

SUBDIVISION USER CONTRACT

between
NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY
and
THE MAYOR AND CITY COUNCIL OF BALTIMORE

Dated as of June 22, 2011

Submission Not an Offer. The submission of a draft of this document or a summary of some or all of its provisions does not constitute an offer to create a legally binding obligation on the part of any prospective party, it being understood and agreed that no such party shall be legally obligated with respect to the matters addressed herein unless and until a definitive agreement has been executed by all parties.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	1
Section 1.1. Definitions.....	1
ARTICLE II OBLIGATIONS RELATING TO DELIVERY AND ACCEPTANCE OF WASTE	8
Section 2.1. Delivery and Acceptance of Waste.....	8
Section 2.2. Receiving Hours.....	9
Section 2.3. Weighing Records.....	9
Section 2.4. Ownership of Acceptable Waste.....	10
Section 2.5. Returned and Rejected Waste; Recovered Materials; Residue Disposal.....	10
Section 2.6. Refusal of Deliveries.....	11
Section 2.7. Deliveries.....	12
ARTICLE III SALE OF ELECTRICITY	12
Section 3.1. Sale of Electricity.....	12
ARTICLE IV SHUTDOWNS.....	13
Section 4.1. Shutdowns; Notice; Allocation of Capacity.....	13
ARTICLE V PAYMENTS	14
Section 5.1. Tipping Fee for Delivered Waste.....	14
Section 5.2. Change In Law Costs.....	14
Section 5.3. Payments.....	16
Section 5.4. Late Payment.....	16
Section 5.5. No Set-Off.....	17
Section 5.6. Reserved.....	17
Section 5.7. Host Community Fee.....	17
Section 5.8. Payments in Respect of Certain Charges.....	17
ARTICLE VI AUTHORIZED REPRESENTATIVES	18
Section 6.1. Authorized Representatives.....	18
ARTICLE VII INSURANCE.....	18
Section 7.1 Types of Insurance for the Authority.....	18
ARTICLE VIII DEFAULT AND TERMINATION.....	18
Section 8.1. Remedies for Default.....	18
Section 8.2. Events of Default by Authority.....	18
Section 8.3. Events of Default by the City.....	19
Section 8.4. Termination for Events of Default.....	20
Section 8.5. Survival of Certain Rights and Obligations.....	20

Section 8.6.	Damages.....	21
ARTICLE IX TERM 21		
Section 9.1.	Term; Conditions Precedent	21
ARTICLE X REPRESENTATIONS AND WARRANTIES, CERTAIN COVENANTS.....		
Section 10.1.	Representations and Warranties of the City.....	22
Section 10.2.	Representations and Warranties of the Authority.....	23
Section 10.3.	Certain Covenants of the City.....	24
ARTICLE XI MISCELLANEOUS.....		
Section 11.1.	Uncontrollable Circumstance.....	24
Section 11.2.	Dispute Resolution.....	25
Section 11.3.	Assignment.....	25
Section 11.4.	Appointment of Authority as City's Designee.....	25
Section 11.5.	Notices.....	26
Section 11.6.	Entire and Complete Agreement.....	27
Section 11.7.	Binding Effect.....	27
Section 11.8.	Other Documents.....	27
Section 11.9.	Applicable Law.....	27
Section 11.10.	Headings.....	28
Section 11.11.	Counterparts.....	28
Section 11.12.	Amendment or Waiver.....	28
Section 11.13.	Waiver of Sovereign Immunity.....	28
Section 11.14.	Severability.....	28
Section 11.15.	Limitation of Liability and Defenses.....	29
Section 11.16.	Reports / Information / Inspections / Audits.....	29

EXECUTION VERSION

SUBDIVISION USER CONTRACT

THIS SUBDIVISION USER CONTRACT is made and entered into as of the 22nd day of June, 2011, by and between Northeast Maryland Waste Disposal Authority (the "Authority"), a body politic and corporate organized and existing under the laws of the State of Maryland, and Mayor and City Council of Baltimore, a body politic and corporate and a political subdivision of the State of Maryland (the "City").

RECITALS

A. The Authority has entered into a separate contract with Wheelabrator Baltimore, L.P. (the "Company") (the "Waste Disposal Agreement"), substantially identical in form and substance and dated of even date herewith, which provides for the disposal of the City's solid waste by the Company.

B. The Company operates a solid waste disposal facility with a nameplate capacity of 2,250 Tons of waste per day, including steam-generating equipment feeding a turbine generator, air-pollution control equipment and facilities for recovery of ferrous metals from the incinerator residues, located in the City (the "Facility").

C. The City and the Authority wish to contract for the disposal by the Authority at the Company's Facility of waste delivered.

D. The City desires to purchase renewable energy from the Company.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions.

The following are definitions of certain terms used in this Agreement.

"Acceptable Waste" means all household garbage, trash, rubbish, and refuse, but excluding all Unacceptable Waste. In no event shall Acceptable Waste include any materials defined herein as Unacceptable Waste. In addition, the parties recognize that some substances which are not, as of the date of this Agreement, considered harmful or of a toxic nature or dangerous, may be determined by the EPA or any other federal, state or local Governmental Body subsequent to the Effective Date to be hazardous, toxic, dangerous, or harmful, and at the

time of receipt of notice from the Company to the City following such determination, such substances shall cease to be Acceptable Waste and become Unacceptable Waste. If any Governmental Body having appropriate jurisdiction shall determine that any chemicals or other substances which are not, as of the Effective Date, included within this definition of Acceptable Waste because they are considered harmful or of a toxic nature or dangerous, are not harmful, toxic or dangerous, the Company, the Authority and the City may mutually agree that such chemicals or other substances shall be Acceptable Waste for the purposes of this Agreement.

"Affiliate" means, with respect to any Person, any other Person who controls, is controlled by, or is under common control with, such Person.

"Agreement" means this Subdivision User Contract between the City and the Authority, as the same may from time to time be amended, modified or supplemented in accordance with the terms hereof.

"Alternate Disposal Service" has the meaning given in Section 5.2(c).

"Applicable Law" means: (1) any federal, state or local law, code or regulation; (2) any formally adopted and generally applicable rule, requirement, determination, standard, policy, implementation schedule or other order of any Governmental Body having appropriate jurisdiction; (3) any established interpretation of law or regulation utilized by an appropriate Governmental Body if such interpretation is documented by such Governmental Body and generally applicable; and (4) any Governmental Approval, in each case having the force of law and applicable from time to time to: (a) the siting, design, acquisition, construction, equipping, financing, ownership, possession, start up, testing, operation, maintenance, repair, replacement or management of municipal solid waste resource recovery systems, including the Facility; (b) the air, noise, dust and odor emissions therefrom; (c) the transfer, handling, processing, transportation or disposal of Unacceptable Waste, Residue and other by-products produced thereby; (d) the performance by a Party of its obligations hereunder; or (e) any other transaction or matter contemplated hereby (including, without limitation, any of the foregoing which pertain to solid waste processing, waste disposal, health, safety, fire, environmental protection, labor relations, building codes and non-discrimination).

"Authority" has the meaning given in the preamble to this Agreement.

"Authority Representative" has the meaning given in Section 6.1.

"Baltimore Regional Cooperative Purchasing Council (BRCPC)" means the buying cooperative managed by the Baltimore Metropolitan Council (BMC). Members of BRCPC are purchasing officers from BMC's six member jurisdictions, their school systems, the City of Annapolis and the Maryland Department of General Services. BRCPC purchases electricity for

its members, and it or its designated electricity supplier may be the counterparty for the electricity transaction with Authority.

"Business Day" means any day other than a Saturday, a Sunday or a day on which either state or national banks in Maryland are not open for the conduct of normal banking business.

"Change in Law" means:

(a) the adoption, amendment, promulgation, issuance, modification, repeal or written change in administrative or judicial interpretation, of any Applicable Law after the Effective Date hereof, unless such Applicable Law was on or prior to the Effective Date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any Governmental Body; or

(b) the order or judgment of any Governmental Body issued after the Effective Date (unless such order or judgment is issued to enforce compliance with Applicable Law which was in effect as of the date hereof) to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the Authority or of the City, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

(c) to the extent occurring after the Effective Date, (i) the denial of an application for, a delay in the review, issuance or renewal of, or the suspension, termination, or interruption of any Governmental Approval, or (ii) the imposition of a term, condition or requirement in a Governmental Approval which is materially more stringent or burdensome than the terms and conditions set forth in connection with the issuance of such Governmental Approval, in either case, to the extent that such occurrence is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the Authority or of the City, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a willful or negligent action or lack of reasonable diligence; provided that Change in Law shall not include any changes in Applicable Laws relating to taxes, fees or charges imposed by Governmental Authority.

"Change in Law Adjustment" means, if and only if the City in its sole discretion agrees in writing to such Change in Law Adjustment, an adjustment to the Tipping Fee to account for the City's Percentage of increased capital costs or operation and maintenance costs incurred by Authority as a result of a Change in Law, with the City's Percentage of any such capital costs

attributable to a Change in Law amortized over the remaining life of the applicable assets in accordance with generally accepted accounting principles; provided that no Change in Law Adjustment shall be effective unless the City, in its sole discretion authorizes such Change in Law Adjustment in writing.

"Change in Law Notice" has the meaning given in Section 5.2(b).

"City" has the meaning given in the preamble to this Agreement.

"Company Payments" has the meaning given in Section 11.15.

"City's Percentage" means, for each contract year, a fraction, the numerator of which is the tonnage delivered by the City under this Agreement in the prior calendar year (except with respect to the first contract year the tonnage shall equal 200,000 tons), and the denominator of which is the average annual tonnage of waste delivered to the Facility in the prior five (5) calendar years.

"City Representative" has the meaning given in Section 6.1.

"City Subcontract" has the meaning given in Section 2.1(c).

"City Surcharge" means the surcharge imposed on haulers of solid waste and payable by waste disposal facilities pursuant to Baltimore City Code, Article 23, Subtitle 11.

"Company" has the meaning given in Recital Clause A.

"County" shall mean Baltimore County, Maryland.

"Designated Hauler" means a municipal or private hauler designated by the City as delivery for the account of the City. Absent written instructions to the contrary from the City's authorized representative, all trucks or vehicles operated by City employees shall be Designated Haulers delivering for the City's account.

"Diverted Waste" has the meaning given in Section 4.1(d).

"Effective Date" shall mean January 1, 2012, except that the provisions of Article 3 shall become effective on July 1, 2011..

"Energy Payment Amount" has the meaning given in Section 3.1(b).

"Event of Default" has the respective meanings specified in Sections 8.2 and 8.3.

"Facility" means the solid waste disposal facility described in Recital Clause B.

"First Energy Delivery Period" has the meaning given in Section 3.1(b).

"Governmental Approval" means all permits, authorizations, consents, certifications, exemptions, registrations, rulings and entitlements of any Governmental Body, of whatever kind and however described, which are required under Applicable Law to be obtained or maintained with respect to the operation, maintenance or ownership of the Facility or the performance by a Party of its obligations hereunder or under the Waste Disposal Agreement.

"Governmental Body" means any federal, state, regional or local legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any official thereof having jurisdiction.

"Holiday" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

"Late Payment Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus one percent (1%) and (b) the maximum rate permitted by Applicable Law.

"Participating County" has the meaning given in Section 2.1(c).

"Party" means the Authority or the City.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company or unincorporated organization, or any Governmental Body.

"Receiving Hours" means the hours during which the Facility shall be open for the receiving of Acceptable Waste as set forth in Section 2.2.

"Recovered Materials" means metals recovered from Acceptable Waste or Facility residues.

"Rejected Waste" means any waste delivered to the Facility hereunder that is determined to be Unacceptable Waste by the Company (acting pursuant to the Waste Disposal Agreement) after being deposited in the receiving pit.

"Residue" means the material (including, but not limited to, fly ash, bottom ash and siftings) remaining after processing waste and after removal of any Recovered Materials.

"Residue Disposal Contract" has the meaning given in Section 2.5(c).

“Residue Landfill” means the City’s Quarantine Road Landfill (also known as the Hawkins Point Landfill) or any other landfill at which the City disposes of Residue pursuant to the Residue Disposal Contract.

“Returned Waste” means any waste delivered to the Facility that is determined by the Company (acting pursuant to the Waste Disposal Agreement) to be Unacceptable Waste before being deposited in the receiving pit.

“Shutdown” has the meaning given in Section 4.1(a).

“State Entity” means any state of the United States of America, any political subdivision or municipal corporation existing or organized under the laws of any such state, or any agency, instrumentality, department or other part of any such state, political subdivision or municipal corporation (including, without limitation, any authority, district or similar entity).

“Tipping Fee” has the meaning given in Section 5.1.

“Ton” or **“ton”** means a “short ton” of two thousand (2,000) pounds.

“Unacceptable Waste” means any waste that is both within any of the following categories of waste and is included as “Unacceptable Waste” in the Company (acting pursuant to the Waste Disposal Agreement) rules applicable to substantially all haulers of municipal solid waste to the Facility: (a) hazardous waste, explosives and ordnance materials, pathological wastes, radioactive materials, lead acid batteries, sludges, highly inflammable substances, cesspool or other human wastes, human and animal remains, motor vehicles, farm or other large machinery, non-burnable construction materials and demolition debris and hazardous refuse of any type or kind including those addressed by regulations adopted by the United States Environmental Protection Agency (“EPA”) pursuant to the Resource Conservation and Recovery Act of 1976, as amended, or other federal or state statutes, such as, but not limited to, cleaning fluids, hazardous paints, acids, caustics, poisons, radioactive materials, fine powdery earth used to filter cleaning fluid, and refuse of similar nature; (b) unless consented to by the Facility’s plant manager, any item of waste exceeding six (6) feet in any one of its dimensions or being in whole or in part a solid mass, the solid mass portion of which has dimensions such that a sphere with a diameter of eight (8) inches could be contained within such solid mass portion; (c) all large household appliances, commonly referred to as “white goods” including, without limitation, refrigerators, stoves, washing machines, drying machines, water heaters, and the like; (d) any controlled substances regulated under the Controlled Substances Act, 21 USC 801 et seq., or any equivalent state law; (e) any material that a waste-to-energy facility cannot accept pursuant to any Applicable Law of the City, the State of Maryland or any Governmental Body; (f) small appliances containing chlorofluorocarbons (CFCs) including, without limitation, air conditioners, water coolers, and dehumidifiers; (g) tires and cathode ray tubes (in each case in excess of a de

minimis amount); and (h) all other items of waste which the Company (acting pursuant to the Waste Disposal Agreement) reasonably believes would be likely to pose a threat to health or safety or the acceptance and disposal of which may cause damage to the Facility or be in violation of any Governmental Approval or Applicable Law. Any substances which are determined by the EPA or any other federal, state, or local agency subsequent to the Effective Date to be hazardous, toxic, dangerous, harmful, or otherwise designated as a "waste ban," shall, at the time of notice to the Authority and the City by the Authority and/or the Company following such determination be considered Unacceptable Waste.

"Uncontrollable Circumstance" means any act, event, or condition that is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation, covenant or agreement or complying with any condition required of such Party under this Agreement, to the extent such act, event or condition is not the result of or does not arise from the willful or negligent act, error or omission, failure to exercise reasonable care or diligence, equipment failure or breach of this Agreement on the part of the Party. Such acts, conditions or events include, but are not limited to, the following (but only to the extent and for such duration as such act, condition or event reasonably affects a Party's performance under this Agreement):

(a) (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence, an act of the public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, or (ii) a strike, lockout, or similar industrial or labor action;

(b) the order and/or judgment of any federal, state or local court or Governmental Body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing Party, provided that the contesting in good faith of any such order and/or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of such non-performing Party;

(c) the failure to obtain, or suspension, termination, interruption or failure of renewal of any Governmental Approval essential to the operation, ownership or possession of the Facility as provided for herein or required with respect hereto or the performance by a Party of its obligations hereunder, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing Party, provided that the contesting in good faith of any such failure to obtain, suspension, termination, interruption or failure of renewal shall not be construed as a willful or negligent action or a lack of reasonable diligence of such non-performing Party; and

(d) a Change in Law;

(e) the failure of any subcontractor or supplier (except a subcontractor or supplier which is an Affiliate of the Company) selected with reasonable care and good faith to furnish labor, services, materials, or equipment in connection with the operation or maintenance of the Facility by the date agreed to, provided that the non-performing Party is not reasonably able timely to obtain substitute labor, services, materials or equipment; and

(f) the failure or inability of the City to accept for disposal residue or other materials deliverable pursuant to the Hawkins Point Disposal Contract as amended consistent with the Second Amendment thereto, the form of which is set forth on Schedule 2 to the Waste Disposal Agreement; or the failure of the jurisdiction in which the Facility or any Residue Landfill is situated or the appropriate federal or state agencies or public utilities having operational jurisdiction in the area of location of the Facility or any Residue Landfill to provide and maintain and assure the maintenance of all utilities, services, sewerage, and water lines to the Facility or such Residue Landfill for operation of the Facility or such Residue Landfill, provided they are essential to the Facility.

"Waste Disposal Agreement" has the meaning given in Recital Clause A.

ARTICLE II OBLIGATIONS RELATING TO DELIVERY AND ACCEPTANCE OF WASTE

Section 2.1. Delivery and Acceptance of Waste.

(a) Delivery of Waste

Throughout the term of this Agreement, but subject to the provisions of this Section 2.1(a) and of Sections 2.5, 2.6 and 4.1, the City shall deliver, or cause to be delivered, to the Facility substantially all Acceptable Waste collected by the City, as well as Acceptable Waste delivered under City Subcontracts, but excluding (i) waste that is disposed of in a City landfill for the purposes of creating a fluff layer in any new cell at the City landfill and (ii) quantities of waste disposed of at a City landfill or other disposal facility if such disposal is necessary to avoid service efficiency delinquencies and the quantities are consistent with the City's historic practices. All Acceptable Waste delivered hereunder shall be delivered in accordance with the provisions of this Agreement and without cost to the Authority, and the Authority shall cause acceptance of such Acceptable Waste from the City by the Company at the Facility. Nothing in this Agreement shall limit the ability of the City or the Authority to recycle Acceptable Waste or require the City or the Authority to deliver waste that is collected pursuant to the Authority, City or private recycling programs.

(b) Disposal of Waste

Subject to the terms and conditions of this Agreement, the Authority shall cause acceptance and disposal of all Acceptable Waste delivered to the receiving pits of the Facility by or on behalf of the City pursuant to this Section 2.1 in accordance with all Applicable Law and at the cost and expense of the Authority.

(c) City Contracts.

The City may enter into one or more contracts for the delivery of Acceptable Waste to the Facility at the Tipping Fees (each, a "City Subcontract") if (i) the counterparty to such City Subcontract is a county that is a member of the Authority (a "Participating County"), (ii) either the Participating County agrees to make payment directly to the Authority of tipping fees sufficient to pay all amounts due under the Waste Disposal Agreement (in which case the City shall not be liable for amounts under the City subcontract) or the City has agreed to pay for waste delivered under the City Subcontract, (iii) such City Subcontract is approved by the Company, such approval not to be withheld unless the deliveries under the City Subcontract would interfere with the Company's ability to perform its obligations under other existing disposal agreements or the terms of the City Subcontract are not consistent with the terms of this Agreement or the Waste Disposal Agreement, and (iv) either the Participating County has agreed to pay any City Surcharge or the delivery and/or disposal is not subject to the City Surcharge.

Section 2.2. Receiving Hours.

Subject to Applicable Law, the Authority shall cause the Company to keep the Facility open for the receiving of Acceptable Waste twenty-four (24) hours per day, seven days per week, except Holidays (the "Receiving Hours").

Section 2.3. Weighing Records.

