

## MUNICIPAL WASTE DISPOSAL SERVICE CONTRACT

THIS MUNICIPAL WASTE DISPOSAL SERVICE CONTRACT (hereinafter referred to as the "Contract") entered this \_\_1<sup>st</sup>\_\_ day of \_\_JANUARY\_\_\_\_\_, 2021, by and between the Borough of Hellertown, a body politic with principal offices located at 685 Main Street, Hellertown, Pennsylvania 18055, (hereinafter "Borough");

AND

Bethlehem Landfill Company, hereinafter referred to as the "Contractor") whose permitted landfill Permit No. \_100020\_ issued by Pennsylvania Department of Environmental Protection is located in \_WILKES BARRE\_, Pennsylvania (hereinafter "Contractor or Landfill");

### WITNESSETH:

WHEREAS, the Borough of Hellertown in accordance with the requirements of the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 ("Act 101) requires that all Municipal Waste must be disposed only at a Waste processing and disposal facility that can insure the availability of adequate permitted processing and disposal capacity for the Municipal Waste generated by the Borough; and

WHEREAS, the Contractor wishes to contract with the Borough of Hellertown to act as the Borough's processing and disposal facility; and,

WHEREAS, the Contractor is willing to guarantee the availability of adequate, permitted processing or disposal capacity for such waste and the costs for such services in exchange for compensation by the Borough; and,

WHEREAS, the Borough and the Contractor now desire to enter into this Contract in order to set forth the agreements between the parties with respect thereto;

EXHIBIT

BLC 120

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NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the parties' intent to be legally bound hereby agrees as follows:

1. **DEFINITIONS.**

Unless the context clearly indicates otherwise, the following words and terms, as used in this Contract, shall have the following meanings:

**Acceptable Waste** - Waste that Contractor is permitted to manage, process, store and/or dispose at the Landfill or Resource Recovery Facility, in accordance with its Permit for a Solid Waste Disposal and/or Processing Facility, which was issued by the Pennsylvania Department of Environmental Protection ("DEP") or the equivalent regulatory agency in the state where the facility is located and under applicable Pennsylvania law or that in which the facility is located, including, but not limited to, the Pennsylvania Solid Waste Management Act and the rules and regulations promulgated thereunder; and waste which is not inconsistent with the Landfill or Resource Recovery Facility's Waste Acceptance Policy as defined herein.

**Act 101** - The Pennsylvania Municipal Waste Planning Recycling and Waste Reduction Act of 1988.

**Affiliate** - Any individual or entity that controls, is controlled by, or is under common control with a party to this Contract, or in the case of a sole proprietor, any blood relative or employee of the contractor, as designated by this Contract

**Bulky Waste (White Goods)** - Large items of Refuse, including, but not limited to, appliances, furniture, auto parts, trees, branches or stumps which may require special handling due to their size, shape or weight

**Commercial Waste** - All solid waste originating from commercial establishments engaged in non-manufacturing or non-processing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.

**Construction Demolition Waste** - Municipal Solid waste resulting from the Construction or Demolition of buildings and other structures, including, but not limited to, wood, plaster, metals, asphaltic substances, bricks, block and unsegregated concrete.

**Contract** - The Municipal Waste Disposal Service Contract, between the Borough and the Contractor.

**Contractor** - The Facility and Parent Company identified as such on the first page of this contract or any permitted successors, assigns, or affiliates.

**County** - The County of Northampton, Pennsylvania.

**Department or DEP** - The Pennsylvania Department of Environmental Protection (DEP).

**Domestic or Residential Waste** - Solid waste comprised of Garbage and Rubbish, which normally originates from residential private households or apartment houses.

**Garbage** - Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food and food containers.

**Hauler and Waste Collector** - Any person, firm partnership, association or corporation, including the Borough of Hellertown, engaged in the business of collecting and transporting municipal solid waste to processing or disposal facilities.

**Hazardous Waste** - A solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics may: (1) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed or otherwise managed; or (3) is otherwise defined as "hazardous" by any Federal or State statute or regulation.

**Industrial Waste** - Solid waste resulting from manufacturing and industrial processes, including, but not limited to, those carried out in factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

**Institutional Waste** - Solid waste originating from institutions including, but not limited to, public buildings, hospitals, nursing homes, orphanages, schools and universities.

