition Agreement between LCSWMA and THA are met to LCSWMA's satisfaction;

(e) THA shall have assigned the THA Agreement to LCSMWA;

(f) the Deposit Account shall have been funded in accordance with this Agreement and the City shall have granted LCSWMA a pledge and first position security interest in the Parking Revenues;

(g) the City and the County shall have taken all necessary and appropriate steps to impose Waste Flow Control and the County Plan shall continue to require all County Regulated Municipal Waste to be delivered to the SRMC;

(h) the City shall have delivered to LCSWMA a certificate of the City, dated as of the Commencement Date, to the effect that each of the representations of the City set forth in Section 12.01 are true and correct as if made on such date, and an opinion of counsel to the City, in customary form, to the effect set forth in clauses (a) through (d) of Section 12.01;

(i) no action, suit, proceeding or official investigation shall have been commenced by any Person or federal, Commonwealth or local governmental authority or agency

other than LCSWMA in any federal, Commonwealth or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment, order or consent decree with respect to the City or LCSWMA as a result of the City's participation or intended participation in any transaction contemplated by this Agreement if any such action, suit, proceeding or investigation would, if adversely determined, materially affect this Agreement, or the performance by the Parties of their respective obligations under this Agreement or the transactions contemplated by this Agreement; provided, however, that this paragraph (b) shall not apply to any action, suit, proceeding or official investigation the probable results of which will not in the opinion of counsel to the City materially adversely affect this Agreement, the performance by the City or LCSWMA of their obligations under this Agreement, or their participation or intended participation in any of the transactions contemplated by this Agreement;

(j) no change shall have occurred after the Contract Date in any applicable federal, Commonwealth or local law, or any applicable federal, Commonwealth or local rule, regulation or ordinance thereunder, or in the interpretation thereof by any applicable regulatory authority, that would make the execution or delivery by the City or LCSWMA of this Agreement, or would make compliance by the City or LCSWMA with the terms and conditions of this Agreement or the consummation by the City or LCSWMA of the transactions contemplated by this Agreement, a violation of such law, rule, regulation or ordinance; and

(k) LCSWMA shall have obtained the necessary federal, state and local permits or approvals necessary for the operation of the SRMC, and all applicable permits and licenses necessary for the processing and disposal of Municipal Waste at the SRMC, or, in the alternative, it shall be apparent that such permits, approvals and licenses will be issued in due course and LCSWMA and THA shall have entered into an operating agreement allowing LCSWMA to operate under THA's permits, approvals and licenses.

Section 2.04 Satisfaction of Conditions Precedent.

(a) The Parties shall exercise good faith and due diligence in satisfying the conditions precedent set forth in this Article II and each Party shall give prompt notice to the other Party when the foregoing conditions precedent to its obligation have been respectively satisfied or waived in writing by the Party whose obligation is conditioned thereon.

(b) Neither Party shall be relieved of its obligations under this Agreement by the failure to satisfy any condition precedent to the extent that the satisfaction of such condition is within such Party's control.

(c) LCSWMA and the City shall each provide executed acknowledgment to the other Party that the conditions precedent to their respective obligations under this Agreement have been met immediately upon the satisfaction or waiver of such conditions precedent.

ARTICLE III

DELIVERY AND DISPOSAL OF REGULATED MUNICIPAL WASTE

Section 3.01 Overall Responsibilities. During the Term:

(a) LCSWMA shall accept City Regulated Municipal Waste in accordance with all the terms and provisions of this Agreement, including charging the Tipping Fee inclusive of the Host Fee as set forth in Article IV below.

(b) The City shall maintain and enforce Waste Flow Control that requires Haulers and all other Persons to deliver all City Regulated Municipal Waste to the SRMC. Any Collection Contract of the City shall require delivery of all City Regulated Municipal Waste to the SRMC and payment of the Tipping Fees.

(c) LCSWMA shall accept, transfer, process or dispose all City Regulated Municipal Waste delivered to the SRMC.

(d) The City will pay, or cause to be paid, the Tipping Fee set forth in Section 4.01 for City Regulated Municipal Waste in accordance with the terms of LCSWMA invoices, which shall provide for payment net thirty (30) days.

(e) LCSWMA shall obtain and maintain all necessary licenses and permits in order to enable it to perform its obligations under this Agreement.

(f) LCSWMA shall be responsible for transportation and disposal of incinerator ash generated by the SRMC.

Section 3.02 Receiving Time.

LCSWMA shall keep the SRMC open for receiving City Regulated Municipal Waste during the Receiving Time, excluding Legal Holidays. Subject to applicable Commonwealth regulations and any permit issued thereunder, LCSWMA may receive Municipal Waste at the SRMC at such additional times as LCSWMA and the Haulers or generators may agree. LCSWMA may, in LCSWMA's discretion, accept the delivery of Municipal Waste at times other than the Receiving Time.

Section 3.03 Weighing of City Regulated Municipal Waste; Weigh Scale Records.

(a) LCSWMA shall operate and maintain the weigh scales located at the SRMC for the purpose of determining the total Tons of City Regulated Municipal Waste delivered to the SRMC. Disputes with respect to the accuracy of weigh scale records shall be resolved pursuant to the provisions of Article X.

(b) Each vehicle delivering City Regulated Municipal Waste shall be weighed-in, and the weight and origin of all such City Regulated Municipal Waste and the identity of the Hauler delivering such City Regulated Municipal Waste shall be recorded and maintained by LCSWMA for purposes of the preparation of LCSWMA's invoices for disposal services. LCSWMA shall maintain a weight record containing the weight, date, time, any applicable permit number and vehicle identification of each vehicle entering and exiting the SRMC delivering City Regulated Municipal Waste. LCSWMA may determine the weight of such vehicles leaving the SRMC by either weighing-out such vehicles or by establishing and relying on a system of posted tare weight measurements with regard to such vehicles. To the extent that Unacceptable Waste is delivered to the SRMC by or on behalf of the City but is not

disposed of, LCSWMA may separately weigh such Unacceptable Waste leaving the SRMC and the Tons of such Unacceptable Waste shall not be credited to the total number of Tons of City Regulated Municipal Waste delivered by or on behalf of the City during any such month.