The Authority shall cause the Company to operate and maintain motor truck scales, calibrated to the accuracy required by Maryland law, to weigh all vehicles delivering waste to the Facility or removing Rejected Waste, Residue, Recovered Materials or Returned Waste. Each vehicle delivering waste hereunder shall have its tare weight permanently indicated and conspicuously displayed on the exterior of the vehicle in a location designated by the Company. The Company, the Authority or the City may require from time to time the revalidation of the tare weight of any vehicle or the reweighing of unloaded vehicles. Each loaded vehicle shall be weighed, indicating gross weight, tare weight, date and time and vehicle identification on a weight record.

If all weighing facilities are incapacitated or are being tested, the Authority shall cause the Company to estimate the quantity of waste delivered on the basis of truck volumes and estimated

data obtained through historical information pertinent to the waste delivered hereunder. These estimates shall be the basis for records during the outage and shall take the place of actual weighing records during the scale outage. If, upon conclusion of testing, the test indicates that the scale did not meet the accuracy requirements required by Maryland law, any adjustments of scale records actually recorded since the previous test will be negotiated by the City and the Authority, in connection with the Company, and payments due from the City shall be adjusted consistent with such adjustments of scale records.

The Authority shall cause the Company to maintain daily records of the total tonnage of waste delivered to the Facility, the tonnage of Acceptable Waste accepted by the Company on behalf of the Authority, and the tonnages of Recovered Materials, Rejected Waste, Residue and Returned Waste, respectively. The Authority shall furnish to the City in respect of each month such information as may be reasonably required by the City in order to administer the City's contracts with haulers of solid waste, within 10 days after the end of such month. The Authority shall cause the Company to maintain copies of all weight tickets for a period of at least two years.

Section 2.4. Ownership of Acceptable Waste.

Upon acceptance by the Company under the Waste Disposal Agreement of any Acceptable Waste delivered hereunder, the Company shall receive title thereto.

Section 2.5. Returned and Rejected Waste; Recovered Materials; Residue Disposal.

(a) Returned and Rejected Waste. In the event that the City shall deliver, or cause to be delivered, waste which is determined by the Company (acting under the Waste Disposal Agreement) to be Unacceptable Waste after it has been deposited in the receiving pit, the Authority shall cause the Company to remove and dispose of such waste, as Rejected Waste, at the City's cost and expense. In the event that the City shall deliver, or cause to be delivered, waste which is determined by the Company (acting under the Waste Disposal Agreement) to be Unacceptable Waste (or waste which contains Unacceptable Waste if the Company (acting under the Waste Disposal Agreement) deems it impracticable to separate such Unacceptable Waste or the City or its Designated Hauler delivering such waste is unwilling to make such separation) prior to being deposited in the receiving pit, such waste shall be deemed Returned Waste and the Authority may, at its election and by and through the Company, (a) refuse to accept such waste, upon which refusal the City or its Designated Hauler shall promptly remove and dispose of all of such waste so refused or (b) remove and dispose of such waste, in either case at the cost and expense of the City.

(b) Recovered Materials. The Company, or its designated agent, shall remove from the Facility and dispose of Recovered Materials.

(c) Residue Disposal. The Residue generated by the Facility and certain other materials delivered to the Facility shall be disposed of pursuant to a Second Amendment to Hawkins Point Disposal Contract, as amended, executed of even date herewith (the "Residue Disposal Contract"). Nothing in this Agreement shall limit the ability of the Company to market and extract metals and other materials from the Residue at the Facility site.

(d) Invoices and Records. Any invoice submitted by the Company (acting under the Waste Disposal Agreement) in respect of costs and expenses to be borne by the City under this Section 2.5 shall be payable by the City within 30 days of the date of receipt by the City thereof. The Authority shall maintain, or cause the Company to maintain, cost records with respect to the removal and disposal of Residue, Rejected Waste, Recovered Materials and Returned Waste that the Authority by or through the Company elects to remove and dispose of under this Section 2.5. Such cost records, to the extent they relate to Rejected Waste, or Returned Waste that the Company (acting under the Waste Disposal Agreement) elects to remove and dispose of under such clause, allocable to the City, shall be made available for inspection by the City at such times during normal business hours as the City may reasonably request.

Section 2.6. Refusal of Deliveries.

(a) Extent of Refusal Rights

Notwithstanding any provision to the contrary contained herein, the Authority by or through the Company, may refuse delivery of:

- (i) any waste other than Acceptable Waste;
- (ii) any waste delivered at any time other than during the established Receiving Hours of the Facility as set forth herein or as otherwise agreed by the Parties; and
- (iii) any waste that the Company is entitled to divert or is not otherwise obligated to accept under this Agreement under Section 2.6(b) or 4.1(b); and
- (iv) any waste the Company is unable to accept due to an Uncontrollable Circumstance.

(b) Inspection of Delivered Waste

The Company (acting under the Waste Disposal Agreement), shall have the right but not the obligation to inspect all vehicles delivering waste to the Facility hereunder, and shall have the right to require that the City or its Designated Hauler remove from any such vehicle before it is unloaded at the receiving pit at the Facility all waste which is not Acceptable Waste. If the Company (acting under the Waste Disposal Agreement) determines that it is impractical to

separate Acceptable Waste from Unacceptable Waste in any vehicle, or the City or its Designated Hauler delivering such waste is unwilling to make such separation, then the Company (acting under the Waste Disposal Agreement), may reject the entire vehicle, the waste in such vehicle shall constitute Returned Waste, and such waste shall be removed and disposed of as provided in Section 2.5, all at the cost and expense of the City.

(c) Wrongful Refusal

In the event the Authority, by or through the Company, wrongfully refuses to accept Acceptable Waste hereunder (i.e., rejects deliveries for reasons other than those set forth in Section 2.6(a)), the Authority shall reimburse the City for the amount (if any) by which the direct costs and expenses incurred by the City (as the case may be) in transporting (including the City's associated labor expense and additional fuel) and disposing of such wrongfully refused Acceptable Waste exceeds the Tipping Fee that would have applied to such Acceptable Waste.

Section 2.7. Deliveries.

Deliveries of Acceptable Waste hereunder shall be substantially in accordance with schedules reasonably determined by the Authority after consultation with the City and the Authority shall cause to be incorporated in the Company's rules and regulations pertaining to the Facility. Such scheduling shall not unreasonably impede the ability of the City to deliver efficiently all Acceptable Waste which the Authority is obligated to accept from the City. The City shall cooperate with the Authority in the development and implementation of such scheduling procedures.

**ARTICLE III
SALE OF ELECTRICITY**

Section 3.1. Sale of Electricity.

(a) The Company has previously entered into an agreement with third parties for the sale of energy from the Facility until July 1, 2013.

(b) To provide the Authority and the City the advantage of a fixed price of \$55.00 per MW hour for 10 MWs of energy from July 1, 2011 until June 30, 2013 (the "First Energy Delivery Period"), the City and the Authority will complete a fixed-for-floating financial swap on the following terms: Under the Waste Disposal Agreement, the Company will calculate for each month of the First Energy Delivery Period an amount equal to (1) 10 MWs times (2) the number of hours in such month times (3) the difference of (a) \$55.00 minus (b) the average Electricity PJM- DAILY- Real Time LMPS during such month ("Energy Payment Amount"). For the purpose of this calculation, the Electricity PJM- DAILY- Real Time LMPS shall mean PJM's hourly Real -Time Energy Market locational marginal pricing (LMP) for energy for PnodeID:

50694 Name: WESTPORT 34kV BRESKO available on the PJM website at <http://www.pjm.com/markets-and-operations/energy/real-time/lmp.aspx> under the headings "Real-Time Energy Market: Daily Real-Time LMP Files: WESTPORT" or any successor headings, for every hour of every day, which for the avoidance of doubt, shall include Hour Ending ("HE") 0100 through HE 2400 (24 hours each day), Eastern Prevailing Time ("EPT"), Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday, including any day that is a holiday as defined by the North American Electric Reliability Council ("NERC"). If the Energy Payment Amount calculated is a negative number, pursuant to the Waste Disposal Agreement, the Company shall make a payment of the absolute value of the Energy Payment Amount to the Authority for deposit to the City in accordance with the instructions of the City Representative. If the Energy Payment Amount calculated is a positive number, pursuant to the Waste Disposal Agreement, the Authority shall make payment of the Energy Payment Amount to the Company. Under the Waste Disposal Agreement, the Company will prepare a separate monthly invoice to the Authority, which will be delivered to the Authority and the City's Department of General Services on or before the fifth Business Day of each month. Pursuant to the Waste Disposal Agreement, the Company will make payment of amounts due under this Section on or before the last Business Day of the month. The City will make payments of the Energy Payment Amount within 30 days after the receipt of the invoice for the Energy Payment Amount.

(c) 'The Authority will assign to the City the power purchase agreement between the Authority and the Company described in Schedule 3 to provide for the delivery of energy from the Facility to the City or an electric supplier acting on behalf of the City. In the event the parties fail to enter into an agreement by July 1, 2012, the Company's obligations with respect to the sale of energy to the City shall terminate in all respects.

ARTICLE IV SHUTDOWNS

Section 4.1. Shutdowns; Notice; Allocation of Capacity.

(a) As used in this Agreement, the term "Shutdown" shall mean any shutdown, reduction in capacity or any other inability of the Facility to accept and dispose of such tonnages of Acceptable Waste as the Authority is required to cause the Company to accept from the City from time to time under Section 2.1(a), existing, for any reason, on or after the date hereof. In the event of any Shutdown, the Authority shall promptly advise the City after notice from the Company, and confirm such advice in writing, of the occurrence thereof, as to the effect thereof on the ability of the Authority to cause the Company to accept tonnages of Acceptable Waste from the City under Section 2.1, and as to the probable duration of such Shutdown.

(b) The Authority shall cause the Company to seek to schedule maintenance Shutdowns at periods when a low quantity flow of Acceptable Waste is anticipated.

(c) The Authority shall cause the Company to endeavor to give prior written notice to the City of a maintenance Shutdown. Such notice shall indicate the expected time, duration and nature of such Shutdown.

(d) During the period of any Shutdown, the City shall, at no cost to the Authority, divert and landfill or otherwise dispose of, or cause the City to divert and landfill or otherwise dispose of, any Acceptable Waste that cannot be disposed of by the Facility and that the Authority would otherwise have been required to accept under Section 2.1(a). Such waste is referred to herein as "Diverted Waste." During any such period, the Authority shall cause the Company to accept and dispose of Acceptable Waste delivered by the City to the extent of the Facility capacity then existing. The Authority shall cause the Company to use all reasonable efforts to resume normal operation of the Facility. Unless the Authority is excused from accepting such Diverted Waste due to an Uncontrollable Circumstances in accordance with Section 11.1 or as permitted by Section 2.6(a), the Authority shall pay the City an amount equal to the total number of Tons of Diverted Waste times the excess if any of the City's cost of transportation (including the City's associated labor expense and additional fuel) and disposal of such Diverted Waste over the Tipping Fee, provided that the City shall make reasonable efforts and cooperate with the Authority to ensure that all Diverted Waste is transported and disposed of in a cost-effective and commercially reasonable manner. The excess costs described in this subsection (d) shall be payable within 30 days after the Authority's receipt of an invoice in which the City's actual costs are properly documented. For purposes of this Section 4.1(d), Diverted Waste delivered by or on behalf of the City to the City's landfill is deemed to be disposal in a cost-effective and commercially reasonable manner.

ARTICLE V PAYMENTS

Section 5.1. Tipping Fee for Delivered Waste.

The City shall pay to the Authority, as provided in Section 5.3, a tipping fee for each Ton of Acceptable Waste delivered by or on behalf of the City pursuant to Section 2.1(a) (the "Tipping Fee") to the Facility and disposed of under the Waste Disposal Agreement. The Tipping Fee shall be determined pursuant to Schedule 1.

Section 5.2. Change In Law Costs.

(a) The City shall not be obligated to approve or accept any Change in Law Adjustment. For the avoidance of doubt, failure by the City to approve any Change in Law

Adjustment shall not serve to create any liability running to the City or otherwise affect the rights and obligations of the Company or the Authority , except as set forth in Section 5.2(c).

(b) In the event of a Change in Law that requires cost reimbursements, the Company shall submit a written request for a Change in Law Adjustment that shall include a sworn statement signed by the Company's authorized representative accompanied by full and complete certified documentation presented for approval by the City, including a discussion of pre-existing conditions and costs; changed conditions and costs; cost substantiation and cost analyses and detailed cost records; an allocation of the City's Percentage of costs associated with the Change in Law; and such other information as may be reasonably required by the City for evaluation of the Change in Law Adjustment (the "Change in Law Notice"). The City shall not be required to approve or accept any Change in Law Adjustment. Change in Law Adjustment shall not include any costs incurred prior to the delivery of the Change in Law Notice. The Change in Law Notice shall be submitted to the City by Authority at least 90 days prior to the Change in Law coming into effect or, if it is not possible to give 90 days prior notice, within five (5) business days of Authority becoming aware of the necessity for a Change in Law Adjustment. The Parties shall negotiate in good faith to determine the proper amount to be deemed to be a Change in Law Adjustment. Either Party may invoke its right to submit a dispute relating to the determination of the amount of a Change in Law Adjustment pursuant to Section 11.2 of this Agreement. Notwithstanding the foregoing, the City shall make no payments on any disputed Change in Law Adjustment pending any resolution of any such dispute resolution proceeding.

(c) If (i) a Change in Law Adjustment, together with all other previously approved Change in Law Adjustments, would result in more than a 15% per ton increase in the aggregate, to the Tipping Fee (excluding any Change in Law Adjustments) in effect on the date on which the Change in Law comes into effect, and (ii) the City does not approve such Change in Law Adjustment within 90 days after receipt of the Change in Law Notice and the required information, and (iii) the Company elects to shut down the Facility and no longer process Acceptable Waste at the Facility as provided herein, then the Authority must cause the Company to perform its obligations hereunder to accept and dispose of Acceptable Waste but may accomplish the disposal thereof by Alternate Disposal Service for the remainder of the term.. The Parties acknowledge that if the Company elects to shut down the Facility, the requirements of the Company pursuant to the Waste Disposal Agreement with respect to the sale of electricity thereunder shall terminate and the City may terminate this Agreement by giving written notice to the Authority within 30 days after the shutdown occurs. "Alternate Disposal Service" means (i) the acceptance during the Receiving Hours of waste delivered hereunder at the Facility or at a transfer station on the Facility site, (ii) the transportation of the Acceptable Waste, and (iii) the disposal of such waste at a landfill or other disposal facility in accordance with Applicable Law, at the Authority's sole cost and expense and without any increase in the Tipping Fee or reduction

in the Host Community Fee. For the avoidance of doubt, Alternative Disposal Service shall not result in reduction of the City's rights to deliver Acceptable Waste hereunder

(d) In the event of a Change in Law Adjustment that is approved by the City, in its sole discretion, Authority shall be reimbursed for such Change in Law Adjustment by the City as follows: (i) such Change in Law Adjustment shall be shared by the City and Authority, with the City responsible for the City's Percentage of such Change in Law Adjustment, (ii) the amount of such City's Percentage of the Change in Law Adjustment applicable to such contract year shall be incorporated into the Tipping Fee for such contract year; provided, however, if the costs associated with a Change in Law Adjustment are amortized beyond the end of the contract term, the Tipping Fee shall only be adjusted to the extent the City's Percentage of the Change in Law Adjustment falls within the remainder of the contract term.

Section 5.3. Payments.

All amounts payable under Section 5.1 or 5.2 with respect to any calendar month shall be invoiced to the City by the Authority the following month, and shall be paid by the City within 30 days after the date of receipt by the City of such invoice. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any billing dispute or billing adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten Business Days of such resolution along with interest accrued at the Late Payment Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

Section 5.4. Late Payment.

A Party shall be entitled to interest at the Late Payment Rate (or the maximum amount allowable by law) on any outstanding balance not paid within 30 days after the receipt of the applicable invoice by the other Party.

Section 5.5. No Set-Off.

The obligation of a Party to pay the amounts to be paid by it from time to time hereunder shall not be subject to diminution by reason of any Shutdown of the Facility, set-off, abatement, counter-claim, existence of a dispute or any other reason, known or unknown, foreseeable or unforeseeable, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of such Party hereunder or limit recourse against such Party. The foregoing provisions of this Section 5.5 shall not affect any right of a Party to pursue independently any claim it may have against the other Party based upon non-performance by the other Party of its obligations hereunder.

Section 5.6. Reserved.

Section 5.7. Host Community Fee.

The City and the Authority each acknowledge that the "Host Community Fee" (as such term is defined in the Waste Disposal Agreement) shall be paid by the Company to the City via the Authority.

Section 5.8. Payments in Respect of Certain Charges.

The Tipping Fee was established based upon the current exemption from the City Surcharge for waste delivered by the City under the Waste Disposal Agreement. Accordingly, if the City Surcharge becomes applicable to waste delivered pursuant to this Agreement, the Authority shall be entitled to reimbursement by the City for any City Surcharge payable on waste delivered pursuant to this Agreement.

Section 5.9. Inspection.

The City has the right, at its sole expense and during normal working hours, to examine the records of the Authority to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

**ARTICLE VI
AUTHORIZED REPRESENTATIVES**

Section 6.1. Authorized Representatives.

The authorized representative of the Authority (the "Authority Representative") for purposes of this Agreement shall be its Executive Director or such other person as the Executive Director of the Authority may from time to time designate by written notice to the City. The authorized representative of the City (the "City Representative") shall be such person as may be designated from time to time, in a written notice delivered to the Authority by the City. Either Party may change its representative upon five days' written notice to the other Party.

**ARTICLE VII
INSURANCE**

Section 7.1 Types of Insurance for the Authority.

The Authority shall cause the Company to obtain and maintain all insurance required pursuant to the Waste Disposal Agreement. Such insurance shall name the City as additional insured. The Authority shall cause the Company to provide certificates of insurance in form reasonably satisfactory to the City evidencing such coverage and naming the City as additional insured upon the City's request, from time to time, but not more than once annually.

**ARTICLE VIII
DEFAULT AND TERMINATION**

Section 8.1. Remedies for Default.

In the event of the breach by any Party of an obligation under this Agreement, the right to recover damages or to be reimbursed will ordinarily constitute an adequate remedy. Therefore, no Party shall have the right to terminate this Agreement for cause for any breach unless an Event of Default (as defined in Sections 8.2 and 8.3) on the part of the other Party shall have occurred and be continuing.

Section 8.2. Events of Default by Authority.

The following shall constitute an Event of Default on the part of the Authority:

- (a) The failure on the part of the Authority to pay any undisputed amount required to be paid to the City under this Agreement when such amount becomes due and payable if the City has made written demand therefor accompanied by notice that unless

such amount is paid within 90 days after such demand the default will constitute an Event of Default, and such amount is not so paid; and

(b) The persistent or repeated failure or refusal by the Authority substantially to fulfill any of its material obligations in accordance with this Agreement unless such failure or refusal shall be excused or justified by Uncontrollable Circumstance or a default by the Authority under the Waste Disposal Agreement, provided, however, that no such failure or refusal shall constitute an Event of Default unless and until:

(i) the City shall have given prior written notice to the Authority stating that in its opinion a particular default or defaults (to be described in reasonable detail in such notice) exist which will, unless corrected, constitute a material breach of this Agreement on the part of the Authority and which will, in its opinion, give the City a right to terminate this Agreement for cause under this Section unless such default is corrected within a reasonable period of time, and

(ii) the Authority shall have neither corrected such default nor initiated reasonable steps to correct the same within a reasonable period of time (which shall in any event be not less than thirty (30) days from the date of the notice given pursuant to clause (a) of this Section 8.2), provided that if the Authority shall have commenced to take appropriate steps to correct such default within such reasonable period of time, the same shall not constitute an Event of Default for as long as the Authority is continuing to take reasonable steps to correct such default.

A material breach shall be deemed to have been corrected for purposes of clause (a) above, if it has been alleviated to the degree that its existence no longer makes damages an inadequate remedy.

Section 8.3. Events of Default by the City.