**Landfill** - The Contractor's permitted landfill identified on the first page of this contract.

**Leaf Waste** - Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

**Municipal Recycling Program** - A source separation and collection program for recycling Borough Municipal Waste, or a program of designated drop-off points or collection centers for recycling Municipal Waste, that is operated by or on behalf of a municipality. The term shall include any source separation and collection program for composting leaf waste that is operated by or on behalf of a municipality. The term does not include any program for recycling construction and demolition waste or sludge from sewage treatment plants or water supply treatment plants.

**Municipality** - The Borough of Hellertown.

**Municipal Waste or Solid Waste** - Garbage, Refuse, industrial lunchroom or office waste and other material, including solid, liquid, semi-solid or contained gaseous material, (but excluding Hazardous Waste) resulting from operation of residential, municipal, commercial or institutional establishments or from community activities; and any sludge not meeting the definition of residual or hazardous waste from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source separated recyclable materials or material approved by DEP for beneficial use.

**Northampton County** - A third class county Located in the Commonwealth of Pennsylvania.

**Operator** - Any person or municipality that operates a municipal solid waste processing or disposal facility.

**Owner** - The person or Borough of Hellertown who is the owner of record of a solid waste processing or disposal facility.

**Pennsylvania Municipality Authorities Act (53 Pa. C.S. Ch. 56)** - The law governing municipal authorities in Pennsylvania.

**Permit** - A permit issued by the Pennsylvania DEP to operate a Municipal Waste disposal, processing or transfer station facility.

**Permit Area** - The area of land and water within the boundaries of the permit, which is designated on the permit application maps as approved by the Pennsylvania DEP, or equivalent regulatory agency in the state in which the facility is located.

**Proposal** - Complete response to the Request for Proposals for Municipal Waste Processing and Disposal Services that was submitted by Contractor to the Borough of Hellertown.

**Recycling** - The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as Municipal Waste.

**Refuse** - Discarded waste materials in a solid or semi-liquid state, consisting of Garbage, Rubbish or a combination thereof.

**Remaining Permitted Capacity** - At any time the remaining weight or volume of Municipal Waste that can be disposed at a permitted Municipal Waste disposal or processing facility. The term shall only include the weight or volume capacity for which the Pennsylvania DEP (or the equivalent regulatory agency in state which the facility is located) has issued a permit.

**Residual Waste** - Any Garbage, Refuse, other discarded material or other waste, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, if it is not hazardous.

**Rubbish** - Non-putrescible solid wastes consisting of combustible and non-combustible materials including leaf wastes.

**Tipping Fee** - The schedule of fees established by the owner or operator of the Contractor for accepting various types of solid waste for processing or disposal.

**Unacceptable Waste** - Any material that by reason of its composition, characteristics or quality, is ineligible for disposal at the Landfill or Resource Recovery Facility pursuant to the provisions of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 52605 (e), the Pennsylvania Solid Waste Management Act, 35 P.S. S6018.101, et seq., or other applicable Federal, State or local law as amended; or any other material that the Contractor concludes would require special handling or present an endangerment to the Landfill or Resource Recovery Facility, the public health or safety, or the environment.

## **II. SCOPE OF CONTRACT.**

1. All "WHEREAS" clauses are incorporated into this Contract.
2. **Designation as Disposal site.**

In consideration of Contractors Covenants and this Agreement, the Borough hereby agrees to use operator's Landfill or Resource Recovery Facility for disposal of Municipal Waste generated in the Borough.

3. **Effective Date.**

This Contract shall become effective on the date set forth below. The contractor shall begin providing Municipal Waste processing and disposal, service for the Borough under the terms and conditions of this Contract on January 1, 2021.

4. **Term of contract.**

The term of this Contract shall commence on the effective date, and shall terminate on December 31, 2025.

5. **Compliance with Applicable Laws.**

The parties to the Contract agree that the laws of the Commonwealth of Pennsylvania shall govern the validity, construction, interpretation and effect of the Contract. The Contractor shall conduct the service of Municipal Waste processing and disposal as provided for by the Contract in compliance with all applicable federal and state regulations and laws. The contract and the work to be performed as described herein is also subject to the provisions of all pertinent municipal ordinances which shall be made a part thereof with the same force and effect as if specifically set out therein.