(c) LCSWMA shall cause the SRMC scales to be tested and recalibrated as often as may be required by Commonwealth law. The City shall have the right to review all test records and results. If all weighing facilities are incapacitated or are being tested, LCSWMA shall estimate the quantity of City Regulated Municipal Waste on the basis of daily truck volumes and estimated data obtained from historical information pertinent to the City and LCSWMA. These estimates shall take the place of actual weighing records during the scale outage.

Section 3.04 Haulers. So that LCSWMA can comply with the preceding Section of this Agreement:

(a) The City shall thirty (30) days before the Commencement Date provide LCSWMA with a list of all Haulers who will be delivering City Regulated Municipal Waste to the SRMC and a means of quickly and efficiently identifying and verifying such Haulers, as follows:

(i) If City Regulated Municipal Waste is collected by City employees in City vehicles, such employees and vehicles shall be identified to LCSWMA by the City.

(ii) If City Regulated Municipal Waste is collected by a private Hauler or Haulers pursuant to a contract with the City, such private Hauler employees and vehicles shall be identified to LCSWMA by the City.

(iii) If Persons other than City employees or contracted Haulers are entitled to collect and deliver to the SRMC City Regulated Municipal Waste (other than City Regulated Municipal Waste which has been generated within such Person's residential household) then those Persons shall and their vehicles shall also be identified to LCSWMA by the City.

(b) LCSWMA shall be entitled to require that all the Persons identified in the preceding Section 3.04(a) abide by the SRMC Rules and Regulations and agree to affix a clearly visible LCSWMA identifying placard to the applicable delivery vehicle.

(c) Upon the request of LCSWMA, the City shall take such action as may be appropriate to require all Persons delivering City Regulated Municipal Waste to the SRMC to comply with the SRMC Rules and Regulations. Such action may include appropriate provisions in any City collection contracts, instructions to City employees, and ordinances. The City shall provide LCSWMA with all requested information, including contracts, concerning City contracted Haulers and City employees engaged in delivering City Regulated Municipal Waste to the SRMC.

(d) The SRMC Rules and Regulations may regulate safety, routing of delivery vehicles, traffic control, inspection of delivery vehicles, and other matters. LCSWMA Rules and Regulations may require each Hauler vehicle delivering City Regulated Municipal Waste to have

its tare weight and, if applicable, LCSWMA identifying number conspicuously displayed on the exterior of the vehicle in a location designated by LCSWMA and reasonably visible to the operator of the scale house at the SRMC.

Section 3.05 Delivery of Waste.

(a) The SRMC Rules and Regulations may regulate all Persons delivering City Regulated Municipal Waste to the SRMC. The City shall provide any requested assistance to enforce the LCSWMA Rules and Regulations with respect to such Persons.

(b) LCSWMA reserves the right, after providing a Hauler with notice and a reasonable opportunity to correct improper performance, to eject a Hauler from, or refuse entry by a Hauler to, the SRMC, to reject deliveries and/or impose penalties and costs upon any Hauler for (i) failure to comply with all applicable rules, regulations and requirements, (ii) delivery of Unacceptable Waste or (iii) acting in any manner that could result in governmental enforcement action against LCSWMA or that endangers the health or safety of the public or LCSWMA's employees or citizens.

(c) With respect to the delivery of City Regulated Municipal Waste to the SRMC, the City and LCSWMA shall each cooperate with each other, and use their respective powers and authorities, to ensure compliance by Haulers with (i) the SRMC Rules and Regulations, and (ii) all applicable governmental rules, regulations and requirements.

(d) LCSWMA may reject deliveries of (i) truckloads composed primarily of Leaf Waste as that term is defined in the Act 101; (ii) solid waste other than Municipal Waste; and (iii) Municipal Waste delivered at other than the Receiving Time.

Section 3.06 Hazardous Waste and Unacceptable Waste.

The Parties shall mutually cooperate in connection with all matters regarding Hazardous Waste and Unacceptable Waste under this Agreement.

Section 3.07 Residual Waste, Municipal Waste Sludge and Special Handling Municipal Waste.

LCSWMA may, but is not required to, dispose of Residual Waste and/or Municipal Waste sludge and/or Special Handling Municipal Waste generated within the City.

ARTICLE IV
TIPPING FEE

Section 4.01 Tipping Fees.

(a) LCSWMA shall charge and the City, or its designated agent or Hauler, shall pay a Tipping Fee for City Regulated Municipal Waste in accordance with the Tipping Fee Schedule attached hereto as Schedule I. Notwithstanding that the City may designate an agent or Hauler to deliver City Regulated Municipal Waste and/or pay the applicable Tipping Fee, the City shall remain fully liable to pay all Tipping Fees and Shortfall Fees under this Agreement. In

addition to the Tipping Fees shown on Schedule I, LCSWMA may charge minimum access fees for small vehicles, fees for mixed loads, fees for delivery of unacceptable waste, fees for unloading assistance, fees for violations of the SRMC Rules and Regulations, and other fees charged generally to users of the SRMC under the SRMC Rules and Regulations. The City acknowledges and agrees that the Tipping Fees and processing and disposal services provided by LCSWMA under this Agreement are actual and necessary costs for necessary services for the operation of the City.

(b) The Tipping Fee is inclusive of all current governmental fees upon the processing and disposal of waste, including the Host Fee. The Tipping Fee shall be increased or decreased by the amount of any increases or decreases in such governmental fees due to Change in Law, other than the Host Fee.

Section 4.02 Host Fee.

LCSWMA shall collect and remit to the City a Host Fee of initially One Dollar (\$1.00) per Ton of solid waste received at the SRMC. Beginning January 1, 2015, this Host Fee shall be adjusted annually on January 1 of each calendar year by multiplying the Host Fee used during the prior year times the then effective Consumer Price Index divided by the Consumer Price Index of the prior year. The Host Fee shall be paid by LCSWMA to the City on a quarterly basis. Each calendar year shall be divided into four equal three month quarters, and the Host Fee shall be paid within thirty (30) days after the end of each quarter.