Each of the following shall constitute an Event of Default on the part of the City:

(a) Subject to Section 8.4, the failure on the part of the City to pay any undisputed amount required to be paid to the Authority under this Agreement when such amount becomes due and payable if the Authority has made written demand therefor to the City accompanied by notice that unless such amount is paid within 90 days after such demand the default will constitute an Event of Default, and such amount is not so paid; and

(b) The persistent or repeated failure or refusal by the City substantially to fulfill any of its material obligations in accordance with this Agreement, unless such

failure or refusal shall be excused or justified by Uncontrollable Circumstance, provided that no such failure or refusal shall constitute an Event of Default unless and until (i) the Authority shall have given prior written notice to the City stating that in its opinion a particular default or defaults (to be described in reasonable detail in such notice) exist which will, unless corrected, constitute a material breach of this Agreement on the part of the City and which will, in its opinion, give the Authority a right to terminate this Agreement for cause under this Section 8.3(b) unless such default is corrected within a reasonable period of time, and (ii) the City shall have neither corrected such default nor initiated reasonable steps to correct the same within a reasonable period of time (which shall in any event be not less than thirty (30) days from the date of the notice given pursuant to clause (i) of this Section 8.3(b)), provided that if the City shall have commenced to take appropriate steps to correct such default within such reasonable period of time, the same shall not constitute an Event of Default for as long as the City is continuing to take reasonable steps to correct such default.

A material breach shall be deemed to have been corrected for purposes of this Section 8.3, if it has been alleviated to the degree that its existence no longer makes damages an inadequate remedy.

Section 8.4. Termination for Events of Default.

If any Party shall have a right of termination for an Event of Default in accordance with the second sentence of Section 8.1, the same may be exercised only by written notice of termination given to the other Party; provided that (a) either Party's failure to pay amounts due and owing under Section 3.1 shall entitle the other Party to suspend performance of, or terminate, its obligations under Section 3.1 in respect of the sale of electricity to the City under the Waste Disposal Agreement or the power purchase agreement referenced in Section 3.1, but not to terminate this Agreement in its entirety; and (b) failure by the City to pay undisputed Tipping Fees due and owing to the Authority shall not entitle the Authority or the Company to suspend performance of, or terminate, its obligations under this Agreement or the Waste Disposal Agreement in respect of the sale of electricity to the City, pursuant to Section 3.1 of this Agreement or the Waste Disposal Agreement or under such power purchase agreement. The proper exercise of any right of termination under this Section 8.4 shall be in addition to and not in substitution for such other remedies, whether damages or otherwise, as the Party exercising the right of termination may have.

Section 8.5. Survival of Certain Rights and Obligations.

No termination of this Agreement under Section 8.4 or otherwise hereunder shall limit or otherwise affect the respective rights and obligations of either Party accrued prior to the date of such termination.

Section 8.6. Damages.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

**ARTICLE IX
TERM**

Section 9.1. Term; Conditions Precedent.

(a) This Agreement shall become effective on the Effective Date, subject to satisfaction of the conditions set forth in paragraph (b) below, and, unless sooner terminated in accordance with the terms hereof, shall continue in effect until December 31, 2021; provided that the provisions of Article 3 shall become effective on July 1, 2011.

(b) Notwithstanding the foregoing, this Agreement shall not be effective unless and until the following conditions precedent have been met or waived by both Parties:

(i) The Authority and the Company shall have fully executed the Waste Disposal Agreement, providing for the disposal of Acceptable Waste collected from the City for a term that is at a minimum coterminous with this Agreement;

(ii) The City and the Company shall have entered into the Second Amendment to Hawkins Point Disposal Contract in substantially the form set forth on Schedule 2 to the Waste Disposal Agreement (or an amended and restated Hawkins Point Disposal Contract that incorporates the Second Amendment) ;

(iii) Each Party shall have provided the other Party with an opinion of counsel to the effect that this Agreement, and the transactions contemplated hereby, have been duly authorized, executed and delivered by such Party and constitute a legally binding obligation of such Party, enforceable against such Party in accordance with its terms;

(iv) The Authority shall have provided the Company with an opinion of counsel to the City to the effect that the City Agreement, and the transactions contemplated thereby, have been duly authorized, executed and delivered by the City and constitutes a legally binding obligation of the City, enforceable against the City in accordance with its terms; and

(v) The Company shall have provided the Authority a guarantee of the Company's performance under the Waste Disposal Agreement by Waste Management, Inc.

ARTICLE X REPRESENTATIONS AND WARRANTIES, CERTAIN COVENANTS.

Section 10.1. Representations and Warranties of the City.

The City hereby makes the following representations and warranties to and for the benefit of the Authority as of the Effective Date:

(a) The City is a body politic and corporate and a political subdivision of the State of Maryland, duly organized and validly existing under the Constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Agreement.

(b) The City has duly authorized the execution and delivery of this Agreement. This Agreement has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with their respective terms.

(c) Neither the execution or delivery by the City of this Agreement, nor the performance by the City of its obligations in connection with the transactions contemplated

hereby or thereby or the fulfillment by the City of the terms or conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the City or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the City is a party or by which the City or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body is required for the valid execution and delivery by the City of this Agreement, except such as have been duly obtained or made.

(e) 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 hereunder or in connection with the other transactions contemplated hereby, 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 hereby.

Section 10.2. Representations and Warranties of the Authority.

The Authority hereby makes the following representations and warranties to and for the benefit of the City as of the Effective Date:

(a) The Authority is duly organized and validly existing under the Constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Agreement and the Waste Disposal Agreement.

(b) The Authority has duly authorized the execution and delivery of this Agreement and the Waste Disposal Agreement has been duly executed and delivered by the Authority and each constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its respective terms.

(c) Neither the execution or delivery by the Authority of this Agreement and the Waste Disposal Agreement, nor the performance by the Authority of its obligations in connection with the transactions contemplated hereby or thereby or the fulfillment by the Authority of the terms or conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law, or governmental regulation applicable to the Authority, or (ii) conflicts with, violates or results in a breach of an term or condition of any judgment or decree, or any agreement or instrument, to which the Authority is a party or by which the Authority or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and, delivery of this Agreement or the Waste Disposal Agreement by the Authority, except such as have been duly obtained or made.

(e) 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 Authority's knowledge, threatened, against the Authority, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Authority of its obligations hereunder or in connection with the transactions contemplated hereby or thereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement or the Waste Disposal Agreement, or any other agreement or instrument entered into by the Authority in connection with the transactions contemplated hereby or thereby.

Section 10.3. Certain Covenants of the City.

Except as provided in Article VIII with respect to termination rights, the City shall not exercise any right, privilege or election it may have hereunder in a manner inconsistent with the exercise by the Authority of its respective rights, privileges and elections under the Waste Disposal Agreement. No provision of this Agreement shall be construed in such manner as to enlarge, or have the effect of enlarging, the respective rights, privileges and elections of the Authority under the Waste Disposal Agreement.

**ARTICLE XI
MISCELLANEOUS**

Section 11.1. Uncontrollable Circumstance.

Each Party shall be excused for its failure to perform in accordance with this Agreement any obligation required to be performed by it hereunder, to the extent that such failure results from an Uncontrollable Circumstance, provided, that, in no event shall any Uncontrollable Circumstance excuse either Party from making any payment hereunder in accordance with the terms hereof. Each Party shall seek diligently and in good faith to overcome or remove such Uncontrollable Circumstance, provided, however, that the settlement of strikes, lockouts, and other industrial disturbances or of any legal actions or administrative proceedings shall be entirely in the discretion of the Party suffering the same, and it shall not be required to make settlement of strikes, lockouts, and other industrial disturbances or of legal actions or administrative proceedings when such settlement would be unfavorable, in the judgment of the Party suffering the strike, labor dispute or other industrial disturbance or legal action or administrative proceedings. A Party claiming the benefit of this Section 11.1 shall give prompt notice thereof to the other Party.

Section 11.2. Dispute Resolution.

Any judicial action arising out of, resulting from or in any way relating to this Agreement shall be brought only in a state or federal court of competent jurisdiction in the State of Maryland.

Section 11.3. Assignment.

Except as otherwise provided herein, this Agreement may not be assigned by either Party without the prior written consent of the other Party except that the Authority or any permitted assignee thereof may, without such consent assign its interest and obligations hereunder to any corporation or other entity with which or into which the Authority or such assignee shall merge or consolidate or to which the Authority or such assignee shall transfer all or substantially all of its assets, including the Facility so long as, (i) the assignee assumes all of the Authority's obligations hereunder in writing and (ii) in the event of an assignment by the Authority under this Section 11.3 the City shall be notified thereof in writing and shall make payments due hereunder to such Person as may be designated by such assignee in such notice or otherwise in writing.

Section 11.4. Appointment of Authority as City's Designee.

The City acknowledges that, in order to facilitate the performance by the Authority of its obligations under this Agreement, the Authority is entering into the Waste Disposal Agreement with the Company, dated the date hereof, which Agreement provides for the performance by the Company of obligations generally corresponding to the obligations undertaken by the Authority hereunder. The City further acknowledges and agrees that, except with respect to the Reserved Rights (as defined in the Waste Disposal Agreement), the Authority has appointed the Company as the Authority's designee for so long as the Waste Disposal Agreement shall be in effect, to act in the name, on behalf and in the place and stead of the Authority, to perform all of the Authority's obligations under this Agreement and to exercise, enjoy and enforce all such rights, remedies, powers, privileges, elections and other benefits as the Authority may have or to which it may be entitled under this Agreement, including, without limitation, all rights of the Authority hereunder in respect of the delivery by the City of Acceptable Waste and the payment of all amounts payable by the City. The City further acknowledges that, pursuant to the Waste Disposal Agreement, the Authority has agreed that it shall not take any action, or omit to take any action, which action or omission to act would in any way impede, interfere with, restrict or otherwise limit the ability of the Company to exercise such right, power and authority of the Company as designee of the Authority hereunder. The City further acknowledges and agrees that the performance by the Company on behalf of the Authority of the Authority's obligations under this Agreement shall constitute performance of such obligations by the Authority for all purposes hereof, and the Authority hereby acknowledges and agrees that the performance by the City of its obligations hereunder to the satisfaction of the Company shall constitute performance of its

obligations to the Authority hereunder for all purposes hereof. Until the Waste Disposal Agreement expires or terminates by its terms, the City hereby agrees (a) to render performance of all of its obligations hereunder (including, without limitation, all obligations with respect to the delivery of Acceptable Waste and the payment of amounts payable by the City from time to time) directly to the Company in accordance with the terms hereof, (b) that the Company shall be entitled, either in its own name or in the name of the Authority, to enforce all of the representations, warranties, covenants, and obligations of the City hereunder, and that the City consents to be sued by the Company in accordance with the terms hereof for any violation or breach by the City of, or default by the City in respect of, any such representation, warranty, covenant or obligation, (c) that it shall not act or otherwise rely upon any notice, advice, direction, consent or other communication delivered or given hereunder by or on behalf of the Authority which shall not also have been delivered or consented to by the Company in a writing given to the City, and (d) that it shall deliver directly to the Company (with a copy to the Authority) any notice, advice, direction, consent or other communication delivered or given by it hereunder. If requested by the City Representative, the Authority will cooperate with the City in connection with administration or enforcement of the City's rights under this Agreement relating to the obligations of the Company under the Waste Disposal Agreement, and the City agrees to reimburse the Authority for reasonable costs and expenses incurred by the Authority in connection with such administration or enforcement.

Section 11.5. Notices.

All notices, consents, invoices and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and may be delivered by hand or mailed by first class registered or certified mail, return receipt requested, postage prepaid, and in any case shall be addressed as follows:

If to the Authority:

Northeast Maryland Waste Disposal Authority
100 South Charles Street
Tower II, Suite 402
Baltimore, Maryland 21201
Attention: Executive Director

If to the Mayor and City Council of Baltimore:

Director of Public Works
600 Abel Wolman Municipal Building
200 N. Holliday Street
Baltimore, Maryland 21202

with copies to:

Director of Finance
Room 469, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

and

City Solicitor
Room 101
City Hall
Baltimore, Maryland 21202

Changes in the respective addresses to which such notices, consents, invoices or other communications may be directed and may be made from time to time by either Party by notice to the other Party. Notices and consents given by mail in accordance with this Section 11.5 shall be deemed to have been given five Business Days after the date of dispatch; notices and consents given by any other means shall be deemed to have been given when received.

Section 11.6. Entire and Complete Agreement.

This Agreement constitutes the entire and complete agreement of the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous understandings, representations, arrangements and commitments, all of which, whether oral or written, are merged herein.

Section 11.7. Binding Effect.

This Agreement shall bind and inure to the benefit of the parties to this Agreement and any successor or assignee acquiring an interest hereunder consistent with Section 11.3.

Section 11.8. Other Documents.

Each Party shall execute and deliver any instruments and to perform any acts which may be necessary or reasonably requested by the other Party or by the City in order to give full effect to this Agreement.

Section 11.9. Applicable Law.

The law of the State of Maryland shall govern the validity, interpretation, construction and performance of this Agreement.

Section 11.10. Headings.

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

Section 11.11. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

Section 11.12. Amendment or Waiver.

Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by a written instrument signed by the Party against whom enforcement of such change, modification, amendment or waiver is sought.

Section 11.13. Waiver of Sovereign Immunity.

The City reserves any rights it may have under Applicable Law in respect of any right or defense of sovereign immunity (or similar rights and defenses).

The Authority, to the maximum extent permitted by Applicable Law, hereby irrevocably waives and renounces any and all rights to sovereign immunity (or similar rights and defenses) it may have under Applicable Law with respect to, and agrees not to raise sovereign immunity (or any similar defense) as a defense to, any claim, suit or proceeding (of whatever nature) based on or arising out of this Agreement, or the transactions contemplated hereby, or any breach hereof by the Authority, asserted or brought by or on behalf of the City, its Affiliates or any officer, employee or agent thereof.

Section 11.14. 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 as 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 herein, and the other provisions of this Agreement shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

Section 11.15. Limitation of Liability and Defenses.

(a) The City acknowledges that the Authority's ability to perform its obligations hereunder is dependent in part upon the performance by the Company of its obligations under the Waste Disposal Agreement. Accordingly, the City agrees that any amounts payable hereunder by the Authority pursuant to Schedule 1 or Article V or otherwise in respect of the disposal of Acceptable Waste hereunder shall be payable to the City solely from such amounts as may be paid to the Authority by the Company pursuant to the Waste Disposal Agreement.

(b) Notwithstanding any other provision of this Agreement to the contrary, the liability and obligation of the Authority for all monetary payments with respect to or arising as a result of this Agreement are limited obligations payable solely from amounts paid by the Company under the Waste Disposal Agreement ("Company Payments") as and to the extent such Company Payments are received and available to pay such amounts under Applicable Law. The liability of the Authority for any monetary payments to the City with respect to, or as a result of, this Agreement are not payable from the general funds of the City or any amounts received by the City in respect of the City Fee and the incurrence or nonperformance of such obligations or payments will not constitute or create a claim against, any of the assets or property of the Authority or of its income, receipts or revenues, except Company Payments available to pay such amounts under Applicable Law.

(c) No recourse for the payment of any amounts due by the Authority under this Agreement or upon any representation, warranty, covenant, agreement or obligation contained in this Agreement or in any document, certificate or instrument that this Agreement requires to be executed and delivered by the Authority or for any claim hereon or thereon shall be had by the City, except from Company Payments.

(d) The execution and delivery of this Agreement by either party does not impose any personal liability on the members, officers, employees or agents of either party. No recourse must be had by either party for any claims based on this Agreement against any member, officer, employee or other agent of the other party in his or her individual capacity, all such liability, if any, being expressly waived by both parties by the execution of this Agreement.

Section 11.16. Reports / Information / Inspections / Audits.

(a) The Authority shall maintain records of all actions, and accurate books of account for all funds received and disbursed, with full documentation to substantiate the transactions under this Agreement. These records shall be retained for a period of at least three (3) years after receipt of the final payment under this Agreement. If the Authority (or the Company and its parent organization) should cease to exist, custody of these records for the Agreement will immediately be transferred to the City.

(b) At any time during the normal course of business hours and as often as the City or its representative may deem necessary, there shall be made available to the City or its representative for examination, all of the Authority's records with respect to all matters covered by this Agreement and the Authority will permit the City or its representative to audit , examine, copy and make excerpts of transcripts from such records, and to make audits of all contract invoices, materials, payrolls and other data relating to matters covered by this Agreement.

IN WITNESS WHEREOF, Northeast Maryland Waste Disposal Authority has caused this Agreement to be executed in its name by its authorized member, and has caused its seal to be attached to this Agreement as of this 22nd day of June, 2011.

[SEAL]

NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY

Witness:

By Chutkan W. Dugg

By Robin B. Davison

Executive Director

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its name by _____, and has caused the seal of the City to be attached to this Agreement, as of this ____ day of _____, 2011.

[SEAL]

MAYOR AND CITY COUNCIL OF
BALTIMORE

Witness:

By *Kevin Mathy*
~~Mayor~~ ~~Mayor~~ of the City Seal



By *Stephane D. Banne*
Mayor

Approved for form and legal sufficiency this 29th day of June 2011.

CHIEF SOLICITOR

APPROVED BY THE BOARD OF ESTIMATES:

By *John Cheen*

Kevin D. Taylor
Date 1 JUL 20 2011 Clerk

RAC

EXECUTION VERSION

Schedule 1

TIPPING FEE

The Authority shall charge the City the following Tipping Fee per ton during the calendar year noted, as may be adjusted according to the terms set forth in the Agreement.

<u>Calendar Year</u>	<u>Tipping Fee</u>
1/1/12 to 12/31/12	\$46.23
1/1/13 to 12/31/13	\$47.39
1/1/14 to 12/31/14	\$48.57
1/1/15 to 12/31/15	\$49.78
1/1/16 to 12/31/16	\$51.03
1/1/17 to 12/31/17	\$52.31
1/1/18 to 12/31/18	\$53.61
1/1/19 to 12/31/19	\$54.95
1/1/20 to 12/31/20	\$56.33
1/1/21 to 12/31/21	\$57.74

EXECUTION VERSION

Schedule 2

RESERVED

Schedule 3

Energy Sale (10 MW) from Wheelabrator Baltimore L.P. ("BRESKO"):

Section 3.1 of the Agreement makes provision for the City to receive the benefit of a fixed energy price for the period from the July 1, 2011 to July 1, 2013..

BRESKO will sell the City (or an energy supplier designated by the City) 10 MW of physically delivered energy per hour via PJM Day-Ahead Internal Bilateral Transaction for a 96 month period starting July 1, 2013 through June 30, 2021. BRESKO will deliver energy on a strictly wholesale basis. Physical delivery may be made at City's direction to a qualified retail electricity supplier for benefit of City's electric accounts. The energy will be generated by the Facility and delivered on a unit contingent basis. The delivery point shall be PJM Pnode ID "50694".

The sale of energy shall be contingent upon the City or its agent or designated haulers delivering 150,000 tons of waste per year to the Facility. If the City or its agent or designated haulers fails to deliver 150,000 tons per year of waste to BRESKO for two consecutive years, BRESKO shall have the right to terminate the power purchase agreement. This transaction is for energy only and does not include capacity or any other ancillary services (including environmental attributes). Furthermore, BRESKO is excused from these obligations when it has a scheduled turbine outage or if the Facility is shut down. The power purchase agreement will be executed under an ISDA master agreement form or another form acceptable to both parties. Neither party will be required to furnish security.

Price for Period #1 (or years 1 through 5) is outlined below. This price was determined based on a straight five year average of energy rates in the attached spreadsheet.