6. **Breach of Contract.**

If the Contractor fails to materially perform in a satisfactory manner in accordance with applicable Permit requirements or regulations, the Borough shall have the right to demand in writing adequate assurances from the Contractor that steps have been or are being taken to rectify the situation. Within ten (10) days of receipt of any such demand the Contractor must submit to the Borough a written statement that explains the reasons for the non-performance or delay, partial or substandard performance during that period and any continuance thereof. The Contractor shall also have the option to appear before the Borough to present any such explanation. Upon the failure of the contractor to submit a statement or failure of the Contractor to correct any such condition within fifteen (15) days after responding to the demand by the Borough, unless the Borough has agreed to a longer period, the Borough may, except under the conditions of force majeure, as defined herein, assess liquidated damages to the Contractor in accordance with the provisions stated herein and/or to terminate the Contract, and as a remedy make demands under any remedy available to the Borough as provided by law.

If during the term of this Contract Borough shall be in breach of any provision of this Contract, Contractor may suspend its performance hereunder until such breach has been cured or terminate this Contract; provided, however, that no such termination of this Contract shall be effective until Contractor has given written notice of such breach to Borough and Borough has failed to cure such breach within fifteen (15) days after its receipt of such notice. Upon any such failure to cure, the Contractor may terminate this Contract by giving Borough written notice of such termination, which shall become effective upon receipt of such notice.

7. **Penalties and Actual Damages.**

A. It is hereby understood and mutually agreed by and between the Contractor and the Borough that the Municipal Waste processing and disposal services to be performed under this Contract are vital for the protection of public health and welfare *and* it is further understood and agreed that the services to be performed under this Contract will be commenced on the date specified in this Contract.

B. It is hereby understood and mutually agreed by and between the Contractor and the Borough that both parties shall cooperate in preparing any reports required to be submitted to any third party pursuant to any State or Federal law reporting of complete and accurate data in the format required by this Borough.

C. If the Contractor neglects, fails or refuses to provide the Municipal Waste processing and disposal services in accordance with the terms and provisions of the Contract, and as a result thereof there is a disruption or termination of the Municipal Waste processing and disposal services to be performed by Contractor under this Contract, then the Contractor does hereby agree, as a partial consideration for the awarding of the Contract, to pay to the Borough an amount to be determined as hereinafter set forth as actual damages for such breach of Contract for each and every calendar day that such service is disrupted or terminated.

D. The amount of actual damages shall be equal to any additional total waste disposal cost (i.e., any disposal cost in excess of the amount that haulers normally would have paid for disposal of the same amount of waste at the Contractors' Landfill under the contract), if any, plus any additional total waste transportation costs (i.e., any transportation cost in excess of the amount that haulers normally would have paid for transporting the same amount of waste to the Contractors' Landfill) if any, that the haulers have incurred for transportation and disposal of the Municipal Waste to an alternative processing or disposal facility or transfer station.

E. The Contractor shall not be responsible for the payment of any actual damages if the Contractor was without fault and the Contractor's reasons for the breach of Contract are acceptable and reasonable under the circumstances. Furthermore, the Contractor shall not be responsible for any actual damages under the conditions of force majeure as defined herein.

8. **Services of the Contractor.**

The Contractor agrees to accept and process and (dispose) specified quantities and types of Municipal Waste originating from sources located in the Borough of Hellertown, in accordance with all applicable Federal, state and local regulations. Nothing herein shall prohibit any Contractor from entering into any separate contract with another person or municipality to provide such waste collection and/or transportation services.

9. **Delivery of Wastes.**

The Municipal Waste to be accepted at the Contractor's facility under this Contract will be delivered to the Contractor's facility by the Borough. Notwithstanding the foregoing, in the event that any such Municipal Waste is found at any time to be unacceptable waste under Contractor's municipal solid waste permit, or is otherwise unacceptable waste, Contractor shall have the right to revoke its acceptance of title to such waste material. Upon any such revocation of acceptance, the Borough shall work with Contractor to reasonably accomplish, at the Borough's sole cost and in a timely fashion, the removal from the Landfill and/or otherwise lawful disposal of such Municipal Waste. If the Borough fails to timely cooperate with

Contractor to effect removal of the unacceptable waste or rejected waste material, Contractor may arrange for the transportation and disposal of the unacceptable waste or rejected waste at a facility permitted to accept such wastes and the Borough shall promptly reimburse Contractor for all costs incurred by Contractor in connection therewith.