Section 4.03 Billing and Payments.

LCSWMA or its representative or agent shall prepare and mail invoices to each Hauler subject to the Deposit Account for Tipping Fees charged during each month within ten (10) days of the end of such month. LCSWMA shall provide the City with a summary of such invoices which shall include: (i) the total Tons of City Regulated Municipal Waste delivered to the SRMC during each such month and (ii) the total receipts from Tipping Fees applicable to the preceding month.

Section 4.04 Shortfall Fee; Security for Payment; Tipping Fee Rebate.

(a) On January 1 of each calendar year, LCSWMA shall calculate the total Tons of City Regulated Municipal Waste received during the prior calendar year (each the "Annual Tonnage") and the total receipts for Tipping Fees during the prior calendar year. LCSWMA shall provide the City with a statement of the calendar year Annual Tonnage and receipts (the "Annual Statement") within thirty (30) days after each annual anniversary

(b) In the event that the Annual Tonnage for any calendar year is less than the minimum Thirty-Five Thousand (35,000) Tons required (the "Base Tonnage"), the City shall pay to LCSWMA a shortfall fee (the "Shortfall Fee"). The Shortfall Fee shall be calculated by taking the Base Tonnage, less the Annual Tonnage, multiplied by the then applicable Tipping Fee. The Shortfall Fee shall be due and payable from the City thirty (30) days after the rendering of the Annual Statement.

(c) In lieu of the payment of City Regulated Municipal Waste Tipping Fees at the time of delivery by City contracted Haulers or City employees, the following security shall be granted to LCSWMA.

(i) LCSWMA will create and maintain a segregated Deposit Account (the "Deposit Account"). The City shall ensure that at all times after the Commencement Date the Deposit Account contains a minimum balance of One Million Dollars (\$1,000,000). In the event that any Tipping Fee invoice is not paid within thirty (30) days of the due date, or in the event that the City shall fail to pay the Shortfall Fee within thirty (30) days of the due date, LCSWMA is hereby authorized to withdraw from the Deposit Account any amount necessary to satisfy such Tipping Fee invoice and/or such Shortfall Fee. In such event, the City shall replace the amount withdrawn within thirty (30) days of notice. LCSWMA's exercise of its rights pursuant to this Section 4.04(c) shall not in any way limit LCSWMA's right to recover any additional amounts due from the City as a result of failure of the City or its agents to provide timely payment under this Agreement.

(ii) The City is receiving certain annual payments (the "Parking Revenues") as a result of transactions concerning the facilities of the Harrisburg Parking Authority. The City shall pledge and grant LCSWMA a continuing security interest in the Parking Revenues to secure the City's payment of Tipping Fees and the Termination Fee.

(d) In the event that the Annual Tonnage for any calendar year is greater than Thirty-Eight Thousand (38,000) Tons (the "Rebate Tonnage"), LCSWMA shall pay to the City a Tipping Fee rebate (the "Tipping Fee Rebate"). The Tipping Fee Rebate shall be calculated by taking the Annual Tonnage, less the Rebate Tonnage, times One Hundred Dollars (\$100). The Tipping Fee Rebate shall be due and payable to the City thirty (30) days after the rendering of the Annual Statement.

(e) LCSWMA may set off against the Tipping Fee Rebate or the Host Fee any amounts due by the City to LCSWMA, with or without an Event of Default.

(f) For purposes of this Section 4.04, all calculations relating to any calendar year which is less than twelve (12) months because it is the first or last year of the term of this Agreement shall be prorated.

ARTICLE V

ADDITIONAL CITY OBLIGATIONS

Section 5.01 City Approvals.

(a) Prior to execution of this Agreement, the Mayor of the City and a majority of the City Council shall approve this Agreement by resolution or ordinance.

(b) Promptly after execution of this Agreement, the Mayor of the City and a majority of the City Council shall adopt a resolution or ordinance which approves the Acquisition, the Asset Purchase Agreement and this Agreement.

(c) Promptly after execution of this Agreement, the Mayor of the City and a majority of the City Council shall adopt a resolution or ordinance which provides appropriate approval of the sale of electricity generated by the SRMC in accordance with Section 5607(b)(3)(i) of the Authorities Act.

(d) Promptly after execution of this Agreement, the City shall take any necessary and appropriate steps to impose Waste Flow Control and direct all City Regulated Municipal Waste generated within the boundaries of the City to the SRMC. The City acknowledges that the County Plan and the Dauphin County Municipal Waste Management Ordinance designate the SRMC as the delivery point until 2033 for all Regulated Municipal Waste generated within Dauphin County, including all Regulated Municipal Waste generated within the City, and agrees that the disposal of City Regulated Municipal Waste is governed by the County Plan and Dauphin County Municipal Waste Management Ordinance. The City acknowledges and agrees that LCSWMA may issue and enforce SRMC Rules and Regulations applicable to City Regulated Waste, Haulers, and the SRMC under the County Plan and the Dauphin County Municipal Waste Management Ordinance.

Section 5.02 Removal of City Property.

(a) The City shall remove all property of the City's Department of Public Works from the SRMC within six (6) months of the Commencement Date, including but not limited to equipment, supplies, inventory, and inoperable, discarded or waste materials.

(b) At the City's sole cost and expense, the City shall remove all other City property not purchased by LCSWMA as part of the SRMC, stored at the SRMC within thirty (30) days of the Commencement Date, including but not limited to, artifacts stored in the Drying and Dewatering Building.

(c) LCSWMA will pay the City One Hundred and Fifty Thousand Dollars (\$150,000) if the removal pursuant to Section 5.02(a) and 5.02(b) above is completed in a manner reasonably satisfactory to LCSWMA (the "Removal") within six months (6) months of the Commencement Date. LCSWMA shall pay to the City an additional early moving bonus of One Hundred and Fifty Thousand Dollars (\$150,000) if the Removal occurs within three months (3) months of the Commencement Date.