Period	Contract Period	Price	Type of Transaction	Settlement / Delivery LMP	Delivery Location
1	7/1/13 to 6/30/16	\$62.00/MWh	Physical	Day-Ahead	PJM PnodeID "50694"
2	7/1/16 to 6/30/21	"Market" Plus \$7/MWh	Physical	Day-Ahead	PJM PnodeID "50694"

Price for Period #2 will be based on the average NYMEX Index-PJM West Hub forward market index price ("Market") and be set twelve months prior to the start of each contract year. For example, the fiscal 2017 contract year price (i.e. July 1, 2016 to June 30, 2017) will be set on July 1, 2015. A basis differential of \$7/MWh will be added to the Market price to compensate for the congestion between the BRESKO Node and the PJMW Hub. Within 270 days after the price for any year in Period 2 is set, the City may elect to terminate the power purchase agreement for the remainder of Period 2 beginning on the date that such price was to become effective.

Market price is calculated by taking the weighted average of the (a) PJM Western Hub Off-Peak Calendar-Month Day-Ahead LMP Swap Futures multiplied by the off-peak hours in the month + (b) PJM Western Hub Peak Calendar-Month Day-Ahead LMP Swap Futures multiplied by the on-peak hours in the month + (c) \$7/MWh basis differential between the PJM Western Hub and the node. An example is provided below:

<i>Month:</i>	<i>August, 2013</i>
NYMEX PJMW Peak Price:	\$65.00/MWh
NYMEX PJM Off-Peak Price:	\$55.00/MWh
August Peak Hours:	368
August Off-Peak Hours:	376
<i>Weighted Avg. Price Calculation:</i>	$(\$65*368 + \$55*376) / (368 + 376) = \$59.9/MWh$
<i>Total Price Paid to BRESCO:</i>	$\$59.9 + \$7 = \$66.9/MWh$

Market price will be obtained from the NYMEX website as outlined below. In the event no pricing is available from NYMEX, the settlement will be based on a mutually agreed upon source.

PJMW - Peak:

PJM Western Hub Peak Calendar-Month Day-Ahead LMP Swap Futures

NYMEX Product symbol - J4

http://www.cmegroup.com/trading/energy/electricity/pjm-western-hub-peak-calendar-month-day-ahead-lmp-swap-futures_contract_specifications.html

PJMW- Off-Peak:

PJM Western Hub Off-Peak Calendar-Month Day-Ahead LMP Swap Futures

NYMEX Product Symbol - E4

http://www.cmegroup.com/trading/energy/electricity/pjm-western-hub-off-peak-calendar-month-day-ahead-lmp-swap-futures_contract_specifications.html

WASTE DISPOSAL AGREEMENT

between
NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY
and
WHEELABRATOR BALTIMORE, L.P.

Dated as of June 22, 2011

Submission Not an Offer. The submission of a draft of this document or a summary of some or all of its provisions does not constitute an offer to create a legally binding obligation on the part of any prospective party, it being understood and agreed that no such party shall be legally obligated with respect to the matters addressed herein unless and until a definitive agreement has been executed by all parties.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	1
Section 1.1. Definitions.....	1
ARTICLE II OBLIGATIONS RELATING TO DELIVERY AND ACCEPTANCE OF WASTE	
.....	8
Section 2.1. Delivery and Acceptance of Waste.	8
Section 2.2. Receiving Hours.....	9
Section 2.3. Weighing Records.....	9
Section 2.4. Ownership of Acceptable Waste.....	10
Section 2.5. Returned and Rejected Waste; Recovered Materials; Residue Disposal.	10
Section 2.6. Refusal of Deliveries.....	11
Section 2.7. Deliveries.	11
ARTICLE III SALE OF ELECTRICITY.....	12
Section 3.1. Sale of Electricity.....	12
ARTICLE IV SHUTDOWNS.....	13
Section 4.1. Shutdowns; Notice; Diverted Waste.	13
ARTICLE V PAYMENTS	14
Section 5.1. Tipping Fee for Delivered Waste.....	14
Section 5.2. Change In Law Costs.	14
Section 5.3. Payments.	15
Section 5.4. Late Payment.....	16
Section 5.5. No Set-Off.....	16
Section 5.6. Authority Fee.	16
Section 5.7. Host Community Fee.	16
Section 5.8. Payments in Respect of Certain Charges.	17
ARTICLE VI AUTHORIZED REPRESENTATIVES	17
Section 6.1. Authorized Representatives.	17
ARTICLE VII INSURANCE.....	17
Section 7.1. Types of Insurance for the Company.	17
Section 7.2. Insurance Certificates.....	19
ARTICLE VIII DEFAULT AND TERMINATION	19
Section 8.1. Remedies for Default.	19
Section 8.2. Events of Default by Company.	19

Section 8.3.	Events of Default by the Authority.	20
Section 8.4.	Termination for Events of Default.	21
Section 8.5.	Survival of Certain Rights and Obligations.	21
Section 8.6.	Damages.....	22
ARTICLE IX TERM 22		
Section 9.1.	Term; Conditions Precedent.	22
ARTICLE X REPRESENTATIONS AND WARRANTIES, CERTAIN COVENANTS.....23		
Section 10.1.	Representations and Warranties of the Authority.	23
Section 10.2.	Representations and Warranties of the Company.	24
Section 10.3.	Certain Covenants of the Authority.	25
ARTICLE XI MISCELLANEOUS.....25		
Section 11.1.	Uncontrollable Circumstance.....	25
Section 11.2.	Dispute Resolution.....	25
Section 11.3.	Assignment.	25
Section 11.4.	Appointment of Company as Authority's Designee.....	26
Section 11.5.	Notices.	27
Section 11.6.	Entire and Complete Agreement.....	28
Section 11.7.	Binding Effect.	29
Section 11.8.	Other Documents.	29
Section 11.9.	Applicable Law.	29
Section 11.10.	Headings.	29
Section 11.11.	Counterparts.....	29
Section 11.12.	Amendment or Waiver.	29
Section 11.13.	Waiver of Sovereign Immunity.	29
Section 11.14.	Severability.	30
Section 11.15.	Limitation of Liability and Defenses.	30
Section 11.16.	Reports / Information / Inspections / Audits.....	31

WASTE DISPOSAL AGREEMENT

THIS WASTE DISPOSAL AGREEMENT is made and entered into as of the 22nd day of June, 2011, by and between Northeast Maryland Waste Disposal Authority (the "Authority"), a body politic and corporate organized and existing under the laws of the State of Maryland, and Wheelabrator Baltimore, L.P., a Maryland limited partnership (the "Company").

RECITALS

A. The Mayor and City Council of Baltimore, Maryland (the "City") have entered into a separate contract with the Authority (the "City Agreement"), substantially identical in form and substance and dated of even date herewith, which provides for the disposal of the City's solid waste by the Authority.

B. The Company operates a solid waste disposal facility with a nameplate capacity of 2,250 Tons of waste per day, including steam-generating equipment feeding a turbine generator, air-pollution control equipment and facilities for recovery of ferrous metals from the incinerator residues, located in the City of Baltimore (the "Facility").

C. The Authority and Company wish to contract for the disposal by Company at its Facility of waste delivered pursuant to the City Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions.

The following are definitions of certain terms used in this Agreement.

"Acceptable Waste" means all household garbage, trash, rubbish, and refuse, but excluding all Unacceptable Waste. In no event shall Acceptable Waste include any materials defined herein as Unacceptable Waste. In addition, the parties recognize that some substances which are not, as of the date of this Agreement, considered harmful or of a toxic nature or dangerous, may be determined by the EPA or any other federal, state or local Governmental Body subsequent to the Effective Date to be hazardous, toxic, dangerous, or harmful, and at the time of receipt of notice from the Company to the Authority and the City following such determination, such substances shall cease to be Acceptable Waste and become Unacceptable Waste. If any Governmental Body having appropriate jurisdiction shall determine that any chemicals or other substances which are not, as of the Effective Date, included within this definition of Acceptable Waste because they are considered harmful or of a toxic nature or

dangerous, are not harmful, toxic or dangerous, the Company and the Authority may mutually agree that such chemicals or other substances shall be Acceptable Waste for the purposes of this Agreement.

"Affiliate" means, with respect to any Person, any other Person who controls, is controlled by, or is under common control with, such Person.

"Agreement" means this Waste Disposal Agreement between the Authority and the Company, as the same may from time to time be amended, modified or supplemented in accordance with the terms hereof.

"Alternate Disposal Service" has the meaning given in Section 5.2(c).

"Applicable Law" means: (1) any federal, state or local law, code or regulation; (2) any formally adopted and generally applicable rule, requirement, determination, standard, policy, implementation schedule or other order of any Governmental Body having appropriate jurisdiction; (3) any established interpretation of law or regulation utilized by an appropriate Governmental Body if such interpretation is documented by such Governmental Body and generally applicable; and (4) any Governmental Approval, in each case having the force of law and applicable from time to time to: (a) the siting, design, acquisition, construction, equipping, financing, ownership, possession, start up, testing, operation, maintenance, repair, replacement or management of municipal solid waste resource recovery systems, including the Facility; (b) the air, noise, dust and odor emissions therefrom; (c) the transfer, handling, processing, transportation or disposal of Non-Processible Waste, Residue and other by-products produced thereby; (d) the performance by a Party of its obligations hereunder; or (e) any other transaction or matter contemplated hereby (including, without limitation, any of the foregoing which pertain to solid waste processing, waste disposal, health, safety, fire, environmental protection, labor relations, building codes and non-discrimination).

"Authority Representative" has the meaning given in Section 6.1.

"Authority's Percentage" means, for each contract year, a fraction, the numerator of which is the tonnage delivered by the Authority under this Agreement in the prior calendar year (except with respect to the first contract year the tonnage shall equal 200,000 tons), and the denominator of which is the average annual tonnage of waste delivered to the Facility in the prior five (5) calendar years.

"Baltimore Regional Cooperative Purchasing Council (BRCPC)" means the buying cooperative managed by the Baltimore Metropolitan Council (BMC). Members of BRCPC are purchasing officers from BMC's six member jurisdictions, their school systems, the City of Annapolis and the Maryland Department of General Services. BRCPC purchases electricity for its members, and it or its designated electricity supplier may be the counterparty for the electricity transaction with Company.

"Business Day" means any day other than a Saturday, a Sunday or a day on which either state or national banks in Maryland are not open for the conduct of normal banking business.

"Change in Law" means:

(a) the adoption, amendment, promulgation, issuance, modification, repeal or written change in administrative or judicial interpretation, of any Applicable Law after the Effective Date hereof, unless such Applicable Law was on or prior to the Effective Date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any Governmental Body; or

(b) the order or judgment of any Governmental Body issued after the Effective Date (unless such order or judgment is issued to enforce compliance with Applicable Law which was in effect as of the date hereof) to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the Company or of the Authority, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

(c) to the extent occurring after the Effective Date, (i) the denial of an application for, a delay in the review, issuance or renewal of, or the suspension, termination, or interruption of any Governmental Approval, or (ii) the imposition of a term, condition or requirement in a Governmental Approval which is materially more stringent or burdensome than the terms and conditions set forth in connection with the issuance of such Governmental Approval, in either case, to the extent that such occurrence is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the Company or of the Authority, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a willful or negligent action or lack of reasonable diligence; provided that Change in Law shall not include any changes in Applicable Laws relating to taxes, fees or charges imposed by Governmental Authority.

"Change in Law Adjustment" means an adjustment to the Tipping Fee to account for the Authority's Percentage of increased capital costs or operation and maintenance costs incurred by Company as a result of a Change in Law, with the Authority's Percentage of any such capital costs attributable to a Change in Law amortized over the remaining life of the applicable assets in accordance with generally accepted accounting principles; provided that no Change in Law Adjustment shall be effective unless the Authority and the City, each in its sole discretion authorizes such Change in Law Adjustment in writing.

"Change in Law Notice" has the meaning given in Section 5.2(a).

"City" has the meaning given in Recital Clause A.

"City Agreement" has the meaning given in Recital Clause A.

"City Payments" has the meaning given in Section 11.15.

"City Representative" has the meaning given in Section 6.1.

"City Surcharge" means the surcharge imposed on haulers of solid waste and payable by waste disposal facilities pursuant to Baltimore City Code, Article 23, Subtitle 11.

"County" shall mean Baltimore County, Maryland.

"Designated Hauler" means a municipal or private hauler designated by the City or the applicable Participating County as delivery for the account of the City or Participating County, as the case may be. Absent written instructions to the contrary from the City's authorized representative, all trucks or vehicles operated by City employees shall be Designated Haulers delivering for the City's account.

"Diverted Waste" has the meaning given in Section 4.1(d).

"Effective Date" shall mean January 1, 2012 except that the provisions of Article 3 shall become effective on July 1, 2011.

"Energy Payment Amount" has the meaning given in Section 3.1(b).

"Event of Default" has the respective meanings specified in Sections 8.2 and 8.3.

"Facility" means the solid waste disposal facility described in Recital Clause B.

"Federal Entity" means the United States of America, any agency, instrumentality, department or other part thereof.

"First Energy Delivery Period" has the meaning given in Section 3.1(a).

"Governmental Approval" means all permits, authorizations, consents, certifications, exemptions, registrations, rulings and entitlements of any Governmental Body, of whatever kind and however described, which are required under Applicable Law to be obtained or maintained with respect to the operation, maintenance or ownership of the Facility or the performance by a Party of its obligations hereunder or under the City Agreement.

"Governmental Body" means any federal, state, regional or local legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any official thereof having jurisdiction.

"Holiday" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

"Host Community Fee" has the meaning given in Section 5.7.

"Late Payment Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus one percent (1%) and (b) the maximum rate permitted by Applicable Law.

"Participating County" has the meaning given in Section 2.1(c).

"Participating County Payments" has the meaning given in Section 11.15.

"Party" means the Company or the Authority.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company or unincorporated organization, or any Governmental Body.

"Receiving Hours" means the hours during which the Facility shall be open for the receiving of Acceptable Waste as set forth in Section 2.2.

"Recovered Materials" means metals recovered from Acceptable Waste or Facility residues.

"Rejected Waste" means any waste delivered to the Facility hereunder that is determined to be Unacceptable Waste by the Company after being deposited in the receiving pit.

"Reserved Rights" consist of (i) the Authority's right to enter into Authority Contracts to provide for the delivery of additional Acceptable Waste, (ii) the Authority's rights hereunder with respect to Waste delivered under Authority Contracts and (iii) the Authority's rights under Section 5.6 and related payment rights.

"Residue" means the material (including, but not limited to, fly ash, bottom ash and siftings) remaining after processing waste and after removal of any Recovered Materials.

"Residue Disposal Contract" has the meaning given in Section 2.5(c).

"Residue Landfill" means the City's Quarantine Road Landfill (also known as the Hawkins Point Landfill) or any other landfill at which the City disposes of Residue pursuant to the Residue Disposal Contract.

"Returned Waste" means any waste delivered to the Facility that is determined by the Company to be Unacceptable Waste before being deposited in the receiving pit.

"Shutdown" has the meaning given in Section 4.1(a).

"State Entity" means any state of the United States of America, any political subdivision or municipal corporation existing or organized under the laws of any such state, or any agency, instrumentality, department or other part of any such state, political subdivision or municipal corporation (including, without limitation, any authority, district or similar entity).

"Tipping Fee" means the per-Ton fee set forth on Schedule 1, as may be adjusted pursuant to Section 5.2, and payable to the Company by the Authority pursuant to the terms of Article V herein.

"Ton" or "ton" means a "short ton" of two thousand (2,000) pounds.

"Unacceptable Waste" means any waste that is both within any of the following categories of waste and is considered unacceptable waste by Company rules applicable to substantially all haulers of municipal solid waste to the Facility: (a) Hazardous Waste, explosives and ordnance materials, pathological wastes, radioactive materials, lead acid batteries, sludges, highly inflammable substances, cesspool or other human wastes, human and animal remains, motor vehicles, farm or other large machinery, non-burnable construction materials and demolition debris and hazardous refuse of any type or kind including those addressed by regulations adopted by the United States Environmental Protection Agency ("EPA") pursuant to the Resource Conservation and Recovery Act of 1976, as amended, or other federal or state statutes, such as, but not limited to, cleaning fluids, hazardous paints, acids, caustics, poisons, radioactive materials, fine powdery earth used to filter cleaning fluid, and refuse of similar nature; (b) unless consented to by the Facility's plant manager, any item of waste exceeding six (6) feet in any one of its dimensions or being in whole or in part a solid mass, the solid mass portion of which has dimensions such that a sphere with a diameter of eight (8) inches could be contained within such solid mass portion; (c) all large household appliances, commonly referred to as "white goods" including, without limitation, refrigerators, stoves, washing machines, drying machines, water heaters, and the like; (d) any controlled substances regulated under the Controlled Substances Act, 21 USC 801 et seq., or any equivalent state law; (e) any material that a waste-to-energy facility cannot accept pursuant to any Applicable Law of the City, the State of Maryland or any Governmental Body; (f) small appliances containing chlorofluorocarbons (CFCs) including, without limitation, air conditioners, water coolers, and dehumidifiers; (g) tires and cathode ray tubes (in each case in excess of a de minimis amount); and (h) all other items of waste which Company reasonably believes would be likely to pose a threat to health or safety or the acceptance and disposal of which may cause damage to the Facility or be in violation of any Governmental Approval or Applicable Law. Any substances which are determined by the EPA or any other federal, state, or local agency subsequent to the Effective Date to be hazardous, toxic, dangerous, harmful, or otherwise designated as a "waste ban," shall, at the time of notice to the City and the Authority by the Company following such determination be considered Unacceptable Waste.

"Uncontrollable Circumstance" means any act, event, or condition that is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation,

covenant or agreement or complying with any condition required of such Party under this Agreement, to the extent such act, event or condition is not the result of or does not arise from the willful or negligent act, error or omission, failure to exercise reasonable care or diligence, equipment failure or breach of this Agreement on the part of the Party. Such acts, conditions or events include, but are not limited to, the following (but only to the extent and for such duration as such act, condition or event reasonably affects a Party's performance under this Agreement):

(a) (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence, an act of the public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, or (ii) a strike, lockout, or similar industrial or labor action;

(b) the order and/or judgment of any federal, state or local court or Governmental Body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing Party, provided that the contesting in good faith of any such order and/or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of such non-performing Party;

(c) the failure to obtain, or suspension, termination, interruption or failure of renewal of any Governmental Approval essential to the operation, ownership or possession of the Facility as provided for herein or required with respect hereto or the performance by a Party of its obligations hereunder, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing Party, provided that the contesting in good faith of any such failure to obtain, suspension, termination, interruption or failure of renewal shall not be construed as a willful or negligent action or a lack of reasonable diligence of such non-performing Party; and

(d) a Change in Law;

(e) the failure of any subcontractor or supplier (except a subcontractor or supplier which is an Affiliate of the Company or the managing partner thereof) selected with reasonable care and good faith to furnish labor, services, materials, or equipment in connection with the operation or maintenance of the Facility by the date agreed to, provided that the Non-Performing Party is not reasonably able timely to obtain substitute labor, services, materials or equipment; and

(f) the failure or inability of the City to accept for disposal residue or other materials deliverable pursuant to the Hawkins Point Disposal Contract, as amended consistent with the Second Amendment thereto, the form of which is set forth on Schedule 2 to this Agreement; or the failure of the jurisdiction in which the Facility or any Residue Landfill is situated or the appropriate federal or state agencies or public utilities having operational jurisdiction in the area of location of the Facility or any Residue Landfill to provide and maintain and assure the maintenance of all utilities, services, sewerage, and water lines to the Facility or such Residue Landfill for operation of the Facility or such Residue Landfill, provided they are essential to the Facility.

ARTICLE II
OBLIGATIONS RELATING TO DELIVERY AND
ACCEPTANCE OF WASTE

Section 2.1. Delivery and Acceptance of Waste.