Contractor shall have the right to inspect all vehicles and containers of waste haulers, including the Borough's vehicles, in order to determine whether the waste is Municipal Waste, Hazardous Waste, or Unacceptable Waste pursuant to this Contract and all applicable federal, state and local laws, rules and regulations. Contractor's exercise, or failure to exercise, its rights hereunder shall not operate to relieve the Borough of its responsibilities or liability under this Contract.

10. **Title to Solid Waste.**

Except in the case where any unacceptable waste or Hazardous Waste is delivered to the Contractor's facility, the title to the Borough's Waste and any benefits of marketing any materials or energy recovered from the Municipal Waste shall pass to the Contractor upon delivery of the waste to the Contractor's facility and acceptance of the waste by the Contractor. Title to and liability for any and all Unacceptable Waste shall remain with the Borough, even if Contractor inadvertently disposes of such Unacceptable Waste. Title to and liability for Unacceptable Waste shall at no time pass to Contractor.

11. **Insurance Requirement.**

The Contractor shall be required to maintain in full force and effect throughout the term of the Contract, and any renewal or extension thereof, a general liability insurance policy to provide continuous coverage against third party claims for property damage and personal

injury, as specified in Chapter 271 of the DEP's Municipal Waste Management Regulations (Pennsylvania Bulletin, Vol. 18, No. 15, April 9, 1988) and the following section. The effective date of the required insurance policy shall be prior to the initiation of any waste disposal services under this Contract. Contractor shall cause the Borough of Hellertown to be added as an additional insured on all policies of insurance required under the terms of this Contract.

The Borough shall maintain in full force and effect throughout the term of this Contract the following types of insurance in at least the amounts specified below:

<b><u>Coverages</u></b>	<b><u>Minimum Amounts of Insurance</u></b>
Worker's Compensation	Statutory
Employer's Liability	\$500,000 each Bodily Injury by Accident \$500,000 policy limit Bodily Injury by Disease \$500,000 each occurrence Bodily Injury by Disease
General Liability	\$2,000,000 combined single limit
Automobile Liability	\$2,000,000 combined single limit

All insurance will be by insurers authorized to do business in the State of Pennsylvania. Prior to the Borough being allowed on Landfill premises, the Borough shall provide Contractor with certificates of insurance. The Borough warrants that it will secure the above minimum amounts of insurance from any subcontractor. Contractor shall be named as additional insured under all of the Borough's insurance policies, with the exception of workers' compensation policies. The Borough agrees to waive all rights of recovery by

way of subrogation against the Contractor in connection with any claims and/or damages covered by any of the insurance policies required under this Section, and the Borough shall cause all such insurance policies to provide that the insurance company waives all right of recovery by way of subrogation against the Contractor in connection with any claims and/or damages covered by such policies.

12. **Proof of Insurance Coverage.**

The Contractor shall be required to submit to the Borough proof of insurance coverage upon execution of the Contract. At a minimum, the proof of insurance shall consist of a certificate of insurance which:

- A. States the name of the insurance company, the insured owner and facility covered by the policy.
- B. Identifies the kinds of coverage provided by the policy and the amounts of coverage, exclusive of legal costs.
- C. Identifies the beginning and ending dates for the policy.
- D. Specifies that a minimum 120-day period written notice shall be given by the insurer to the Borough and the Owner, by certified mail, before any cancellation or other termination of the policy becomes effective.
- E. States that the insurer is liable for payment on the policy without regard for the bankruptcy or insolvency of the insured.
- F. Be signed by an authorized, licensed agent of the insurance company.

13. **Maintenance of Insurance Coverage.**

The Contractor shall be required to submit to the Borough a current certificate of insurance as evidence of continuous insurance coverage. The annual certificate of insurance shall contain the same information and provisions as specified in the original proof of insurance certificate under the requirements of the preceding paragraph. Failure to submit the required proof of insurance or to maintain the required minimum insurance coverages would be considered a default by the Contractor in accordance with the provisions of the Contract.