(d) The City shall commence Removal immediately upon the Commencement Date, shall coordinate Removal efforts with LCSWMA so as to avoid interference with LCSWMA's operation of, or damage to any part of, the SRMC, shall complete the Removal in a good and workman like manner, leaving all structures in broom clean condition and shall provide LCSWMA with written notice when the Removal is completed.

Section 5.03 Steam Lines. The City, THA or THA's successor shall take and maintain ownership of any portion of any steam lines connected to the SRMC that are located beyond the boundaries of tract upon which the SRMC is located.

Section 5.04 Water and Sewer. The City shall cause THA or THA's successor to provide to LCSWMA, for use at the SRMC, water, effluent water and sewer services as required by the Asset Purchase Agreement.

Section 5.05 Cooperation. The City will cooperate in good faith with LCSWMA to accomplish the requirements of this Agreement.

ARTICLE VI **INDEMNIFICATION**

Section 6.01 Indemnification by LCSWMA.

LCSWMA shall protect, indemnify, and hold harmless the City and its respective officials, employees and agents, (the "City Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and reasonable attorneys' fees, and shall defend the City Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any Person or Persons, or for loss or damage to property arising out of (a) the acts or omissions of LCSWMA in the performance (or nonperformance) of LCSWMA's obligations under this Agreement, or (b) the acts or omissions, whether or not negligent, of LCSWMA in owning, operating or maintaining the SRMC during the term of this Agreement, or (c) the disposal by LCSWMA of the products of processing Regulated Municipal Waste. LCSWMA is not, however, required to protect, indemnify or hold harmless any City Indemnified Party for loss or claim resulting from performance (or nonperformance) of the City's obligations under this Agreement or the negligence or willful misconduct of any City Indemnified Party. LCSWMA's indemnity is for the exclusive benefit of City Indemnified Parties and in no event shall such indemnity inure to the benefit of any third Person. Notwithstanding the foregoing, nothing in this Section 6.01 shall require LCSWMA to indemnify any party with respect to environmental problems or liability with the SRMC prior to the Commencement Date.

Section 6.02 Indemnification by the City.

The City shall protect, indemnify, and hold harmless LCSWMA, its officers, directors and employees and their affiliates (including subsidiaries), and their respective officers, members, employees and agents (the "LCSWMA Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and reasonable attorneys' fees, and shall defend LCSWMA Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any Person or Persons, or for loss or damage to property arising out of the acts or omissions of the City or Haulers in the performance (or nonperformance) of the City's obligations under this Agreement. The City is not, however, required to protect, indemnify or hold harmless any LCSWMA Indemnified Party for loss or claim resulting from performance (or nonperformance) of LCSWMA's obligations under this Agreement or the negligence or willful misconduct of any Contractor Indemnified Party. The City's indemnity is for the exclusive benefit of LCSWMA Indemnified Parties, and in no event shall such indemnity inure to the benefit of any third Person.

ARTICLE VII
UNCONTROLLABLE CIRCUMSTANCES

Section 7.01 Excuse for Nonperformance.

The failure of either Party to perform any obligation under this Agreement due to an Uncontrollable Circumstance shall not constitute a breach of any such obligation.

Section 7.02 Mitigation.

Each Party shall be obligated to take all reasonable steps to mitigate the adverse effect of any Uncontrollable Circumstance.

Section 7.03 Notices.

Each Party shall be obligated to provide prompt notice to the other Party of the occurrence of an Uncontrollable Circumstance and to specify the extent of the adverse effect of such event on the performance of such Party's obligations under the Agreement.

Section 7.04 Adjustment to the Tipping Fee for Uncontrollable Circumstances.

In the event that Uncontrollable Circumstances give rise to increased costs of operation or maintenance or requires capital investment in the SRMC, LCSWMA may increase the Tipping Fees by the amount of the increased costs upon notice to the City containing a detailed accounting and justification for a proposed Tipping Fee increase to compensate for the increased cost. Within thirty (30) days of receiving such notice, if the City disputes the Tipping Fee increase or the amount thereof, the dispute shall be resolved by good faith negotiations between the Parties. If no resolution has been reached after thirty (30) days of good faith negotiation between the Parties, either Party may elect to resolve such dispute pursuant to Section 7.05.

Section 7.05 Arbitration.

In the event the Party receiving notice of the occurrence of an Uncontrollable Circumstance shall dispute the claimed adverse effect, the dispute shall be resolved by arbitration pursuant to Article X.

ARTICLE VIII
EVENTS OF DEFAULT

Section 8.01 Events of Default by LCSWMA.

The following shall constitute Events of Default on the part of LCSWMA:

(a) The repeated failure or refusal by LCSWMA to fulfill all or any of LCSWMA's obligations under this Agreement;

(b) (i) LCSWMA's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement for the benefit of its creditors or

consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against LCSWMA under the laws of any jurisdiction, which proceeding has not been dismissed within thirty (30) days, or (iii) any action or answer by LCSWMA approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of LCSWMA which shall substantially interfere with LCSWMA's performance under this Agreement;

(c) The failure of LCSWMA to operate the SRMC for a continuous period of one hundred and eighty (180) days. Operation as a transfer station is sufficient.

Section 8.02 Events of Default by the City.

The following shall constitute Events of Default on the part of the City:

(a) The repeated failure or refusal by the City to fulfill all or any of its obligations under this Agreement, other than the obligation to pay money when due;

(b) (i) The City's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against the City under the laws of any jurisdiction, which proceeding has not been dismissed within thirty (30) days, or (iii) any action or answer by the City approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of the City which shall substantially interfere with the City's performance under this Agreement; and

(c) The failure on the part of the City to pay all or any amounts owed to LCSWMA under this Agreement, within thirty (30) days following the date such amounts become due, or to make such other arrangements with LCSWMA as may be mutually agreed in writing.

ARTICLE IX
REMEDIES

Section 9.01 Remedies of the City.

(a) An Event of Default under Section 8.01(a) shall entitle the City to institute a legal proceeding seeking specific performance of this Agreement, and LCSWMA agrees that with respect to such action brought against LCSWMA by the City, that the award of damages at law is not an adequate remedy for an Event of Default under Section 8.01(a), nor the equivalent of the performance of LCSWMA's obligations under this Agreement.