(a) Delivery of Waste

Throughout the term of this Agreement, but subject to the provisions of this Section 2.1(a) and of Sections 2.5, 2.6 and 4.1, the Authority shall deliver, or cause to be delivered, to the Facility (i) substantially all Acceptable Waste collected by the City or otherwise deliverable under the City Agreement and Acceptable Waste that is delivered under Authority Contracts pursuant to Section 2.1(c), but excluding (A) waste that is disposed of in a City landfill for the purposes of creating a fluff layer in any new cell at the City landfill and (B) quantities of waste disposed of at a City landfill or other disposal facility if such disposal is necessary to avoid service efficiency delinquencies and the quantities are consistent with the City's historic practices and (ii) Acceptable Waste that is delivered under Authority Contracts pursuant to Section 2.1(c) or subcontracts that the City is entitled to enter into under the City Agreement. All Acceptable Waste delivered hereunder shall be delivered in accordance with the provisions of this Agreement and without cost to the Company, and the Company shall accept such Acceptable Waste from the Authority at the Facility. Nothing in this Agreement shall limit the ability of the City or the Authority to recycle Acceptable Waste or require the City or Authority to deliver waste that is collected pursuant to the Authority, City or private recycling programs.

(b) Disposal of Waste

Subject to the terms and conditions of this Agreement, the Company shall accept and dispose of all Acceptable Waste delivered to the receiving pits of the Facility by or on behalf of the Authority pursuant to this Section 2.1 in accordance with all Applicable Law and at the cost and expense of the Company.

(c) Authority Contracts.

In addition to the City Agreement, the Authority may enter into one or more contracts for the delivery of Acceptable Waste to the Facility at the Tipping Fees (each, an "Authority Contract") if (i) the counterparty to such Authority Contract is a county that is a member of the Authority other than the City (a "Participating County"), (ii) the City is not responsible for the payment for waste delivered under the Authority Contract, (iii) the City Representative has approved the execution of the Authority Contract and arrangements for the payment to the City of a host or similar fee by the Participating County (which would be in addition to the Host Community Fee payable by the Company under this Agreement), (iv) the failure of the Participating County to perform its obligations thereunder will not adversely affect the rights of the Authority to deliver waste provided under the City Agreement, (v) such Authority Contract is approved by the Company, such approval not to be withheld unless the deliveries under the

Authority Contract would interfere with the Company's ability to perform its obligations under other existing disposal agreements, the City fails to waive the City Surcharge on waste delivered under such Authority Contract, or the terms of the Authority Contract are not consistent with the terms of this Agreement, and (vi) either the Participating County has agreed to pay any City Surcharge or the delivery and/or disposal is not subject to the City Surcharge.

Section 2.2. Receiving Hours.

Subject to Applicable Law, the Company shall keep the Facility open for the receiving of Acceptable Waste twenty-four (24) hours per day, seven days per week, except Holidays (the "Receiving Hours").

Section 2.3. Weighing Records.

The Company shall operate and maintain motor truck scales, calibrated to the accuracy required by Maryland law, to weigh all vehicles delivering waste to the Facility or removing Rejected Waste, Residue, Recovered Materials or Returned Waste. Each vehicle delivering waste hereunder shall have its tare weight permanently indicated and conspicuously displayed on the exterior of the vehicle in a location designated by the Company. The Company, the Authority or the City or other Participating County may require from time to time the revalidation of the tare weight of any vehicle or the reweighing of unloaded vehicles. Each loaded vehicle shall be weighed, indicating gross weight, tare weight, date and time and vehicle identification on a weight record.

If all weighing facilities are incapacitated or are being tested, the Company shall estimate the quantity of waste delivered on the basis of truck volumes and estimated data obtained through historical information pertinent to the waste delivered hereunder. These estimates shall be the basis for records during the outage and shall take the place of actual weighing records during the scale outage. If, upon conclusion of testing, the test indicates that the scale did not meet the accuracy requirements required by Maryland law, any adjustments of scale records actually recorded since the previous test will be negotiated by the City and the Company, and payments due from the Authority shall be adjusted consistent with such adjustments of scale records.

The Company shall maintain daily records of the total tonnage of waste delivered to the Facility, the tonnage of Acceptable Waste accepted by the Company, and the tonnages of Recovered Materials, Rejected Waste, Residue and Returned Waste, respectively. The Company shall furnish to the Authority and the City or other Participating County in respect of each month such information as may be reasonably required by the City in order to administer the City's or Participating County's contracts with haulers of solid waste, within 10 days after the end of such month. Copies of all weight tickets will be maintained by the Company for a period of at least two years.

The Authority may, at its sole option and expense, and upon prior, reasonable notice and during business hours, test the accuracy of the truck scales at the Facility. The Company shall, within ten (10) business days of receipt by the Authority of reasonable supporting documentation

of any material inaccuracy in the truck scales, recalibrate and adjust the accuracy of any such truck scales at the Company's sole cost and expense. All affected prior weight records and billings shall be adjusted accordingly and in an equitable manner.

Section 2.4. Ownership of Acceptable Waste.

Upon acceptance by the Company of any Acceptable Waste delivered hereunder, the Company shall receive title thereto.

Section 2.5. Returned and Rejected Waste; Recovered Materials; Residue Disposal.

(a) Returned and Rejected Waste. In the event that the Authority shall deliver, or cause to be delivered, waste which is determined by the Company to be Unacceptable Waste after it has been deposited in the receiving pit, the Company shall remove and dispose of such waste, as Rejected Waste, at the Authority's cost and expense. In the event that the Authority shall deliver, or cause to be delivered, waste which is determined by the Company to be Unacceptable Waste (or waste which contains Unacceptable Waste if the Company deems it impracticable to separate such Unacceptable Waste or the Authority or its designated hauler delivering such waste is unwilling to make such separation) prior to being deposited in the receiving pit, such waste shall be deemed Returned Waste and the Company may, at its election, (a) refuse to accept such waste, upon which refusal the Authority or its Designated Hauler shall promptly remove and dispose of all of such waste so refused or (b) remove and dispose of such waste, in either case at the cost and expense of the Authority.

(b) Recovered Materials. The Company, or its designated agent, shall remove from the Facility and dispose of Recovered Materials.

(c) Residue Disposal. The Residue generated by the Facility and certain other materials delivered to the Facility shall be disposed of pursuant to a Second Amendment to Hawkins Point Disposal Contract, executed of even date herewith in substantially the form set forth on Schedule 2 (together with the Hawkins Point Disposal Contract dated November 3, 1982, and all previous assignments and amendments thereto, the "Residue Disposal Contract"). Nothing in this Agreement shall limit the ability of the Company to market and extract metals and other materials from the Residue at the Facility site.

(d) Invoices and Records. Any invoice submitted by the Company in respect of costs and expenses to be borne by the Authority under this Section 2.5 shall be payable by the Authority within 30 days of the date of receipt by the Authority and the City (or Participating County as the case may be) thereof. The Company shall maintain cost records with respect to the removal and disposal of Residue, Rejected Waste, Recovered Materials and Returned Waste that the Company elects to remove and dispose of under this Section 2.5. Such cost records, to the extent they relate to Rejected Waste, or Returned Waste that the Company elects to remove and dispose of under such clause, allocable to the Authority, shall be made available for inspection by the Authority at such times during normal business hours as the Authority may reasonably request.

Section 2.6. Refusal of Deliveries.

(a) Extent of Refusal Rights

Notwithstanding any provision to the contrary contained herein, the Company may refuse delivery of:

- (i) any waste other than Acceptable Waste;
- (ii) any waste delivered at any time other than during the established Receiving Hours of the Facility as set forth herein or as otherwise agreed by the Parties; and
- (iii) any waste that the Company is entitled to divert or is not otherwise obligated to accept under this Agreement under Section 2.6(b) or 4.1((b); and
- (iv) any waste the Company is unable to accept due to an Uncontrollable Circumstance.

(b) Inspection of Delivered Waste

The Company shall have the right but not the obligation to inspect all vehicles delivering waste to the Facility hereunder, and shall have the right to require that the Authority or its Designated Hauler remove from any such vehicle before it is unloaded at the receiving pit at the Facility all waste which is not Acceptable Waste. If the Company determines that it is impractical to separate Acceptable Waste from Unacceptable Waste in any vehicle, or the Authority or its Designated Hauler delivering such waste is unwilling to make such separation, then the Company may reject the entire vehicle, the waste in such vehicle shall constitute Returned Waste, and such waste shall be removed and disposed of as provided in Section 2.5, all at the cost and expense of the Authority.

(c) Wrongful Refusal

In the event the Company wrongfully refuses to accept Acceptable Waste hereunder (i.e., rejects deliveries for reasons other than those set forth in Section 2.6(a)), the Company shall reimburse the Authority for the amount (if any) by which the direct costs and expenses incurred by the City or the Participating County (as the case may be) in transporting (including the City's associated labor expense and additional fuel) and disposing of such wrongfully refused Acceptable Waste exceeds the Tipping Fee that would have applied to such Acceptable Waste.

Section 2.7. Deliveries.

Deliveries of Acceptable Waste hereunder shall be substantially in accordance with schedules reasonably determined by the Company after consultation with the Authority and the City and incorporated in the Company's rules and regulations pertaining to the Facility. Such scheduling shall not unreasonably impede the ability of the City or any Participating County to deliver efficiently all Acceptable Waste which the Authority is obligated to accept from the City

or any Participating County under its City Agreement or Authority Contract. The Authority shall cooperate with the Company in the development and implementation of such scheduling procedures.

ARTICLE III

SALE OF ELECTRICITY

Section 3.1. Sale of Electricity.

(a) To provide the Authority and the City the advantage of a fixed price of \$55.00 per MW hour for 10 MWs of energy from July 1, 2011 until June 30, 2013 (the "First Energy Delivery Period"), the parties will complete a fixed-for-floating financial swap on the following terms: Company will calculate for each month of the First Energy Delivery Period an amount equal to (1) 10 MWs times (2) the number of hours in such month times (3) the difference of (a) \$55.00 minus (b) the average Electricity PJM- DAILY- Real Time LMPs during such month ("Energy Payment Amount"). For the purpose of this calculation, the Electricity PJM- DAILY- Real Time LMPs shall mean PJM's hourly Real -Time Energy Market locational marginal pricing (LMP) for energy for PnodeID: 50694 Name: WESTPORT 34kV BRESCO available on the PJM website at <http://www.pjm.com/markets-and-operations/energy/real-time/lmp.aspx> under the headings "Real-Time Energy Market: Daily Real-Time LMP Files: WESTPORT" or any successor headings, for every hour of every day, which for the avoidance of doubt, shall include Hour Ending ("HE") 0100 through HE 2400 (24 hours each day), Eastern Prevailing Time ("EPT"), Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday, including any day that is a holiday as defined by the North American Electric Reliability Council ("NERC"). If the Energy Payment Amount calculated is a negative number, the Company shall make a payment of the absolute value of the Energy Payment Amount to the Authority. If the Energy Payment Amount calculated is a positive number, the Authority shall make payment of the Energy Payment Amount to the Company. The Company will prepare a separate monthly invoice to the Authority, which will be delivered to the Authority and the City's Department of General Services on or before the fifth Business Day of each month. The Company will make payment of amounts due under this Section on or before the last Business Day of the month. The City will make payments within 30 days after the receipt of the invoice for the Energy Payment Amount.

(b) On or before July 1, 2012, the Company and either the Authority or the City will enter into the power purchase agreement described in Schedule 3 to provide for the delivery of energy from the Facility to the City or an electric supplier acting on behalf of the City. In the event the parties fail to enter into an agreement by July 1, 2012, Company's obligations with respect to the sale of energy to the City shall terminate in all respects.

ARTICLE IV
SHUTDOWNS

Section 4.1. Shutdowns; Notice; Diverted Waste.

(a) As used in this Agreement, the term "Shutdown" shall mean any shutdown, reduction in capacity or any other inability of the Facility to accept and dispose of such tonnages of Acceptable Waste as the Company is required to accept from the Authority from time to time under Section 2.1(a), existing, for any reason, on or after the date hereof. In the event of any Shutdown, the Company shall promptly advise the Authority and the City and each Participating County, and confirm such advice in writing, of the occurrence thereof, as to the effect thereof on the ability of the Company to accept tonnages of Acceptable Waste from the Authority under Section 2.1, and as to the probable duration of such Shutdown.

(b) The Company shall seek to schedule maintenance Shutdowns at periods when a low quantity flow of Acceptable Waste is anticipated.

(c) The Company shall endeavor to give prior written notice to the Authority and the City and each Participating County of a maintenance Shutdown. Such notice shall indicate the expected time, duration and nature of such Shutdown.

(d) During the period of any Shutdown, the Authority shall, at no cost to the Company, divert and landfill or otherwise dispose of, or cause the City to divert and landfill or otherwise dispose of, any Acceptable Waste that cannot be disposed of by the Facility and that the Company would otherwise have been required to accept under Section 2.1(a). Such waste is referred to herein as "Diverted Waste." During any such period, the Company shall accept and dispose of Acceptable Waste delivered by the Authority to the extent of the Facility capacity then existing. The Company shall use all reasonable efforts to resume normal operation of the Facility. Unless the Company is excused from accepting such Diverted Waste due to an Uncontrollable Circumstances in accordance with Section 11.1 or as permitted by Section 2.6(a), the Company shall pay the Authority an amount equal to the total number of Tons of Diverted Waste times the excess if any of the City's or Participating County's (as the case may be) cost of transportation (including the City's associated labor expense and additional fuel) and disposal of such Diverted Waste per ton over the Tipping Fee, provided that the Authority shall make reasonable efforts and cooperate with the Company to ensure that all Diverted Waste is transported and disposed of in a cost-effective and commercially reasonable manner. The excess costs described in this subsection (d) shall be payable within 30 days after the Company's receipt of an invoice in which the City's or Participating County's (as the case may be) actual costs are properly documented. For purposes of this Section 4.1(d), Diverted Waste delivered by or on behalf of the City to the City's landfill is deemed to be disposal in a cost-effective and commercially reasonable manner.

ARTICLE V

PAYMENTS

Section 5.1. Tipping Fee for Delivered Waste.

The Authority shall pay to the Company, as provided in Section 5.3, a tipping fee for each Ton of Acceptable Waste delivered by or on behalf of the Authority pursuant to Section 2.1(a) (the "Tipping Fee") to the Facility and disposed of by the Company. The Tipping Fee shall be determined pursuant to Schedule 1.

Section 5.2. Change In Law Costs.

(a) The Authority shall not be obligated to approve or accept any Change in Law Adjustment. For the avoidance of doubt, failure by the City to approve any Change in Law Adjustment pursuant to the City Agreement shall not serve to create any liability running to the City or otherwise affect the rights and obligations of the Company or the Authority, except as set forth in Section 5.2(c) hereof and of the City Agreement.

(b) In the event of a Change in Law that requires cost reimbursements, Company shall submit a written request for a Change in Law Adjustment that shall include a sworn statement signed by Company's authorized representative accompanied by full and complete certified documentation presented for approval by the Authority, including a discussion of pre-existing conditions and costs; changed conditions and costs; cost substantiation and cost analyses and detailed cost records; an allocation of the Authority's Percentage of costs associated with the Change in Law; and such other information as may be reasonably required by the Authority for evaluation of the Change in Law Adjustment (the "Change in Law Notice"). The Authority shall not be required to approve or accept any Change in Law Adjustment. A Change in Law Adjustment shall not include any costs incurred prior to the delivery of the Change in Law Notice. The Change in Law Notice shall be submitted to the Authority by Company at least 90 days prior to the Change in Law coming into effect or, if it is not possible to give 90 days prior notice, within five (5) business days of Company becoming aware of the necessity for a Change in Law Adjustment. The Parties shall negotiate in good faith to determine the proper amount to be deemed to be a Change in Law Adjustment. Either Party may invoke its right to submit a dispute relating to the determination of the amount of a Change in Law Adjustment pursuant to Section 11.2 of this Agreement. Notwithstanding the foregoing, the Authority shall make no payments on any disputed Change in Law Adjustment pending any resolution of any such dispute resolution proceeding.

(c) If (i) a Change in Law Adjustment, together with all other previously approved Change in Law Adjustments, would result in more than a 15% per ton increase in the aggregate, to the Tipping Fee (excluding any Change in Law Adjustments) in effect on the date on which the Change in Law comes into effect, and (ii) the Authority does not approve such Change in Law Adjustment within 90 days after receipt of the Change in Law Notice and the required information, and (iii) the Company elects to shut down the Facility and no longer process

Acceptable Waste at the Facility as provided herein, then the Company must perform its obligations hereunder to accept and dispose of Acceptable Waste, but may accomplish the disposal thereof by Alternate Disposal Service for the remainder of the term and, only if the Company elects to shut down the Facility, the requirements of Company with respect to the sale of electricity pursuant to Sections 3.1 and Schedule 3 shall terminate and if the City terminates the City Agreement pursuant to Section 5.2(c) of the City in such event, this Agreement shall terminate. "Alternate Disposal Service" means the acceptance of waste delivered hereunder at the Facility or at a transfer station on the Facility site, the transportation of the Acceptable Waste, and the disposal of such waste at a landfill or other disposal facility in accordance with Applicable Law, at the Company's sole cost and expense and without any increase in the Tipping Fee.

(d) In the event of a Change in Law Adjustment that is approved by the Authority and the City, each in its sole discretion, Company shall be reimbursed for such Change in Law Adjustment by the Authority as follows: (i) such Change in Law Adjustment shall be shared by the Authority and Company, with the Authority responsible for the Authority's Percentage of such Change in Law Adjustment, (ii) the amount of such Authority's Percentage of the Change in Law Adjustment applicable to such contract year shall be incorporated into the Tipping Fee for such contract year; provided, however, if the costs associated with a Change in Law Adjustment are amortized beyond the end of the contract term, the Tipping Fee shall only be adjusted to the extent the Authority's Percentage of the Change in Law Adjustment falls within the remainder of the contract term.

Section 5.3. Payments.

All amounts payable under Section 5.1 or 5.2 with respect to any calendar month shall be invoiced to the Authority by the Company the following month, and shall be paid by the Authority within 30 days after the date of receipt by the Authority and the City or the Participating County (as the case may be) of such invoice. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any billing dispute or billing adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten Business Days of such resolution along with interest accrued at the Late Payment Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

Section 5.4. Late Payment.

A Party shall be entitled to interest at the Late Payment Rate (or the maximum amount allowable by law) on any outstanding balance not paid within 30 days after the receipt of the applicable invoice by the other Party and in the case of invoices to the Authority receipt by the City.

Section 5.5. No Set-Off.

The obligation of a Party to pay the amounts to be paid by it from time to time hereunder shall not be subject to diminution by reason of any shutdown of the Facility, set-off, abatement, counter-claim, existence of a dispute or any other reason, known or unknown, foreseeable or unforeseeable, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of such Party hereunder or limit recourse against such Party. The foregoing provisions of this Section 5.5 shall not affect any right of a Party to pursue independently any claim it may have against the other Party based upon non-performance by the other Party of its obligations hereunder.

Section 5.6. Authority Fee.

In consideration of the undertakings of the Authority in connection with the administration and enforcement of this Agreement and the City Agreement, the Company shall pay to the Authority a monthly fee in the amount of one-twelfth of \$750,000 (the "Authority Fee"). The Authority Fee shall be subject to an annual escalation beginning on the first anniversary of the Effective Date of two and a half percent (2.5%) of the then current Authority Fee. The Authority Fee shall be paid monthly, with payment for each month due and payable on or before the last day of the month.

Section 5.7. Host Community Fee.

The Company shall pay to the Authority for deposit into the Authority's Baltimore City Deferred Revenue Account, which is the property of and held by the Authority, in respect of each calendar year (or portion thereof) a fee in the amount of \$5.00 per ton of Acceptable Waste disposed of by the City at the Facility under this Agreement during the calendar year and an amount equal to the lesser of \$3.75 or one-half of the then rate of the City Surcharge for each ton of Acceptable Waste delivered by the Authority under an Authority Contract and an amount equal to the lesser of \$3.75 or one half of the amount of the City Surcharge for each ton of Acceptable Waste delivered to the Facility under a contract between the City and a county that is a member of the Authority (the "Host Community Fee"). For the avoidance of doubt, all tons delivered by Baltimore County shall be excluded from calculation and payment of the Host Community Fee. The Host Community Fee shall be paid monthly, with payment for each month due and payable on or before the last Business Day of the following month.