14. **Nondiscrimination.**

Neither the Contractor nor any subcontractor nor any person(s) acting on his behalf shall discriminate against any person because of race, sex, age, creed, color, religion, national origin or any other protected category.

15. **Indemnification.**

The Contractor or its successors and assign shall indemnify and save harmless the Borough, its officers, agents, servants and employees (collectively, the "Indemnified Parties") from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees (collectively, the "Claims") resulting from the negligence or willful misconduct of the Contractor or its successors or assigns, its officers, agents, servants and employees in the performance of this Contract; provided, however, that the Contractor shall have no duty to indemnify or hold harmless any Indemnified Party to the extent any such Claim arises from: (i) the negligence or willful misconduct of any Indemnified Party; (ii) the breach of any term, condition, covenant, representation, or warranty in this Contract by the Borough; or (iii) the violation of any law, rule, regulation, ordinance, or order by any Indemnified Party.

16. **Permits.**

The Contractor shall be responsible for obtaining any and all permits necessary for the operation of the Municipal Waste processing and disposal facilities required to comply with the terms and conditions of the Contract, and any and all costs or expenses of obtaining such permits. Failure to obtain and maintain permits shall constitute a breach of this Contract.

17. **Force Majeure.**

Neither the Contractor nor the Borough shall be liable for the failure to perform their duties and obligations under the Contract or for any resultant damages, loss or expense, if such failure was the result of an act of God, riot, insurrection, war, catastrophe, natural disaster or any other cause which was beyond reasonable control of the Contractor or the Borough and which the contractor or Borough was unable to avoid by exercise of reasonable diligence.

18. **Assignment of Contract.**

No transfer or assignment of the Contract or any right accruing under the Contract shall be made in whole or in part by the Contractor without prior express written approval by the Borough (which approval shall not be unreasonably withheld) .The delegation of any Contract duties will require the written consent of the surety for the Contractor's performance bond, since such delegation will not relieve the Contractor or his surety of any liability and/or obligation to perform. In the event of any delegation of a duty, the delegate shall assume full responsibility and liability for performance of that duty without affecting the Contractor's liability, and shall be responsible for compliance with and performance of all terms and conditions of this contract including but not limited to provisions for sureties and assurances of availability of 1 year of service.

19. **Change of Ownership.**

In the event of any change of control or ownership of the Contractor's facilities the Borough shall maintain the right to hold the original owner solely liable. However, the Borough, at its option may determine that the new ownership can adequately and faithfully perform the duties and obligations of the Contract for the remaining term of the Contract, and elect to execute a novation, which will allow the new ownership to assume the rights and duties of the Contract and release the former ownership of all obligations and liabilities. The new ownership would then be solely liable for the performance of the Contract and any claims or liabilities under the Contract

20. **Waivers.**

A waiver by either party of any breach of any provisions of the Contract shall not be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

21. **Borough's Obligations.**

For all Acceptable Waste that is covered by this Contract, the Borough shall pay to Contractor a tipping fee per Ton equal to: (i) \_\_\_\_\_/100 Dollars (\$\_\_\_\_) per Ton of Acceptable Waste delivered to the Landfill during the calendar year 2019; and (ii) \_\_\_\_\_/100 Dollars (\$\_\_\_\_) per Ton of Acceptable Waste delivered to the Landfill during the calendar year 2021.

On or before the 10<sup>th</sup> day of each month, Contractor shall submit an invoice to the Borough showing the total tonnage of Acceptable Waste disposed of at the Landfill in the

preceding month and the amounts owing by the Borough to Contractor hereunder for such month. The Borough shall pay Contractor the full amount of the invoice within thirty (30) days after the date of such invoice. In the event of a dispute as to services rendered or payment owed, the Borough shall pay the undisputed portion of each invoice and the parties shall work in good faith to resolve the dispute as quickly as possible. Payments of undisputed amounts, after the 30-day period, shall be subject to a fee of one percent (1%) monthly on the invoice amount. Contractor shall maintain records of the types and weight/volume of the Borough's Acceptable Waste disposed of at the Landfill and the charges therefore, and shall provide copies of such records to the Borough upon reasonable request.