(b) If, within a period of thirty (30) days after LCSWMA shall have received notice from the City that an Event of Default has occurred under Section 8.01, and LCSWMA has neither remedied, nor has commenced and continued to pursue with due diligence, a remedy for any such Event of Default, the City may terminate this Agreement upon thirty (30) days'

prior written notice to LCSWMA unless such Event of Default is cured within such thirty (30) day period, or such longer period as may be reasonably required.

(c) An Event of Default of the character described in Section 8.01(b) of this Agreement shall not require notice by the City as provided above, but shall terminate this Agreement forthwith.

(d) This Section 9.01 shall survive the termination of this Agreement.

Section 9.02 Remedies of LCSWMA.

(a) An Event of Default under Section 8.02(a) shall entitle LCSWMA to institute a legal proceeding seeking specific performance of this Agreement, and the City agrees that with respect to such actions brought against the City by LCSWMA, that the award of damages at law is not an adequate remedy for an Event of Default under Section 8.02(a) of this Agreement, or the equivalent of the performance of the City's obligations under this Agreement.

(b) If, within a period of thirty (30) days after the City shall have received notice from the City that an Event of Default has occurred under Section 8.02(c), and the City has neither remedied, nor has commenced and continued to pursue with due diligence, a remedy for any such Event of Default, nor has commenced an appropriate proceeding to dispute the existence of an Event of Default, LCSWMA may terminate the Agreement upon ten (10) days' prior written notice to the City unless such Event of Default is cured within such ten (10) day period, and in the event of failure to cure, case the Termination Fee shall be due.

(c) An Event of Default described in Section 8.02(b) of this Agreement shall not require notice by LCSWMA as provided above, but shall terminate this Agreement forthwith, in which case the Termination Fee shall be due.

(d) This Section 9.02 shall survive the termination of this Agreement.

Section 9.03 Manner of Termination Payment.

Within thirty (30) days following the termination or expiration of this Agreement for any reason, the Parties shall use best efforts to reconcile all amounts then due and payable to either Party under the terms of this Agreement, including but not limited to the obligation to pay the Termination Fee. The total amount of the net outstanding unpaid balance which either Party may owe the other, the City or LCSWMA as the case may be, shall, within sixty (60) days after termination or expiration of this Agreement, be paid by the applicable Party. This Section 9.03 shall survive the termination of this Agreement.

ARTICLE X
DISPUTE RESOLUTION

Section 10.01 Scope.

In the event any controversy, claim or dispute between LCSWMA and the City shall arise with respect to the provisions of this Agreement or the transactions contemplated by this Agreement, the City and LCSWMA shall resolve the dispute in accordance with this Article X.

Section 10.02 Resolution.

(a) The dispute shall be, unless otherwise agreed to by the parties, exclusively referred to, and finally determined by, arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association by three (3) arbitrators. The appointment of the arbitrators shall be in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The prevailing party shall be entitled to collect its arbitration costs, attorneys' fees, expert fees or any other costs arising from arbitration from the other party in accordance with the provisions permitting the award of the same under the Commercial Arbitration Rules of the American Arbitration Association. Any award of the arbitrators may be entered as a judgment in any court of competent jurisdiction.

(b) Nothing set forth in this Section 10.02 shall prevent the City and LCSWMA from settling any dispute by mutual agreement at any time.

ARTICLE XI
DEFINITIONS

Section 11.01 Definitions.

For purposes of this Agreement, the following words and phrases shall be given the respective interpretations and meanings set forth below.

"Acquisition" is the acquisition of the SRMC by LCSWMA as set forth in the second Background paragraph of this Agreement.

"Act 101" means the Municipal Waste Planning, Recycling and Waste Reduction Act, Commonwealth Act of July 28, 1988, No. 101, 53 P.S. §§ 4000.101, *et seq.*, and as subsequently modified.

"Agreement" means this Municipal Solid Waste Disposal Agreement between the City and the LCSWMA, as amended, supplemented or extended.

"Annual Statement" is defined in Section 4.04(a).

"Annual Tonnage" is defined in Section 4.04(a).

"Asset Purchase Agreement" means the agreement between LCSWMA and THA under which the Acquisition of the SRMC is to occur.

“Authorities Act” means the Municipality Authorities Act of 1945 (Act of 1945, P.L. 382 No. 164).

“Base Tonnage” is defined in Section 4.04(b).

“Business Day” means each Monday, Tuesday, Wednesday, Thursday, Friday and Saturday which is not a Legal Holiday.

“C&D Waste” means all construction and/or demolition waste, except Hazardous Waste and Unacceptable Waste.

“Change in Law” means the occurrence after the Commencement Date of an event described in paragraph (a) below unless such event is excluded pursuant to paragraph (b) or paragraph (c) below.

(a) Change in Law means any of the following:

(i) the enactment, adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation; or

(ii) the order or judgment of any federal, state or local court, administrative agency or other governmental body; or

(iii) the imposition of any conditions on the renewal (or the suspension, termination, interruption, revocation, modification, denial or failure of renewal) of any governmental license, approval or permit necessary for the operation or maintenance of the SRMC as contemplated under this Agreement; or

(iv) the adoption, promulgation, modification or interpretation in writing by the governmental agency or unit having appropriate jurisdiction of a written guideline or policy statement of the governmental agency or unit having appropriate jurisdiction.

(b) Any event described in paragraph (a) above shall not be a Change in Law unless:

(i) the event changes the cost or ability of the Party relying thereon to carry out its obligations under this Agreement; and

(ii) the event affects the collection, transport, storage or disposal of Municipal Waste, or the operation or maintenance of the SRMC as contemplated under this Agreement, and

(iii) the event established requirements which are more burdensome than or in addition to:

(A) the most stringent requirements in effect on the Commencement Date; and

(B) any requirements (except requirements to comply with future laws, ordinances, codes, rules or regulations) contained in any existing governmental licenses, approvals or permits with respect to the SRMC.