Section 5.8. Payments in Respect of Certain Charges.

The Tipping Fee was established based upon the current exemption from the City Surcharge for waste delivered by the City under the City Agreement. Accordingly, if the City Surcharge becomes applicable to waste delivered pursuant to the City Agreement, the Company shall be entitled to reimbursement for any City Surcharge payable on waste delivered pursuant to the City Agreement.

Section 5.9. Inspection.

The Authority has the right, at its sole expense and during normal working hours, to examine the records of the Company to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

ARTICLE VI

AUTHORIZED REPRESENTATIVES

Section 6.1. Authorized Representatives.

The authorized representative of the Authority (the "Authority Representative") for purposes of this Agreement shall be its Executive Director or such other person as the Executive Director of the Authority may from time to time designate by written notice to the Company. The authorized representative of the Company for purposes of this Agreement shall be such person as the Company may from time to time designate to the Authority in a written notice delivered to the Authority. Either Party may change its representative upon five days' written notice to the other Party. The authorized representative of the City (the "City Representative") shall be such person as may be designated from time to time, in a written notice delivered to the Company, by the City in accordance with Section 6.1 of the City Agreement.

ARTICLE VII

INSURANCE

Section 7.1. Types of Insurance for the Company.

The Company shall obtain and maintain the following insurance with respect to the operation of the Facility in such form and with such deductible limits as may be acceptable to the Company. All insurers must be allowed to do business in Maryland and have a Best's financial strength rating of at A- or better and a Best's financial size category of at least VII.

Regarding any claims-made insurance policies, the Company must either agree to provide certificates of insurance to the Authority evidencing the policies for a period of five years after the Agreement terminates or expires, or purchase an extended reporting period endorsement with a term of five years to be in force as of the date the Agreement terminates or expires. The retroactive date must be no later than the beginning of services under the Agreement.

(a) Workmen's Compensation and Employers Liability Insurance

(i) Workmen's Compensation Insurance as prescribed by Maryland law and any applicable Federal law.

(ii) Employers Liability Insurance with minimum limits of \$500,000 each accident, \$500,000 for each disease per employee and a \$500,000 disease aggregate

(b) Commercial General Liability Insurance

Commercial General Liability Insurance, with minimum limits of \$1,000,000 per occurrence for bodily injury and/or property damage, \$1,000,000 per offense for personal and advertising injury, \$2,000,000 general aggregate applying per location and \$2,000,000 products and completed operations aggregate. The Authority and its directors, officers and employees shall be included as additional insureds for premises liability, ongoing operations and products and completed operations.

(c) Business Automobile Liability Coverage

Business Automobile Liability Insurance, as required by Maryland law, but with limits of not less than \$1 million per occurrence for bodily injury and property damage, combined single limit applying for any auto.

(d) Excess Umbrella Liability Coverage

Excess Umbrella Liability Insurance in the amount of \$25 million per occurrence and aggregate as applicable, to be reviewed every five years to reflect inflation and other appropriate factors. Coverage is to apply excess of Employers Liability, Commercial General Liability and Business Automobile Liability Insurances. The Authority and its directors, officers, employees and agents/representatives shall be included as additional insureds.

(e) Property Damage and Business Interruption/Extra Expense Insurance

(i) Insurance for loss, damages or destruction to the Facility caused by "all risk" perils (including equipment breakdown) in an amount at all times equal to the full replacement value of the Facility (including, to the extent available on commercially reasonable terms, insurance for such loss, damages or destruction caused by terrorism, flood or earthquake). Any coinsurance clause must be waived by an agreed value provision.

(ii) Business interruption and Extra Expense Insurance is to be included covering at least twelve months of loss of income and the extra expenses to continue operations caused by "all risk" perils (including equipment breakdown). Any coinsurance clause must be waived by an agreed value provision.

(f) Environmental Impairment Liability

Environmental Impairment Liability encompassing on and offsite pollution liability including disposal sites, owned or operated by Company, on- and off-site clean-up and corrective action costs including disposal sites, owned or operated by Company, natural resources damages and transportation with minimum limits of \$5,000,000 per claim, \$5,000,000 annual aggregate. The Authority, the City and any Participating County and each of their respective directors, elected and appointed officials, officer, employees and agents/representatives shall be included as additional insureds.

Section 7.2. Insurance Certificates.

The Company shall furnish to the Authority and the City certificates of insurance as to the insurance coverage required under Section 7.1, in form reasonably satisfactory to the Authority Representative and the City Representative, from time to time (but not more often than annually) upon such Representatives' request and provide such information as may be reasonably requested to verify the information about such insurance coverage. The Company will endeavor to cause each such policy to provide for 30 days' prior notice of cancellation or non-renewal thereof to be given by the insurer to the Authority and the City. Regarding any policy not endorsed to provide the Authority and City with prior notice of cancellation or non-renewal, the Company shall promptly notify the Authority and City of cancellation or non-renewal upon receipt of such notice from the insurer.

ARTICLE VIII

DEFAULT AND TERMINATION

Section 8.1. Remedies for Default.

In the event of the breach by any Party of an obligation under this Agreement, the right to recover damages or to be reimbursed will ordinarily constitute an adequate remedy. Therefore, no Party shall have the right to terminate this Agreement for cause for any breach unless an Event of Default (as defined in Sections 8.2 and 8.3) on the part of the other Party shall have occurred and be continuing.

Section 8.2. Events of Default by Company.

The following shall constitute an Event of Default on the part of the Company:

(a) The failure on the part of the Company to pay any undisputed amount required to be paid to the Authority under this Agreement when such amount becomes due and payable if the Authority has made written demand therefor accompanied by notice that unless such amount is paid within 90 days after such demand the default will constitute an Event of Default, and such amount is not so paid; and

(b) The persistent or repeated failure or refusal by the Company substantially to fulfill any of its material obligations in accordance with this Agreement unless such failure or refusal shall be excused or justified by Uncontrollable Circumstance or a default by the Authority or by the City under the City Agreement, provided, however, that no such failure or refusal shall constitute an Event of Default unless and until:

(i) the Authority shall have given prior written notice to the Company stating that in its opinion a particular default or defaults (to be described in reasonable detail in such notice) exist which will, unless corrected, constitute a material breach of this Agreement on the part of the Company and which will, in its opinion, give the Authority a right to terminate this Agreement for cause under this Section unless such default is corrected within a reasonable period of time, and

(ii) the Company shall have neither corrected such default nor initiated reasonable steps to correct the same within a reasonable period of time (which shall in any event be not less than thirty (30) days from the date of the notice given pursuant to clause (a) of this Section 8.2), provided that if the Company shall have commenced to take appropriate steps to correct such default within such reasonable period of time, the same shall not constitute an Event of Default for as long as the Company is continuing to take reasonable steps to correct such default.

A material breach shall be deemed to have been corrected for purposes of clause (a) above, if it has been alleviated to the degree that its existence no longer makes damages an inadequate remedy.

Section 8.3. Events of Default by the Authority.

Each of the following shall constitute an Event of Default on the part of the Authority:

(a) Subject to Section 8.4, the failure on the part of the Authority to pay any undisputed amount required to be paid to the Company under this Agreement when such amount becomes due and payable if the Company has made written demand therefor to the City and the Authority accompanied by notice that unless such amount is paid within 90 days after such demand the default will constitute an Event of Default, and such amount is not so paid; and

(b) The persistent or repeated failure or refusal by the Authority substantially to fulfill any of its material obligations in accordance with this Agreement, unless such failure or refusal shall be excused or justified by Uncontrollable Circumstance, provided that no such failure or refusal shall constitute an Event of Default unless and until (i) the Company shall have given prior written notice to the Authority stating that in its opinion a particular default or defaults (to be described in reasonable detail in such notice) exist which will, unless corrected, constitute a material breach of this Agreement on the part of the Authority and which will, in its opinion, give the Company a right to terminate this Agreement for cause under this Section 8.3(b) unless such default is corrected within a reasonable period of time, and (ii) the Authority shall have neither corrected such default nor initiated reasonable steps to correct the same within a reasonable period of time (which shall in any event be not less than thirty (30) days from the date of the notice given pursuant to clause (i) of this Section 8.3(b)), provided that if the Authority shall have commenced to take appropriate steps to correct such default within such reasonable period of time, the same shall not constitute an Event of Default for as long as the Authority is continuing to take reasonable steps to correct such default.

A material breach shall be deemed to have been corrected for purposes of this Section 8.3, if it has been alleviated to the degree that its existence no longer makes damages an inadequate remedy.

Section 8.4. Termination for Events of Default.

If any Party shall have a right of termination for an Event of Default in accordance with the second sentence of Section 8.1, the same may be exercised only by written notice of termination given to the other Party; provided that (a) either Party's failure to pay amounts due and owing under Section 3.1 shall entitle the non-defaulting party to suspend performance of, or terminate, its obligations in respect of the sale of electricity, pursuant hereto or under the power purchase agreement referenced in Section 3.1, but not to terminate this Agreement; and (b) failure by the Authority to pay undisputed Tipping Fees due and owing to the Company shall not entitle the Company to suspend performance of, or terminate, its obligations in respect of the sale of electricity, pursuant hereto or under such power purchase agreement. The proper exercise of any right of termination under this Section 8.4 shall be in addition to and not in substitution for such other remedies, whether damages or otherwise, as the Party exercising the right of termination may have.

Section 8.5. Survival of Certain Rights and Obligations.

No termination of this Agreement under Section 8.4 or otherwise hereunder shall limit or otherwise affect the respective rights and obligations of either Party accrued prior to the date of such termination.

Section 8.6. Damages.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE IX

TERM

Section 9.1. Term; Conditions Precedent.

(a) This Agreement shall become effective on the Effective Date, subject to satisfaction of the conditions set forth in paragraph (b) below, and, unless sooner terminated in accordance with the terms hereof, shall continue in effect until December 31, 2021; provided that the provisions of Article 3 shall become effective on July 1, 2011.

(b) Notwithstanding the foregoing, this Agreement shall not be effective unless and until the following conditions precedent have been met or waived by both Parties:

(i) The City and the Authority shall have fully executed the City Agreement, which has been approved by the City's Board of Estimates and shall be in a form reasonably

satisfactory to the Company, providing for the disposal of City collected Acceptable Waste by the Authority for a term that is at a minimum coterminous with this Agreement;

(ii) The City and Company shall have entered into the Second Amendment to Hawkins Point Disposal Contract in substantially the form set forth on Schedule 2 (or an amendment and restatement of the Hawkins Point Disposal Contract that incorporates the terms of the Second Amendment);

(iii) Each Party shall have provided the other Party with an opinion of counsel to the effect that this Agreement, and the transactions contemplated hereby, have been duly authorized, executed and delivered by such Party and constitute a legally binding obligation of such Party, enforceable against such Party in accordance with its terms;

(iv) The Authority shall have provided Company with an opinion of counsel to the City to the effect that the City Agreement, and the transactions contemplated thereby, have been duly authorized, executed and delivered by the City and constitutes a legally binding obligation of the City, enforceable against the City in accordance with its terms; and

(vi) The Company shall have provided the Authority a guarantee of the Company's performance hereunder by Waste Management, Inc.

ARTICLE X

REPRESENTATIONS AND WARRANTIES, CERTAIN COVENANTS.

Section 10.1. Representations and Warranties of the Authority.

The Authority hereby makes the following representations and warranties to and for the benefit of the Company as of the Effective Date:

(a) The Authority is a body politic and corporate and a public instrumentality of the State of Maryland, duly organized and validly existing under the Constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Agreement and the City Agreement.

(b) The Authority has duly authorized the execution and delivery of this Agreement and the City Agreement. This Agreement has been duly executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its respective terms.

(c) Neither the execution or delivery by the Authority of this Agreement or the City Agreement, nor the performance by the Authority of its obligations in connection with the transactions contemplated hereby or thereby or the fulfillment by the Authority of the terms or conditions hereof or thereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Authority or (ii) conflicts with, violates or

results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Authority is a party or by which the Authority or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and delivery by the Authority of this Agreement or the City Agreement except such as have been duly obtained or made.

(e) 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 Authority's knowledge, threatened, against the Authority, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Authority of its obligations hereunder or under the City Agreement or in connection with the other transactions contemplated hereby or thereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement or the City Agreement, or any other agreement or instrument entered into by the Authority in connection with the transactions contemplated hereby or thereby.

Section 10.2. Representations and Warranties of the Company.

The Company hereby makes the following representations and warranties to and for the benefit of the Authority and the City as of the Effective Date:

(a) The Company is duly organized and validly existing as a limited partnership under the constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Agreement.

(b) The Company has duly authorized the execution and delivery of this Agreement, and this Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(c) Neither the execution or delivery by the Company of this Agreement, nor the performance by the Company of its obligations in connection with the transactions contemplated hereby or the fulfillment by the Company of the terms or conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law, or governmental regulation applicable to the Company, or (ii) conflicts with, violates or results in a breach of an term or condition of any judgment or decree, or any agreement or instrument, to which the Company is a party or by which the Company or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and, delivery of this Agreement by the Company, except such as have been duly obtained or made.

(e) 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 Company's knowledge, threatened, against

the Company, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Company of its obligations hereunder or in connection with the transactions contemplated hereby, 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 Company in connection with the transactions contemplated hereby.

Section 10.3. Certain Covenants of the Authority.

Except as provided in Article VIII with respect to termination rights, the Authority shall not exercise any right, privilege or election it may have hereunder in a manner inconsistent with the exercise by the City of its respective rights, privileges and elections under the City Agreement. No provision of this Agreement shall be construed in such manner as to enlarge, or have the effect of enlarging, the respective rights, privileges and elections of the City under the City Agreement.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Uncontrollable Circumstance.

Each Party shall be excused for its failure to perform in accordance with this Agreement any obligation required to be performed by it hereunder, to the extent that such failure results from an Uncontrollable Circumstance, provided, that, in no event shall any Uncontrollable Circumstance excuse either Party from making any payment hereunder in accordance with the terms hereof. Each Party shall seek diligently and in good faith to overcome or remove such Uncontrollable Circumstance, provided, however, that the settlement of strikes, lockouts, and other industrial disturbances or of any legal actions or administrative proceedings shall be entirely in the discretion of the Party suffering the same, and it shall not be required to make settlement of strikes, lockouts, and other industrial disturbances or of legal actions or administrative proceedings when such settlement would be unfavorable, in the judgment of the Party suffering the strike, labor dispute or other industrial disturbance or legal action or administrative proceedings. A Party claiming the benefit of this Section 11.1 shall give prompt notice thereof to the other Party.

Section 11.2. Dispute Resolution.

Any judicial action arising out of, resulting from or in any way relating to this Agreement shall be brought only in a state or federal court of competent jurisdiction in the State of Maryland.

Section 11.3. Assignment.

Except as otherwise provided herein, this Agreement may not be assigned by either Party without the prior written consent of the other Party except that the Company or any permitted

assignee thereof may, without such consent assign its interest and obligations hereunder to (a) Wheelabrator Technologies Inc. (or any successor to the refuse-to-energy business thereof by merger, consolidation, transfer of assets or otherwise) ("WTT") or any Affiliate thereof, or (b) any corporation or other entity with which or into which the Company or such assignee shall merge or consolidate or to which the Company or such assignee shall transfer all or substantially all of its assets, including the Facility so long as with respect to both (a) and (b) above, (i) the assignee owns the Facility, and (ii) the assignee assumes all of the Company's obligations hereunder in writing and (iii) in the event of an assignment by the Company under this Section 11.3 the Authority shall be notified thereof in writing and shall make payments due hereunder to such Person as may be designated by such assignee in such notice or otherwise in writing.

Section 11.4. Appointment of Company as Authority's Designee.

In order to facilitate the performance by the Authority of its obligations under the City Agreement, the Authority hereby appoints the Company (and allow any permitted assignee of the Company hereunder to continue) as the Authority's designee, with full and exclusive right, power and authority, in the name, on behalf and in the place and stead of the Authority, to perform all of the obligations of the Authority under the City Agreement other than the Reserved Rights and to exercise, enjoy and enforce all such rights, remedies, powers, privileges, elections and other benefits as the Authority may have or to which it may be entitled under the City Agreement other than the Reserved Rights, including, without limitation, all rights of the Authority thereunder in respect of the delivery by the City of Acceptable Waste and the payment of all amounts payable by the City. All rights, power and authority conferred on the Company (or such assignee) under this Section 11.4 shall, during the term of this Agreement and any extension thereof, be irrevocable and not be terminated by operation of law, whether through the termination of the Authority or its corporate existence or otherwise. The Authority agrees that it shall not take any action, or omit to take any action, which action or omission to act would in any way impede, interfere with, restrict or otherwise limit the ability of the Company (or such assignee) to exercise such rights, power and authority other than the Reserved Rights. The Authority further acknowledges and agrees that the performance by the Company on behalf of the Authority of the Authority's obligations under the City Agreement to the satisfaction of the City shall constitute full performance by the Company of its corresponding obligations hereunder for all purposes hereof, and the Company hereby acknowledges and agrees that the performance by the City of its obligations under the City Agreement to the satisfaction of the Company shall constitute performance of the corresponding obligations of the Authority hereunder for all purposes hereof. Without limiting the foregoing, the Authority agrees that, during the term of this Agreement and any extension thereof, the Company (or such assignee) shall be entitled, upon notice to the Authority but without the consent of the Authority, to take all action that the Company (or such assignee) determines necessary to enforce (either in its own name or in the name of the Authority) all of the representations, warranties, covenants and obligations of the City under the City Agreement, to retain counsel of the Company's (or such assignees) choosing in connection therewith, and to compromise or otherwise settle any such enforcement action. Any judgment or settlement obtained by the Company (or such assignee) in respect of any such enforcement action shall be binding upon and conclusive as between the Authority and the Company (or such

assignee) hereunder. The Authority shall render such assistance as the Company (or such assignee) may reasonably request in connection with any such enforcement action and the Authority shall be reimbursed for its reasonable out-of-pocket expenses incurred in connection with such assistance. If the Authority enters into any Authority Contracts, then the Authority shall exercise commercially reasonable efforts within a reasonable time thereafter to appoint the Company (and any permitted assignee of the Company) as the Authority's designee on substantially the same terms, and subject to substantially the same conditions, as are set forth in this Section 11.4. The Authority further agrees that it shall not deliver or give any substantive formal notice to the City under the City Agreement without having first or simultaneously delivered a copy thereof to the Company, in each case, excluding notices in respect of the Reserved Rights. For the avoidance of doubt, (a) the Authority may discuss administrative and other matters with the City without incurring the delivery obligation in the preceding sentence.

The appointment under this Section 11.4 of the Company (or such assignee) as the Authority's designee shall expire and terminate immediately upon the expiration or termination of this Agreement without any further action required to be taken by the Authority or any other Person.

Except as expressly provided in this Agreement, no Party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other Party and nothing in this Agreement shall be deemed to constitute either Party a partner, agent, or local representative of the other Party or to create any fiduciary relationship between the Parties.

Section 11.5. Notices.

All notices, consents, invoices and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and may be delivered by hand or mailed by first class registered or certified mail, return receipt requested, postage prepaid, and in any case shall be addressed as follows:

If to the Authority:

Northeast Maryland Waste Disposal Authority
100 South Charles Street
Tower II, Suite 402
Baltimore, Maryland 21201

Attention: Executive Director

If to the Company:

Wheelabrator Baltimore, L.P.
c/o Wheelabrator Technologies Inc.
4 Liberty Lane West
Hampton, New Hampshire 03842

Attention: General Counsel

and

**Wheelabrator Baltimore, L.P.
1801 Annapolis Road
Baltimore, Maryland 21230**

Attention: Plant Manager

If to the Mayor and City Council of Baltimore:

**Director of Public Works
600 Abel Wolman Municipal Building
200 N. Holliday Street
Baltimore, Maryland 21202**

with copies to:

**Director of Finance
Room 469, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202**

and

**City Solicitor
Room 101
City Hall
Baltimore, Maryland 21202**

Changes in the respective addresses to which such notices, consents, invoices or other communications may be directed and may be made from time to time by either Party by notice to the other Party. Notices and consents given by mail in accordance with this Section 11.5 shall be deemed to have been given five Business Days after the date of dispatch; notices and consents given by any other means shall be deemed to have been given when received.