Notwithstanding anything herein to the contrary, Contractor may pass through and the Borough shall pay to Contractor any documented increases in Contractor's costs due to changes in local, state or federal rules, ordinances or regulations applicable to Contractor's operations or the services provided hereunder, and any increases in and newly imposed taxes, fees or other governmental charges assessed against or passed through to Contractor (other than income or real property taxes).

The Borough shall not be obligated by the terms of this Contract to guarantee the delivery to Contractor's Landfill or Resource Recovery Facility of any minimum quantities of Municipal Waste or payment for any services provided by Contractor to any hauler.

22. **Illegal and Invalid Provisions.**

In the event any term, provision or other part of the Contract should be declared illegal, inoperative, invalid or unenforceable such term or provision shall be amended to conform to

the appropriate laws or regulations. In the case of illegal or invalid provisions, the remainder of the Contract shall not be affected and shall remain in full force and effect.

23. **Joint and Severable Liability.**

If, after the date hereof, the Contractor is comprised of more than one individual, corporation or other entity, each of the entities comprising the Contractor shall be jointly and severally liable.

24. **Binding Effect.**

The provisions, covenants and conditions of the Contract shall apply to and bind the parties, their legal heirs, representatives, successors and assigns.

25. **Entire Agreement /Amendments to the Contract.**

The provisions of this Contract, together with the Agreements and exhibits incorporated by reference, and the bid specifications and any and all documents submitted by the Contractor as part of Contractors bid, and any documents incorporated by reference therein, shall constitute the entire Municipal Waste Disposal Capacity Contract between the Borough and the Contractor, superseding all prior disposal capacity agreements or contracts, if any, except as otherwise provided in this Contract. No amendment or modifications of the terms and conditions of the Contract shall be effective unless such amendment or modification is in writing and signed by authorized representatives of all parties entitled to receive a right or obligated or perform a duty under the Contract. A signed original amendment to the Contract shall be furnished to all parties to be attached to the original Contract. The Borough and the Contractor agree that any existing Municipal Waste disposal contracts between them are hereby rendered null and void and superseded by this Contract.

26. **Notices.**

All notices, demands, requests and other communications under this contract 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:

Borough of Hellertown  
Attn: Cathy Hartranft, Borough Manager  
685 Main Street  
Hellertown, Pennsylvania 18055

Contractor: Enter info

Bethlehem Landfill Company  
2335 Applebutter Road  
Bethlehem, PA 18015

Copy to:  
Waste Connections US Holdings, Inc.  
3 Waterway Square Place, Suite 110  
The Woodlands, Texas 77380  
Attn: Legal Department

27. **The Borough's Access to the Landfill.**

This Contract provides the Borough with a license to enter the Landfill for the limited purpose of, and only to the extent necessary for, off-loading Municipal Waste at the Landfill in the manner directed by Contractor. Except in an emergency, the Borough's personnel shall not leave the immediate vicinity of their vehicle. After off-loading the Municipal Waste, the

Borough's personnel shall promptly leave the Landfill. Under no circumstances shall the Borough or its personnel engage in any scavenging of waste or other materials at the Landfill.

Contractor reserves the right to make and enforce reasonable rules and regulations concerning the operation of the Landfill, the conduct of the drivers and others on the Landfill premises, quantities and sources of waste, and any other matters necessary or desirable for the safe, legal and efficient operation of the Landfill including, but not limited to, speed limits on haul roads imposed by Contractor, and the wearing of hard hats and other personal protection equipment by all individuals allowed on the Landfill premises. The Borough agrees to conform to such rules and regulations as they may be established and amended from time to time.

Contractor may refuse to accept Municipal Waste from and shall deny an entrance license to, any of the Borough's personnel whom Contractor believes is under the influence of alcohol or other chemical substances. The Borough shall be solely responsible for its employees and subcontractors performing their obligations in a safe manner when at the Landfill.