(c) an event which would otherwise be a Change in Law pursuant to paragraph (a) and paragraph (b) above shall not be a Change in Law if:

(i) the event is caused by the fault of the Party relying thereon, or

(ii) the event is a change in federal, state, local or any other tax law, ordinance, code, rule or regulation or similar tax legislation, or by the Internal Revenue Service or the United States Treasury Department or other governmental agency in interpretation of existing tax laws and regulations promulgated or proposed with respect to existing federal, state, local or other tax laws, and does not discriminate against Persons who operate mass burn, resource recovery or Municipal Waste disposal facilities; or

(iii) the event is the failure to obtain a permit unless such failure is directly caused by one of the events set forth in paragraph (a)(i) or (a)(iii) above.

“City” means the City of Harrisburg, a duly established Third-Class City under the laws of the Commonwealth.

“City Indemnified Parties” is defined in Section 6.01.

“City Regulated Municipal Waste” means municipal waste generated within the City except C&D Waste, Residual Waste, Municipal Waste Sludge, or Special Handling Waste.

“Collection Contract” has the meaning set forth in the fifth background paragraph of this Agreement.

“Commencement Date” means the date established pursuant to the provisions of Article I.

“Commonwealth” means the Commonwealth of Pennsylvania and each of its appropriate administrative, contracting and regulatory agencies, departments, bureaus and offices.

“Consumer Price Index” shall have the meaning set forth in Schedule I.

“Contract Date” means the date of execution of this Agreement as set forth at the head of this Agreement.

“County” means the County of Dauphin, Commonwealth of Pennsylvania, and its Department of Solid Waste Management & Recycling.

“County Plan” means the Dauphin County 2013 Plan Revision to the Dauphin County Act 101 Municipal Waste Management Plan, as now or hereafter amended or revised.

“County Regulated Municipal Waste” means all Regulated Municipal Waste, including City Regulated Municipal Waste.

“Deposit Account” is defined in Section 4.04(c)(i).

“Designated Facility” means the SRMC.

“End Date” means the date set forth in Section 1.01

“EPA” means the United States Environmental Protection Agency or its successor.

“Event of Default” means any one or more of those events described in Sections 8.01 and 8.02 of this Agreement.

“Hauler” or “Haulers” means a Person or Persons transporting Regulated Municipal Waste to the SRMC other than Regulated Municipal Waste generated within such Person’s own residential household.

“Hazardous Waste” means any material or substance which, as of the Commencement Date, and by reason of its composition or characteristics is (a) toxic or hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 *et seq.*, as amended, replaced or superseded, and the regulations thereunder, (b) material regulated by the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*, as amended, replaced or superseded, and the regulations thereunder, (c) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 *et seq.*, as amended, replaced or superseded, and the regulations thereunder, or (d) material regulated as a Hazardous Waste by the Solid Waste Management Act 35 P.S. §§ 6018.101 *et seq.* If any governmental agency or unit having appropriate jurisdiction shall determine that substances which were not, as of the Commencement Date, considered harmful, toxic, or dangerous, are harmful, toxic or dangerous, are hazardous or harmful to health when disposed of at the SRMC, then any such substances or materials shall thereafter be Hazardous Waste for purposes of this Agreement as of the effective date of any such determination.

“HMERRF” or “SRMC” means the waste processing, transfer, disposal, recycling and/or energy recovery facilities of LCSWMA located at 1670 South 19th Street, Harrisburg, Pennsylvania 17104, as described in the first “Background” paragraph above. The term shall include the entire site including a transfer station, recycling drop-off facilities and ash landfill cells.

“HMERRF Debt” means all debt of THA applicable to the SRMC as described in the “Background” paragraph above.

“Host Fee” means the per Ton fee paid the SRMC under the County Plan for disposing of the County’s Regulated Municipal Waste as set forth in Section 4.02 of this Agreement.

“LCSWMA” means the Lancaster County Solid Waste Management Authority or its successor.

“LCSWMA Indemnified Parties” is defined in Section 6.02.

“Legal Holiday” means Martin Luther King Day, Presidents Day, Memorial Day, Good Friday, Independence Day, Labor Day, Veterans Day, Columbus Day, Thanksgiving Day (and subsequent day), Christmas Day (and the previous or subsequent business day as designated) and New Year’s Day or any other holiday as agreed to by the City under the terms and conditions of any applicable union collective bargaining agreement.

“Municipal Waste” means (a) any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and (b) any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility and (c) leaves, garden residues, grass clippings, shrubbery and tree trimmings, and similar material. Municipal Waste does not include recycled materials or composted materials, or truckloads composed primarily of leaves, garden residues, grass clippings, shrubbery and tree trimmings, and similar material.

“Parking Revenues” is defined in Section 4.04(d)(ii).

“Party” or “Parties” means LCSWMA and/or the City.

“Person” or “Persons” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

“Receiver” has the meaning set forth in the second “Background” paragraph above.

“Receiving Time” means the period of operation of the SRMC consisting of 4:00 a.m. to 6:00 p.m. EST, Monday through Friday; 6:00 a.m. to 2:00 p.m. EST, Saturday, or such shorter period as may required by any permit applicable to the SRMC.

“Recovery Plan” means the recovery plan for the City as described in the first Background paragraph above.

“Regulated C&D Waste” means C&D Waste generated within the County and regulated by the County pursuant to the County’s Rules and Regulations.

“Regulated Municipal Waste” means Municipal Waste generated within the County except C&D Waste, Residual Waste, Sludge, or Special Handling Waste, as regulated by the County pursuant to the County Municipal Waste Management Ordinance.

“Regulated Waste” means Municipal Waste (except Residual Waste, Municipal Waste Sludge, or Special Handling Waste) and C&D Waste generated within the County and regulated by the County, including City Regulated Municipal Waste.

“Removal” means the complete removal of the City’s property from the SRMC as set forth in Section 5.02.

“Residual Waste” means any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility, provided that it is not hazardous. The term shall not include coal refuse as defined in the Commonwealth Act of September 24, 1968 (P.L. 1040, No. 318), known as the Coal Refuse Disposal Control Act. The term shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Commonwealth Act of June 22, 1937 (P.L. 1987, No. 394) known as The Clean Streams Law.