Section 11.6. Entire and Complete Agreement.

This Agreement constitutes the entire and complete agreement of the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous understandings, representations, arrangements and commitments, all of which, whether oral or written, are merged herein.

Section 11.7. Binding Effect.

This Agreement shall bind and inure to the benefit of the parties to this Agreement and any successor or assignee acquiring an interest hereunder consistent with Section 11.3.

Section 11.8. Other Documents.

Each Party shall execute and deliver any instruments and to perform any acts which may be necessary or reasonably requested by the other Party or by the City in order to give full effect to this Agreement.

Section 11.9. Applicable Law.

The law of the State of Maryland shall govern the validity, interpretation, construction and performance of this Agreement.

Section 11.10. Headings.

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

Section 11.11. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

Section 11.12. Amendment or Waiver.

Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by a written instrument signed by the Party against whom enforcement of such change, modification, amendment or waiver is sought.

The Authority and the Company further agree that neither City Agreement, nor any provision of thereof, may be changed, modified, amended or waived by either Party except upon the prior written consent of the Parties

Section 11.13. Waiver of Sovereign Immunity.

The Authority, to the maximum extent permitted by Applicable Law, hereby irrevocably waives and renounces any and all rights to sovereign immunity (or similar rights and defenses) the Authority may have under Applicable Law with respect to, and agrees not to raise sovereign immunity (or any similar defense) as a defense to, any claim, suit or proceeding (of whatever nature) based on or arising out of this Agreement, or the transactions contemplated hereby, or any breach hereof, by the Authority, asserted or brought by or on behalf of the Company (or any

permitted assignee of the Company hereunder), or its respective Affiliates or any partner, officer, director, employee or agent of any thereof. For the avoidance of doubt, nothing in this Section 11.13 shall be deemed to waive the City's rights or defense in respect of sovereign immunity (or similar rights and defenses).

Section 11.14. 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 as 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 herein, and the other provisions of this Agreement shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

Section 11.15. Limitation of Liability and Defenses.

(a) The Company acknowledges that the Authority's ability to perform its obligations hereunder is dependent in part upon the performance by the City of its obligations under the City Agreement (and any applicable Participating County of its obligations under any Authority Contract). Accordingly, the Company agrees that, subject to the performance by the Authority of its obligations under Section 11.4, any amounts payable hereunder by the Authority pursuant to Schedule 1 or Article V or otherwise in respect of the disposal of Acceptable Waste hereunder shall be payable to the Company solely from such amounts as may be paid to the Authority by the City pursuant to the City Agreement or any Participating County pursuant to an Authority Contract.

(b) Notwithstanding any other provision of this Agreement to the contrary, the liability and obligation of the Authority for all monetary payments with respect to or arising as a result of this Agreement are limited obligations payable solely from amounts paid by the City under the City Agreement ("City Payments") or the case of deliveries under an Authority Contract, amounts paid by the Participating County ("Participating County Payments") as and to the extent such City Payments or Participating County Payments are received and available to pay such amounts under Applicable Law. The liability of the Authority for any monetary payments to the Company with respect to, or as a result of, this Agreement are not payable from the general funds of the Authority or any amounts received by the Authority in respect of the Authority Fee and the incurrence or nonperformance of such obligations or payments will not constitute or create a claim against, any of the assets or property of the Authority or of its income, receipts or revenues, except City Payments or Participating County Payments, as the case may be, available to pay such amounts under Applicable Law.

(c) No recourse for the payment of any amounts due by the Authority under this Agreement or upon any representation, warranty, covenant, agreement or obligation contained in this Agreement or in any document, certificate or instrument that this Agreement requires to be

executed and delivered by the Authority or for any claim hereon or thereon shall be had by the Company, except from City Payments or Participating County Payments.

(d) The execution and delivery of this Agreement by the Authority does not impose any personal liability on the members, officers, employees or agents of the Authority. No recourse must be had by the Company for any claims based on this Agreement against any member, officer, employee or other agent of the Authority in his or her individual capacity, all such liability, if any, being expressly waived by the Company by the execution of this Agreement.

(e) The Company shall not have recourse to (i) the City or City Payments for the payment of amounts due in receipt of deliveries under any Authority Contract or any liabilities arising under an Authority Contract or (ii) the Participating County or Participating County Payments under an Authority Contract with that Participating County for payments of amounts due in receipt of deliveries under the City Agreement or any liabilities under the City Agreement.

Section 11.16. Reports / Information / Inspections / Audits.

(a) The Company shall maintain records of all actions, and accurate books of account for all funds received and disbursed, with full documentation to substantiate the transactions under this Agreement. These records shall be retained for a period of at least three (3) years after receipt of the final payment under this Agreement. If the Company and its parent organization should cease to exist, custody of these records for the Agreement will immediately be transferred to the City or the Authority.

(b) At any time during the normal course of business hours and as often as the Authority or the Authority Representative may deem necessary, there shall be made available to the Authority or its representative for examination, all of the Company's records with respect to all matters covered by this Agreement, and the Company will permit the Authority or its representative to audit, examine, copy and make excerpts of transcripts from such records, and to make audits of all contract invoices, materials, payrolls and other data relating to matters covered by this Agreement.

IN WITNESS WHEREOF, Northeast Maryland Waste Disposal Authority has caused this Agreement to be executed in its name by its authorized member, and has caused its seal to be attached to this Agreement as of this 22nd day of June, 2011.

[SEAL]

NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY

Witness:

By Cheth W. Hoop

By Robin B. Davidson

Executive Director

IN WITNESS WHEREOF, the Wheelabrator Baltimore, L.P. has caused this Agreement to be executed in its name by WESI Baltimore Inc., in its capacity as managing partner, and has caused the seal of WESI Baltimore Inc. to be attached to this Agreement, as of this 22nd day of June, 2011.



By Mary F. Vangile

WHEELABRATOR BALTIMORE, L.P.

By WESI Baltimore Inc., as Managing Partner

By [Signature]
Authorized Officer

Schedule 1

TIPPING FEE

The Company shall charge the Authority the following Tipping Fee per ton during the Calendar Year noted, as may be adjusted according to the terms set forth in the Agreement.

<u>Calendar Year</u>	<u>Tipping Fee</u>
1/1/12 to 12/31/12	\$46.23
1/1/13 to 12/31/13	\$47.39
1/1/14 to 12/31/14	\$48.57
1/1/15 to 12/31/15	\$49.78
1/1/16 to 12/31/16	\$51.03
1/1/17 to 12/31/17	\$52.31
1/1/18 to 12/31/18	\$53.61
1/1/19 to 12/31/19	\$54.95
1/1/20 to 12/31/20	\$56.33
1/1/21 to 12/31/21	\$57.74

Schedule 2

**SECOND AMENDMENT
TO
HAWKINS POINT DISPOSAL CONTRACT**

This **SECOND AMENDMENT**, dated as of _____, 2011, between Wheelabrator Baltimore, L.P. ("Wheelabrator"), a Maryland limited partnership, and Mayor and City Council of Baltimore (the "City"), a body politic and corporate and a political subdivision of the State of Maryland, to the Hawkins Point Disposal Contract dated as of November 3, 1982 between Northeast Maryland Waste Disposal Authority (the "Authority"), a body politic and corporate organized and existing under the laws of the State of Maryland, and the City, as (together with the First Amendment to Hawkins Point Disposal Contract dated December 17, 1998, the "Original Contract"), which Original contract was assigned by the Authority to the Baltimore Refuse Energy Systems Company, Limited Partnership ("Bresco"), and by Bresco to Wheelabrator. Capitalized terms used herein without other definition have the respective meanings assigned thereto in the Original Contract.

RECITALS


A. The Authority and the City entered into the Original Contract to provide for the disposal of Residues generated by the Facility and certain other materials delivered to the Facility to assure access and capacity to a landfill in the vicinity of the City of Baltimore in connection with their agreements with the Authority to avoid greater charges for such disposal by Bresco under a Disposal Agreement dated as of November 3, 1982, as amended (the "Original Disposal Agreement") between the Authority and Bresco.

B. The Authority assigned certain of its rights, title and interest in, to and under the Original Contract to Bresco pursuant to an Assignment of Hawkins Point Disposal Contract dated as of January 19, 1983.

C. Baltimore Refuse Energy System Company, Limited Partnership changed its corporate name to Wheelabrator Baltimore, L.P. on June 12, 2001.

D. The Authority and Wheelabrator have entered into a new agreement providing for disposal of the City's waste at the Facility pursuant to a Waste Disposal Agreement dated _____, _____ (the "New Waste Disposal Agreement")

E. The City and Wheelabrator are entering into this Second Amendment to Hawkins Point Disposal Contract in order to provide for disposal of Residues generated by the Facility and certain other materials delivered to the Facility for a term consistent with the term of the New Waste Disposal Agreement.



NOW THEREFORE, in consideration of the premises hereto, the City and Wheelabrator hereby agree as follows:

1. Sections 2.1(a), 2.1(c), 2.4(b), and 2.4(d) of the Original Contract is hereby amended by deleting the text therein and substituting the following in lieu thereof:


Reserved.

2. The first sentence of Section 2.2(d) of the Original Contract is hereby amended by deleting the text therein and substituting the following in lieu thereof:

The City shall not refuse to accept Deliverable Waste hereunder at the Hawkins Point Landfill except to the extent that it is unable to accept Deliverable Waste as a result of Uncontrollable Circumstances.

3. The last sentence of Section 2.4(a) of the Original Contract is hereby amended by deleting it and subparagraphs (i) through (iii) thereafter and substituting the following in lieu thereof:

In light of the foregoing, the Authority shall, except as provided in Sections 2.4(b) and 2.6, pay to the City the Tipping Fees for each ton of Residues that is accepted for disposal by the City pursuant to this Contract.



4. The first sentence of Section 2.4(c) of the Original Contract is hereby amended by deleting it and substituting the following in lieu thereof:

The Authority agrees that until termination of the Contract shall have occurred, it shall deliver all Residues generated by the Facility to the Hawkins Point Landfill pursuant to the Contract and shall not dispose of any Residues generated by the Facility at any sanitary land-fill site other than the Hawkins Point Landfill or otherwise transfer or dispose of such Residues.

5. Section 2.7 of the Original Contract is hereby amended by deleting the text therein and substituting the following in lieu thereof:

This Contract shall be effective on the date hereof and, unless sooner terminated in accordance with the terms hereof, shall continue in effect until December 31, 2021.

6. Section 2.4(a)(i) of the Original Contract is hereby amended by deleting the text therein and substituting the following in lieu thereof:

The Tipping Fee per ton for Residue to be accepted by the City at the Hawkins Point Landfill hereunder shall be as set forth in Exhibit C hereto.

7. Section 3.2 of the Original Contract is hereby amended by modifying the text therein and substituting the following in lieu thereof:

The City shall keep the Hawkins Point Landfill open for the receiving of Deliverable Waste from 6:00 a.m. until 4:00 p.m., Monday through Saturday, excluding Holidays (the "Receiving Hours").

8. The first sentence of Section 5.10 of the Original Contract is hereby amended by deleting the text therein and substituting the following in lieu thereof:

The City reserves any rights it may have under applicable law in respect of any right or defense of sovereign immunity (or similar rights and defenses).

The Authority, to the maximum extent permitted by applicable law, hereby irrevocably waives and renounces any and all rights to sovereign immunity (or similar rights and defenses) it may have under applicable law with respect to, and agrees not to raise sovereign immunity (or any similar defense) as a defense to, any claim, suit or proceeding (of whatever nature) based on or arising out of this Contract, or the transactions contemplated hereby, or any breach hereof by the Authority, asserted or brought by or on behalf of the City, its Affiliates or any officer, employee or agent thereof.

9. Exhibit C of the Original Contract is hereby amended by deleting the text therein and substituting the following in lieu thereof:

**EXHIBIT C
TO
HAWKINS POINT DISPOSAL CONTRACT
TIPPING FEE FOR RESIDUES**

The Tipping Fee per ton for Residues shall be as set forth below for the annual period below, except that Residues generated while the Facility's "grizzly separator" metal recovery system is not in operation shall be subject to a rate of \$40.00 per ton, which shall not be subject to escalation:

<u>Calendar Year</u>	<u>Base Rate</u>
1/1/12 to 12/31/12	\$18.00

1/1/13 to 12/31/13	\$18.45
1/1/14 to 12/31/14	\$18.91
1/1/15 to 12/31/15	\$19.38
1/1/16 to 12/31/16	\$19.87
1/1/17 to 12/31/17	\$20.37
1/1/18 to 12/31/18	\$20.87
1/1/19 to 12/31/19	\$21.40
1/1/20 to 12/31/20	\$21.93
1/1/21 to 12/31/21	\$22.48

10. Changes to Definitions.

All references to "Subdivision User Contract" in the Original Contract shall include any current contract between the City and the Authority providing for waste disposal at the Facility, including the City Agreement referenced in the New Waste Disposal Agreement.

The definition of "Acceptable Waste" shall be deleted and replaced with the following text:

"Acceptable Waste" has the meaning set forth in the New Waste Disposal Agreement.

The definition of "Deliverable Waste" shall be deleted and replaced with the following text:

"Deliverable Waste" means Residues; provided, however, that "Deliverable Waste" shall under no circumstances include Hazardous Waste or waste which the City is entitled to reject pursuant to Section 2.3(a)(4) hereof.

The definition of "Facility" shall be deleted and replaced with the following text:

"Facility" shall have the meaning ascribed thereto in the New Waste Disposal Agreement.

The definition of "Hawkins Point Landfill" shall be deleted and replaced with the following text:

"Hawkins Point Landfill" means the landfill known as the "Quarantine Road Landfill."

The definition of "Hazardous Waste" shall be deleted and replaced with the following text:

"Hazardous Waste" means (a) any substance that is listed, defined, designated or classified under all applicable laws relating to air, water, land and the generation, storage, use, handling, transportation, treatment, management, disposal and/or remediation of any material, substance, constituent or waste, including (i) the Clean Air Act, as amended, 42 U.S.C. § 7401; (ii) the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.; (iii) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq.; (iv) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; (v) the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq.; (vi) Occupational Safety and Health Act of 1970, as amended; (vii) the Emergency Planning and Community Right-to-Know Act, as amended, 42 U.S.C. § 11001 et seq.; (viii) the Clean Water Act, 33 U.S.C. § 1368 et seq., (ix) Executive Order 11738, 3 C.F.R. § 1974 Comp., to the extent enacted, effective and applicable, the mandatory standards and policies of the state energy conservation plan for the State of Maryland, prepared in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6201 et seq., (x) the Controlled Substances Act, 21 USC 801 et seq., or any equivalent state law and (xi) any other similar applicable federal, state or local law; (b) hazardous material, substance, constituent or waste, (c) toxic material, substance, constituent or waste, (c) radioactive matters, material, substance, constituent or waste, (d) dangerous material, substance, constituent or waste, (e) pollutant, (f) contaminant, or (g) special waste; (h) petroleum, petroleum products, polychlorinated biphenyl, pesticides, asbestos, or asbestos-containing materials, (i) any explosives and ordnance materials, pathological wastes, lead acid batteries, sludges, highly inflammable substances, cesspool or other human wastes, human and animal remains, (j) any material that a residue landfill cannot accept pursuant to any law of the City, the State of Maryland or any governmental body having jurisdiction over the parties; and (k) any substances which are determined by the U.S. Environmental Protection Agency or any other federal, state, or local agency subsequent to November 3, 1982 to be hazardous, toxic, dangerous, harmful, or otherwise designated as a "waste ban."

The definition of "Residues" shall be deleted and replaced with the following text:

"Residues" means the material remaining after the processing of waste at the Facility, such as fly ash, bottom ash and sifting, but shall not include Hazardous Waste.

A new definition of "Tipping Fee" shall be added with the following text:

"Tipping Fees" means the fees, each as determined in accordance with Exhibit C.

A new definition of "Uncontrollable Circumstances" shall be added with the following text:

"Uncontrollable Circumstances" means any act, event, or condition that is beyond the reasonable control of the party relying thereon as justification for not performing an obligation, covenant or agreement or complying with any condition required of such party under this Contract, to the extent such act, event or condition is not the result of or does not arise from the willful or negligent act, error or omission, failure to exercise reasonable care or diligence, equipment failure or breach of this Contract on the part of the party. Such acts, conditions or events include, but are not limited to, the following (but only to the extent and for such duration as such act, condition or event reasonably affects a party's performance under this Contract):

(a) (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence, an act of the public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, or (ii) a strike, lockout, or similar industrial or labor action;

(b) the failure to obtain, or suspension, termination, interruption or failure of renewal of any governmental approval essential to the operation, ownership or possession of the Facility as provided for herein or required with respect hereto or the performance by a party of its obligations hereunder, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing party, provided that the contesting in good faith of any such failure to obtain, suspension, termination, interruption or failure of renewal shall not be construed as a willful or negligent action or a lack of reasonable diligence of such non-performing party; and

(c) (i) the adoption, amendment, promulgation, issuance, modification, repeal or written change in administrative or judicial interpretation, of any applicable law or regulation after November 3, 1982, (ii) the order or judgment of any governmental body having jurisdiction issued after such date (unless such order or judgment is issued to enforce compliance with any applicable law or regulation which was in effect as of such date); (iii) to the extent occurring after such date, (A) the denial of an application for, a delay in the review, issuance or

renewal of, or the suspension, termination, or interruption of any governmental approval, or (B) the imposition of a term, condition or requirement in a governmental approval which is materially more stringent or burdensome than the terms and conditions set forth in connection with the issuance of such governmental approval; provided that any changes in applicable laws relating to taxes, fees or charges imposed by any governmental body having jurisdiction shall not be an Uncontrollable Circumstance pursuant to this subparagraph (iii); provided further that, in the cases of subparagraphs (ii) and (iii), only to the extent such order, judgment or occurrence, as applicable, is not the result of willful or negligent action, error or omission or lack of reasonable diligence of whichever party is asserting the occurrence of an Uncontrollable Circumstance under this paragraph (d); provided, however, that the contesting in good faith or the failure in good faith to contest any such order, judgment or occurrence shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; and

(d) the failure of any subcontractor or supplier (except a subcontractor or supplier which is an Affiliate of the party claiming the Uncontrollable Circumstance selected with reasonable care and good faith to furnish labor, services, materials, or equipment in connection with the operation or maintenance of the Facility by the date agreed to, provided that the non-performing party is not reasonably able timely to obtain substitute labor, services, materials or equipment.

11. A new Exhibit D is added and the Company shall comply with its requirements.

EXHIBIT D

A. Tarping and untarping of trucks may only be done on the working face of the landfill or in proximity to the active cell but only within the lined footprint of the landfill.

B. If there is any doubt as to where to place the Residues, the driver must ask the landfill manager or his/her designee.

C. The City will identify the location for unloading the Residues, either by having a person on the site, or with a cone or other marker. If the driver does not see a person or marker, he/she must get direction from landfill personnel before discharging the load.

D. If the "grizzly separator" metal recovery system at Facility is not functioning, Company shall notify the City's Representative or his/her designee

and Residues generated while the system is not in operation shall be subject to the higher rate set forth without metals extraction in Exhibit C. Company shall make reasonable efforts to separate and recycle the metal. However, metal which cannot be separated and is mixed with the Residues shall be landfilled and not used as daily cover. Drivers shall notify landfill personnel that the load contains above average amounts of metal.