28. **Attorney's Fees**

If any action at law or in equity is brought to enforce or interpret the provisions of the Contract, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK TO SIGNATURE PAGE]

Bond No. PB 021396 00141

Premium \$906.00

### PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, Bethlehem Landfill Company, as Principal, and Philadelphia Indemnity Insurance Company, a corporation duly organized under the laws of the state of Pennsylvania and licensed to do business in the State of Pennsylvania, as Surety, are held and firmly bound unto Borough of Hellertown (Obligee), in the penal sum of Two Hundred One Thousand Two Hundred Twenty Nine and 00/100 (\$201,229.00) Dollars, lawful money of the United States of America, for the payment of which sum, well and truly to be made, the Principal and Surety do bind themselves, their heirs, executors, administrators, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the above bounden Principal has entered into a certain written Contract with the above named Obligee for Municipal Solid Waste Landfill / Transfer Station Services

and more fully described in said Contract, a copy of which is attached, which Agreement is made a part hereof and incorporated herein by reference, except that nothing said therein shall alter, enlarge, expand or otherwise modify the term of the bond as set out below.

NOW, THEREFORE, if Principal, its executors, administrators, successors and assigns shall promptly and faithfully perform the Contract, according to the terms, stipulations or conditions thereof, then this obligation shall become null and void, otherwise to remain in full force and effect. This bond is executed by the Surety and accepted by the Obligee subject to the following express condition:

Notwithstanding the provisions of the Contract, the term of this bond shall apply from September 18, 2020, until September 18, 2021, and may be extended by the Surety by Continuation Certificate. However, neither nonrenewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event of nonrenewal, shall itself constitute a loss to the obligee recoverable under this bond or any renewal or continuation thereof. The liability of the Surety under this bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.

Sealed with our seals and dated this 18th day of September, 2020.

Principal: Bethlehem Landfill Company

By:

James M. Little, Executive Vice President

Surety: Philadelphia Indemnity Insurance Company

By:

Lisa Betancur, Attorney-In-Fact

Samantha Gordon  
(Witness)

SEE ATTACHED NOTARY ACKNOWLEDGMENT

(Attest)

**PHILADELPHIA INDEMNITY INSURANCE COMPANY**

One Bala Plaza, Suite 100  
Bala Cynwyd, PA 19004-0950

**Power of Attorney**

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **David W. Garese, Audrey C. Skeen, Brooke A. Skeen and Lisa Betancur of Excel Bonds & Insurance Services, Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **\$50,000,000**.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **PHILADELPHIA INDEMNITY INSURANCE COMPANY** on the 14<sup>th</sup> of November, 2016

**RESOLVED:**

That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

**FURTHER  
RESOLVED:**

That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached

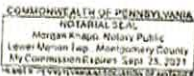
IN TESTIMONY WHEREOF, **PHILADELPHIA INDEMNITY INSURANCE COMPANY** HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 27<sup>TH</sup> DAY OF OCTOBER, 2017



(Seal)

Robert D. O'Leary Jr., President & CEO  
Philadelphia Indemnity Insurance Company

On this 27<sup>th</sup> day of October, 2017, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed



(Notary Seal)

Notary Public: \_\_\_\_\_

residing at: \_\_\_\_\_

Bala Cynwyd, PA

My commission expires: \_\_\_\_\_

September 25, 2021

I, Edward Sayago, Corporate Secretary of **PHILADELPHIA INDEMNITY INSURANCE COMPANY**, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 27<sup>th</sup> day of October, 2017 are true and correct and are still in full force and effect. I do further certify that Robert D. O'Leary Jr., who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of **PHILADELPHIA INDEMNITY INSURANCE COMPANY**.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 18th day of September, 2020



Edward Sayago, Corporate Secretary  
**PHILADELPHIA INDEMNITY INSURANCE COMPANY**

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sacramento

On September 18, 2020 before me, Margaret Mary Catarella, Notary Public  
(insert name and title of the officer)

personally appeared Lisa Betancur  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Margaret Mary Catarella (Seal)



**ATTEST:**

\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Secretary

**BOROUGH OF HELLERTOWN:**

By: Cathy Hartman

Name: Cathy Hartman

Title: President BOROUGH MANAGER

Date: 10-11-20

**CONTRACTOR:**

By: Aster A. Lawson

Name: Aster A. Lawson

Title: District Manager

Date: 10/2/2020