“Schedule” means any exhibit or schedule attached to this Agreement and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

“Shortfall Fee” is defined in Section 4.04(c).

“Special Handling Municipal Waste” means Municipal Waste for which any governmental agency or unit having appropriate jurisdiction requires special approval (other than that generally required for Municipal Waste) prior to disposal in a permitted Municipal Waste disposal facility.

“SRMC” has the meaning set forth in the first background paragraph to this Agreement.

“SRMC Rules and Regulations” shall mean the rules and regulations issued by LCSWMA under the authority of the Dauphin County Municipal Waste Management Ordinance and the County Plan.

“Term” shall mean the period from the Commencement Date until the Termination Date, inclusive.

“Termination Date” means the date set forth in Section 1.04.

“Termination Fee” means the payment set forth in Section 1.04.

“THA” means The Harrisburg Authority as described in the first Background paragraph above.

“THA Agreement” means the December 1, 1993, Municipal Solid Waste Disposal Agreement between the City and THA, which was subsequently amended on June 4, 2003 to extend the term to 2036 and amended again on January 1, 2007, as amended.

“Tipping Fee” means the per ton gate rate for City Regulated Municipal Waste acceptance charged by LCSWMA, which shall include the applicable Host Fee. The Tipping Fees for the Term are set forth in Schedule I, the Tipping Fee Schedule, attached to this Agreement and made a part of this Agreement.

“Tipping Fee Rebate” is defined in Section 4.4(d).

“Ton” means two thousand (2,000) pounds.

“Unacceptable Waste” means all of the following, except for trace amounts normally found in household or commercial waste:

(a) any material that by reason of its composition, characteristics or quantity is ineligible for disposal at the SRMC pursuant to the provisions of (i) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 *et seq.*, and the regulations thereunder, or (ii) any other applicable law, rule or regulation (including, but not limited to, the following laws and the regulations, if any, promulgated under each: the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*; the Hazardous Sites Cleanup Act, Act 108, enacted October 18, 1988; and any similar or substituted legislation or regulations or amendments to the foregoing, as well as any other laws coextensive with the foregoing);

(b) any other materials that any governmental agency or unit having appropriate jurisdiction has determined to be ineligible for disposal at the SRMC;

(c) any waste that the SRMC is precluded from accepting pursuant to any existing permit governing the SRMC or the Act or Act 97;

(d) Hazardous Waste;

(e) except as provided in Section 3.08, Residual Waste;

(f) except as provided in Section 3.08, Special Handling Municipal Waste including but not limited to, asbestos, sludge, infectious waste, and chemotherapeutic waste;

(g) an individual truckload of Municipal Waste which contains refrigerators, washing machines, dryers, window air conditioners, hot water heaters and other major home appliances in quantity and/or automobile tires in quantity; and

(h) any other material that presents an endangerment to the SRMC or the public health or safety.

“Uncontrollable Circumstance” means any act, event or condition, other than a labor strike, that has had, or may reasonably be expected to have, a direct material adverse effect on the rights or the obligations of a Party under this Agreement, or a direct material adverse effect on the operation of the SRMC, or on the delivery of Municipal Waste to the SRMC, if such act, event or condition is beyond the reasonable control of, and without the fault of, the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under this Agreement. Such acts or events shall include, but shall not be limited to, the following:

(a) an act of God (except reasonably expected weather conditions for the geographic area of the SRMC), hurricanes, tornados, epidemic, landslide, lightning, earthquake, flood, fire or explosion or similar occurrence; or an act of the public enemy, war, blockade, insurrection, riot, general unrest, or restraint of government and people, civil disturbance or similar occurrence;

(b) the order, or injunction and/or judgment of any federal, Commonwealth or local court, administrative agency or governmental body with jurisdiction over the performance of either Party's obligations under this Agreement; excepting decisions interpreting federal, Commonwealth and local tax laws; provided that such order or judgment shall not be the result of the negligent or willful action or inaction of the Party relying thereon and neither the contesting in good faith of any such order or judgment nor the failure to so contest shall be construed as a willful or negligent action or inaction of such Party; and

(c) a Change in Law.

Such acts or events shall not include failure to obtain a permit or license, or failure to obtain renewal, amendment or modification of a permit or license, which events shall not be an Uncontrollable Circumstance unless due to Change in Law.

"Waste Flow Control" means the authority, by law, ordinance, regulation, resolution, or other legally binding provision or legally binding official act of the City or the County to direct all Municipal Waste generated within the boundaries of the City or the County to one or more designated Municipal Waste processing or disposal facilities.

"Week" means a period commencing Sunday at 12:01 a.m. and ending on midnight of the following Saturday.

Section 11.02 Terms Generally.

Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation," except as the context may otherwise require. The words "approval" and "consent" shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or unduly delayed" except as the context may otherwise require.

Section 11.03 Notices Generally.

Unless specifically provided elsewhere in this Agreement, at least fifteen (15) days prior written notice shall be required to be given of any breach of, or failure to fulfill any requirement of, this Agreement by a Party, in order to allow the Party receiving such notice to cure any such breach or to allow such Party time to prepare for, question or contest the fact that any such requirement of this Agreement has not been fulfilled.

ARTICLE XII
MISCELLANEOUS

Section 12.01 Representations of the City.

The City represents to LCSWMA that:

(a) the City is duly organized and existing in good standing under the laws of the Commonwealth and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement;

(b) the City has the requisite power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance of this Agreement by the City (i) has been duly authorized, (ii) does not require the approval of any other governmental officer or body, other than those permits or approvals contemplated to be obtained before the Commencement Date, (iii) will not violate any judgment, order, law or regulation applicable to the City, and (iv) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound;

(c) this Agreement has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, fully enforceable in accordance with its terms; and

(d) there is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of the City's knowledge, threatened against the City, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the City of its obligations under this Agreement or the transactions contemplated by this Agreement, or which, in any way, would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the City in connection with the transactions contemplated by this Agreement.

Section 12.02 Representations of LCSWMA.

LCSWMA represents to the City that:

(a) LCSWMA is duly organized and existing in good standing under the laws of the Commonwealth of Pennsylvania and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement;

(b) LCSWMA has the requisite power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance of this Agreement, (i) has been duly authorized, (ii) does not require the approval of any other governmental officer or body, other than those permits or approvals contemplated to be obtained before the Commencement Date, (iii) will not violate any judgment, order, law or regulation applicable to LCSWMA or any provisions of LCSWMA's articles of incorporation or by-laws, and (iv) does not constitute a default under or result in the creation of, any lien, charge,

encumbrance or security interest upon any assets of LCSWMA under any agreement or instrument to which LCSWMA is a party or by which LCSWMA or its assets may be bound;

(c) this Agreement has been duly executed and delivered and constitutes a legal, valid and binding obligation of LCSWMA, fully enforceable in accordance with its terms; and

(d) there is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of LCSWMA's knowledge, threatened against LCSWMA, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by LCSWMA of its obligations under this Agreement or the other transactions contemplated by this Agreement, or which, in any way, would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by LCSWMA in connection with the transactions contemplated by this Agreement.

Section 12.03 Interest on Payments.

All payments not made on the applicable due date shall bear interest from such date until the date payment is made at the lower of (a) the maximum rate permitted by Commonwealth law, or (b) the prime rate of The Chase Manhattan Bank, N.A., or in the event the Chase Manhattan Bank, N.A. no longer publishes a prime rate, the similar rate of a comparable bank.

Section 12.04 Compliance with Laws.

LCSWMA shall comply with all laws and regulations and permits issued thereunder in connection with the SRMC and governing disposal of Regulated Municipal Waste.

Section 12.05 Assignment.

This Agreement may be assigned by either Party for financing purposes, or to a successor governmental body, agency or authority. This Agreement may not be otherwise assigned by either Party without the prior written consent of the other Party, which shall not be unreasonably withheld.

Section 12.06 Notices.

All notices, demands, requests and other communications under this Agreement shall be deemed sufficient and properly given if in writing and delivered in person or by recognized carrier service to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or day on which United States mail is not delivered:

(a) If to LCSWMA:

The Lancaster County Solid Waste Management Authority
1299 Harrisburg Pike
Lancaster, Pennsylvania 17603-2515
Attention: Chief Executive Officer

with a copy to:

Alexander Henderson, III, Esquire
Hartman Underhill & Brubaker, LLC
221 East Chestnut Street
Lancaster, PA 17602

(b) If to the City:

Mayor, City of Harrisburg
10 North Second Street, Suite 202
Harrisburg, PA 17101
City of Harrisburg
[address]

with a copy to: Harrisburg City Solicitor
10 North Second Street, Suite 402
Harrisburg, PA 17101
[counsel]

Either Party may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notice under this Agreement signed on behalf of the notifying Party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such Party by a duly authorized officer or employee.

Section 12.07 Relationship of the Parties.

Neither Party shall have any responsibility to perform services for or to assume contractual obligations which are the obligation of the other Party; and nothing in this Agreement shall constitute either Party as a partner, agent or representative of the other Party, or be deemed to create any fiduciary relationship between the Parties.

Section 12.08 Waiver.

Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver of such right, but such right may be exercised from time to time and as often as may be deemed expedient. To be effective any waiver must be in writing and signed by the Party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Agreement.

Section 12.09 Section Captions; References.

The table of contents, article and section headings and captions contained in this agreement are included for convenience only and shall not be considered a part of this Agreement or affect in any manner the construction or interpretation of this Agreement. Except as otherwise indicated, all references in this Agreement to Sections and Articles are to sections and articles of this Agreement.

Section 12.10 Severability.

In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination implement and give effect to the intentions of the Parties as reflected in this Agreement, and the other provisions of this Agreement, as so amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

Section 12.11 Amendment.

No amendment, modification or change to this Agreement shall be effective unless same shall be in writing and duly executed by the Parties.

Section 12.12 Agreement Governed by Commonwealth Law.

This Agreement shall be governed by the laws of the Commonwealth.

Section 12.13 No Other Agreements.

All negotiations and agreements prior to the date of this Agreement are superseded by this Agreement. This Agreement shall constitute the entire agreement between the City and LCSWMA with respect to the disposal services contemplated by this Agreement.

Section 12.14 Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators and trustees of the City and LCSWMA.

Section 12.15 Execution of Documents.

This Agreement may be executed in any number of duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the City and LCSWMA have caused this Agreement to be executed in their respective names, have caused their respective corporate seals to be affixed to this Agreement, have caused this Agreement to be attested, all by their duly authorized officers and representatives, and have caused this Agreement to be dated as of the date and year first written above.

By: William B Lynch
~~Dan Miller~~
City Controller
William B Lynch
RECEIVER FOR THE
CITY OF HARRISBURG

Attest: Barbara D. Hammel
Secretary

CITY OF HARRISBURG

By: Janet Hampton 10.16.13
Mayor

Attest: Wendell D. Williams
President, City Council

Approved: [Signature]
City Solicitor

LANCASTER COUNTY SOLID WASTE
MANAGEMENT AUTHORITY

By: KR Weibel
Chair

SCHEDULE I -- TIPPING FEE SCHEDULE

The City Tipping Fees will be lowered from the current rate of \$200 to \$190 upon the Commencement Date. Tipping Fees will be fixed through calendar 2019 as shown on the chart below, while the rate during calendar years 2020 through 2033 inclusive will be adjusted on January 1st of each calendar year by the Consumer Price Index, using calendar year 2019 as the base year.

2013	\$190.00
2014	\$190.00
2015	\$190.00
2016	\$190.00
2017	\$190.00
2018	\$190.00
2019	\$195.00

For purposes of Schedule I and this Agreement, Consumer Price Index shall mean all Urban Consumers (Area: U.S. City Average; Item: All Items) as maintained by the U.S. Department of Labor, Bureau of Labor Statistics or by a mutually-agreeable similar index if such index is no longer available.