E. In no case shall Residues be directly deposited on top of a plastic liner.

F. The Authority has the right to process any Residues delivered to the landfill in order to recover metals or other materials. The Authority has the right to market the metals extracted from the Residues at its landfill. Nothing in this Agreement shall limit the ability of the Company to market and extract metals and other materials from the Residue; provided, however, that the Company shall give the Authority sixty (60) days' prior, written notice of its intent to divert, or actual diversion of, Residues generated at the Facility from the landfill for such purposes.

7. This Second Amendment shall become effective on January 1, 2012 and except as hereby expressly amended, the Original Contract is in all its respects ratified and confirmed, and the terms and conditions thereof shall remain in full force and effect.

8. This Second Amendment to Hawkins Point Disposal Contract may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

[...]

Schedule 3

Energy Sale (10 MW) from Wheelabrator Baltimore L.P. ("BRESKO"):

For the period from the Effective Date to July 1, 2013, refer to Section 3.1 of this Agreement and the City Agreement.

BRESKO will sell the City (or an energy supplier with a PJM account designated by the City and acceptable to Company) 10 MW of physically delivered energy per hour via PJM Day-Ahead Internal Bilateral Transaction for a 96 month period starting July 1, 2013 through June 30, 2021. BRESKO will deliver energy on a strictly wholesale basis. Physical delivery may be made at City's direction to a qualified retail electricity supplier for benefit of City's electric accounts.

The energy will be generated by the Facility and delivered on a unit contingent basis. The delivery point shall be PJM Pnode ID 50694.

The sale of energy shall be contingent upon the City or its agent or designated haulers delivering 150,000 tons of waste per year to the Facility. If the City or its agent or designated haulers fails to deliver 150,000 tons per year of waste to BRESKO for two consecutive years, BRESKO shall have the right to terminate the power purchase agreement. This transaction is for energy only and does not include capacity or any other ancillary services (including environmental attributes). Furthermore, BRESKO is excused from these obligations when it has a scheduled turbine outage or if the Facility is shut down. The power purchase agreement will be executed under an ISDA master agreement form or another form acceptable to both parties. Neither BRESKO nor the City will be required to furnish security. If the City is not the direct counterparty to the power purchase agreement with BRESKO, it will, upon request, guarantee all obligations of the counterparty in a form satisfactory to BRESKO.

Price for Period #1 (or years 1 through 5) is outlined below. This price was determined based on a straight five year average of energy rates in the attached spreadsheet.

Period	Contract Period	Price	Type of Transaction	Settlement / Delivery LMP	Delivery Location
1	7/1/13 to 6/30/16	\$62.00/MWh	Physical	Day-Ahead	PJM PnodeID "50694"
2	7/1/16 to 6/30/21	"Market" Plus \$7/MWh	Physical	Day-Ahead	PJM PnodeID "50694"

Price for Period #2 will be based on the average NYMEX Index-PJM West Hub forward market index price ("Market") and be set twelve months prior to the start of each contract year. For example, the fiscal 2017 contract year price (i.e. July 1, 2016 to June 30, 2017) will be set on July 1, 2015. A basis differential of \$7/MWh will be added to the Market price to compensate for the congestion between the BRESKO Node and the PJMW Hub. Within 30 Business Days after the price for any year in Period 2 is set, the City may elect to terminate the power purchase agreement for the remainder of Period 2 beginning on the date that such price was to become effective.

Market price is calculated by taking the weighted average of the (a) PJM Western Hub Off-Peak Calendar-Month Day-Ahead LMP Swap Futures multiplied by the off-peak hours in the month + (b) PJM Western Hub Peak Calendar-Month Day-Ahead LMP Swap Futures multiplied by the on-peak hours in the month + (c) \$7/MWh basis differential between the PJM Western Hub and the node. An example is provided below:

Month: August, 2013
 NYMEX PJMW Peak Price: \$65.00/MWh
 NYMEX PJM Off-Peak Price: \$55.00/MWh

August Peak Hours: 368
August Off-Peak Hours: 376
Weighted Avg. Price Calculation: $(\$65 \times 368 + \$55 \times 376) / (368 + 376) = \$59.9/MWh$
Total Price Paid to BRESKO: $\$59.9 + \$7 = \$66.9/MWh$

Market price will be obtained from the NYMEX website as outlined below. In the event no pricing is available from NYMEX, the settlement will be based on a mutually agreed upon source.

PJMW - Peak:

PJM Western Hub Peak Calendar-Month Day-Ahead LMP Swap Futures

NYMEX Product symbol - J4

http://www.cmegroup.com/trading/energy/electricity/pjm-western-hub-peak-calendar-month-day-ahead-lmp-swap-futures_contract_specifications.html

PJMW- Off-Peak:

PJM Western Hub Off-Peak Calendar-Month Day-Ahead LMP Swap Futures

NYMEX Product Symbol - E4

http://www.cmegroup.com/trading/energy/electricity/pjm-western-hub-off-peak-calendar-month-day-ahead-lmp-swap-futures_contract_specifications.html

ASSIGNMENT
OF
HAWKINS POINT DISPOSAL CONTRACT

ASSIGNMENT, dated as of June 22, 2011 (the "Effective Date"), by and between NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY, a body politic and corporate organized and existing under the laws of the State of Maryland, constituting a public instrumentality of the State of Maryland (the "Authority"), and WHEELABRATOR BALTIMORE, L.P., a Maryland limited partnership (the "Company"). Each of the Authority and the Company are a "Party," and collectively, the "Parties".

WHEREAS, the Authority and the Mayor and City Council of Baltimore, a body politic and corporate, constituting a political subdivision of the State of Maryland (the "City"), have entered into a Hawkins Point Disposal Contract, dated as of June 22, 2011 (the "Agreement");

WHEREAS, the Authority and the City entered into a prior "Hawkins Point Disposal Contract," dated as of November 22, 1982, as amended as of December 17, 1998 (the "Original Agreement"), which expires by its terms on December 31, 2011;

WHEREAS, the Parties and the City agreed, pursuant to Waste Disposal Agreement, by and between the Parties, dated as of June 22, 2011 (the "Waste Disposal Agreement"), to further amend the Original Agreement or for the City and the Authority to enter into the Agreement, in each case, substantially on the terms and subject to the conditions set forth in the Agreement; and

WHEREAS, the Authority desires to assign certain of its right, title and interest in, to and under the Agreement to the Company subject to the terms hereof, and the Company is willing to accept such assignment and, in consideration of such assignment by the Authority and certain undertakings of the Authority contained herein, to assume and agree to perform certain of the Authority's obligations under the Agreement.

NOW, THEREFORE, in consideration of the premises, the parties hereby agree as follows:

1. Assignment of Authority's Right, Title and Interest, etc. The Authority hereby assigns to the Company all of the Authority's right, title and interest in, to and under the Agreement.

2. **Assumption of Obligations.** The Company hereby accepts the assignment of the Authority's right, title and interest in, to and under the Agreement and assumes and agrees to perform all of the Authority's obligations under the Agreement.

3. **Representations and Warranties of the Authority.**

3.1 **Representations and Warranties.** The Authority represents and warrants as follows:

(a) The Agreement is in full force and effect without any amendment, modification or waiver thereof; the Authority is not in default under the Agreement, and has no knowledge that any event has occurred whereby, with the lapse of time or the giving of notice or both, the Authority would be in default under the Agreement.

(b) The Authority is a public instrumentality of the State of Maryland and a body politic and corporate, duly organized and validly existing under the constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Assignment.

(c) The Authority has duly authorized the execution and delivery of this Assignment, and this Assignment has been duly executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms.

(d) Neither the execution nor the delivery by the Authority of this Assignment, nor the consummation of the transactions contemplated hereby or the fulfillment by the Authority of its obligations hereunder conflicts with, violates or results in a breach of any (i) constitution, law or governmental regulation applicable to the Authority or (ii) any term or condition of any judgment or decree or any agreement or instrument to which the Authority is a party or by which the Authority is bound, or constitutes a default thereunder.

(e) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and delivery of this Assignment by the Authority, except such as have been duly obtained or made.

(f) 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 Authority's knowledge, threatened, against the Authority, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Agreement or this Assignment.

3.2 **Title, etc.** The Authority shall warrant and defend the right, title and interest of the Company hereunder in and to the Agreement against any and all claims of others claiming by, through or under the Authority.

4. **Assignment by the Company; Indemnity.** The Company hereby assigns to the Authority, effective upon the occurrence of either the expiration or early termination of the Waste Disposal Agreement (the "Reassignment" and the effective date of the Reassignment, the "Reassignment Date"), all of the Company's right, title and interest in and to the Agreement. The Company shall hold the Authority harmless against any claim or demand made upon it by the City under the Agreement to the extent and as a result of the Company's (or that of its agents, employees or consultants) acts or omissions under the Agreement on and after the Effective Date up to and including the Reassignment Date.

5. **Assumption of Obligations by Authority, etc.: Indemnity.** The Authority hereby accepts the assignment, effective upon the Reassignment Date, of the Company's right, title and interest in, to and under the Agreement and hereby assumes and agrees to perform, after such Reassignment Date, all of the Company's obligations under the Agreement. The Authority shall give the City prompt written notice of the occurrence of the Reassignment.

6. **Further Assurances: Assistance.** Each Party shall execute and deliver all such instruments and documents and take, cause or permit to be taken all such actions as the other Party may reasonably request from time to time better to assure, confirm or give effect to the Agreement, this Assignment or the Reassignment.

The Authority shall cooperate with the Company and provide such assistance to the Company as the Company may reasonably request in connection with the enforcement by the Company of its rights, title and interest in, to and under the Agreement.

7. **Representations and Warranties of the Company.**

(a) The Company is a Maryland limited partnership with full legal right, power and authority to enter into and perform its obligations under this Assignment.


(b) The Company has duly authorized the execution and delivery of this Assignment, and this Assignment has been duly authorized, executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(c) Neither the execution or delivery by the Company of this Assignment, nor the consummation of the transactions contemplated hereby or the fulfillment by the Company of its obligations hereunder conflicts with, violates or results in a breach of any (i) constitution, law or governmental regulation applicable to the Company, (ii) any term or condition of any judgment or decree or any agreement or instrument, to which the Company is a party or by which the Company is bound, or constitutes a default thereunder or (iii) the organizational documents of the Company.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and delivery of this Assignment by the Company, except such as have been duly obtained or made.

(e) 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 Company's knowledge, threatened, against the Company, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of this Assignment.

8. **Amendment of Agreement.** The Company shall not, without the written consent of the Authority (which consent shall not be unreasonably withheld), amend, modify or supplement, or waive any provision of, the Agreement if such amendment, modification, supplement or waiver would have the effect of (a) materially increasing the effective costs, taken as a whole, to be incurred by the Authority in disposing of Deliverable Waste under the Agreement, (b) materially decreasing the amounts, or materially limiting the types of Deliverable Waste required to be accepted by the City under the Agreement, (c) terminating the Agreement prior to the end of the initial term thereof (except pursuant to Section 2.8 thereof), or (d) expanding the rights of the City to refuse waste under Section 2.3 thereof. The Company shall, to the extent reasonably practicable, give the Authority at least 30 days' notice of any proposed amendment, supplement, modification or waiver of the Agreement.




9. **Assignment of Agreement.** The Company may not assign its rights and obligations under the Agreement without the prior consent of the Authority (which consent shall not be unreasonably withheld). Notwithstanding the foregoing provisions of this Section 9, the Company (or any permitted assignee thereof) shall not assign the Agreement without having obtained the written agreement of the assignee to be bound by all the terms and conditions of this Assignment, including, without limitation, Section 4 hereof and this Section 9, applicable to the Company, an executed copy of which agreement shall be furnished to the Authority.

10. **Governing Law.** This Assignment shall be construed and enforced in accordance with, and governed by, the laws of the State of Maryland.

11. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

12. **Headings.** Captions and headings in this Assignment are for ease of reference only and do not constitute a part of this Assignment.



IN WITNESS WHEREOF, the parties hereto have executed this Assignment as a contract under seal effective as of the [22nd Day of] June 2011.

NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY

[Seal]

By Robin B. Davidov
~~Authorized Member~~
Robin B. Davidov
Executive Director

Attest

M. Catherine Coble
Executive Director
M. Catherine Coble
Director of Finance
and Administration

[Seal]

WHEELABRATOR BALTIMORE, L.P.

By WESI Baltimore Inc., as
Managing Partner

By _____
Authorized Officer

Attest

/s/ _____

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as a contract under seal effective as of the [_____].

NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY

[Seal]

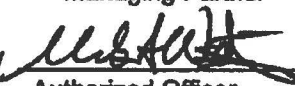
By _____
Authorized Member

Attest

Executive Director

WHEELABRATOR BALTIMORE, L.P.

By WESI Baltimore Inc., as
Managing Partner

By 
Authorized Officer



Attest

is Mary F. Vargile

HAWKINS POINT DISPOSAL CONTRACT

by and between

NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY

and

MAYOR AND CITY COUNCIL OF BALTIMORE

Dated as of June 22, 2011

TABLE OF CONTENTS

	PAGE
RECITALS	1
ARTICLE I - DEFINITIONS	
Section 1.1 Definitions	2
ARTICLE II - SCOPE OF AGREEMENT	5
Section 2.1 Acquisition and Development of Hawkins Point Land-fill; Delivery and Disposal of Deliverable Wastes	5
Section 2.2 City Utilization and Maintenance of Landfill Capacity; Uncontrollable Circumstances; Total or Partial Closing of Hawkins Point Landfill	6
Section 2.3 Right to Refuse Wastes	7
Section 2.4 Tipping Fees; Advance Payment	8
Section 2.5 Weight Records, etc	9
Section 2.6 Monthly Invoice	10
Section 2.7 Term, etc	10
Section 2.8 Early Termination	10
ARTICLE III - OPERATION AND MAINTENANCE OF HAWKINS POINT LANDFILL	10
Section 3.1 Permits and Maintenance	10
Section 3.2 Receiving Hours	11
ARTICLE IV - DEFAULT AND REMEDIES	11
Section 4.1 Remedies for Default	11
ARTICLE V - MISCELLANEOUS	11
Section 5.1 Assignment	11
Section 5.2 Notices	12
Section 5.3 Entire and Complete Agreement	12
Section 5.4 Binding Effect	13
Section 5.5 Other Documents	13
Section 5.6 Applicable Law	13
Section 5.7 Waiver	13
Section 5.8 Headings	13
Section 5.9 Counterparts	13
Section 5.10 Waiver of Sovereign Immunity	13
Section 5.11 Severability	13
Section 5.12 Representations and Warranties of the City	14

Section 5.13	Representations and Warranties of the Authority	14
Section 5.14	Limitation of Liability	15
Section 5.14	Acknowledgement and Consent to New Assignment	15
EXHIBIT A	Description of Hawkins Point Property	18
EXHIBIT B	Unacceptable Waste at Hawkins Point Landfill	20
EXHIBIT C	Tipping Fee for Residues	21

2

This HAWKINS POINT DISPOSAL CONTRACT is made and entered into as of the 22nd day of June, 2011, and effective as of January 1, 2012, by and between NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY (the "Authority"), a body politic and corporate, constituting a public instrumentality, organized and existing under the laws of the State of Maryland, and the MAYOR AND CITY COUNCIL OF BALTIMORE (the "City"), a body politic and corporate and a political subdivision of the State of Maryland.

RECITALS

A. The City operates a municipal collection system for residential and a limited amount of commercial waste generated within its boundaries.

B. The City has entered into the Northeast Maryland Regional Solid Waste Management Agreement, with the Authority, Baltimore County, Maryland, Anne Arundel County, Maryland, Harford County, Maryland and the Maryland Environmental Service (the "Regional Agreement") which provides a basis for cooperative planning and management of waste disposal in the Baltimore metropolitan region. The Authority is empowered to assist the subdivisions who are party to the Regional Agreement in effecting waste disposal programs on a regional basis. In the Regional Agreement, the Authority undertook to proceed with the planning, design and construction of a new resource recovery facility in Baltimore City, as well as certain other resource recovery facilities in the region. The City and the Authority are entering into a Subdivision User Contract pursuant to which the City will continue to deliver specified amounts of solid waste to the Facility for disposal. Baltimore County has entered into a similar contract with the Authority (both such contracts being referred to herein collectively as the "Subdivision User Contracts").

C. The Authority entered into a Facility Agreement (the "Facility Agreement") to provide for the design, construction, equipping, ownership and operation of the solid waste disposal facility located in the City of Baltimore (the "Facility").

D. In 1981, the Department of Health and Mental Hygiene of the State of Maryland required, among other things, that the City locate at least one additional landfill site to meet the City's waste disposal needs. In addition, in accordance with its powers and duties under the Northeast Maryland Waste Disposal Authority Act of 1980, as amended (the "Act"), and its obligations under the Regional Agreement to plan for and manage waste disposal in the Baltimore metropolitan area, the Authority determined that additional sanitary landfill capacity was required at Hawkins Point to dispose of waste, such as sludge, street sweepings and demolition debris, and other non-hazardous wastes, which is not now processable at the Facility or the Pulaski Incinerator (collectively, the "Disposal Facilities") and to dispose of processable waste which may be diverted from such facilities in the event that, as a result of unforeseen circumstances, either of the Disposal Facilities should be totally or partially shut down.

E. The Authority and the City entered into the Hawkins Point Disposal Contract as of November 3, 1982 (the "Original Contract," and such date, the "Original Effective Date") to provide for the disposal of Residues generated by the Facility and certain other materials delivered to the Facility and to assure access to reserve landfill capacity nearby the Facility to dispose of the waste delivered by the City and Baltimore County under the Subdivision User Contracts in the event that the Disposal Agreement Termination Date (as defined herein) shall have occurred.

F. The Authority assigned certain of its rights, title and interest in, to and under the Original Contract to the Baltimore Refuse Energy Systems Company, Limited Partnership ("Bresco")

pursuant to an Assignment of Hawkins Point Disposal Contract dated as of January 19, 1983 (the "Assignment").

G. The City and Bresco entered into a First Amendment to Hawkins Point Disposal Contract on December 17, 1988 (the "First Amendment") in order to provide for the disposal of Residues generated by the Facility and certain other materials delivered to the Facility for a term consistent with the term of the City's present Subdivision User Contract. As of the date of the First Amendment, the City's amended and restated Subdivision User Contract provided, among other things, that the City may deliver waste to the Facility for disposal until December 31, 2011.

H. Bresco changed its corporate name to Wheelabrator Baltimore, L.P. ("Wheelabrator"), on June 12, 2001.

I. The Authority and Wheelabrator have entered into a new agreement providing for disposal of the City's waste at the Facility pursuant to a Waste Disposal Agreement dated as of June 22, 2011 (the "New Waste Disposal Agreement").

J. The City and Wheelabrator are obligated under the New Waste Disposal Agreement and a new Subdivision User Contract, each dated as of June 22, 2011, by and between the Authority and the City, to enter into either a Second Amendment to the Original Contract or this Contract in order to provide for disposal of Residues generated by the Facility and certain other materials delivered to the Facility for a term consistent with the term of the New Waste Disposal Agreement. As of the date of this Contract, the New Waste Disposal Agreement provided, among other things, that the City may deliver waste to the Facility for disposal until December 31, 2021.

K. The Authority and the City desire to enter into this Contract.

L. The Authority and Wheelabrator will enter into an assignment and assumption agreement, pursuant to which Wheelabrator will accept assignment of this Contract (such agreement, the "New Assignment").

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained in this Hawkins Point Disposal Contract and other good and valuable consideration, receipt of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions.

The following are definitions of certain terms used in this Agreement:

"Acceptable Waste" has the meaning set forth in the New Waste Disposal Agreement.

"Affiliate" shall have the meaning specified in the Subdivision User Contract between the City and the Authority.

"Assignment" shall have the meaning specified in recital clause F.

"Authority" means the Northeast Maryland Waste Disposal Authority, a body politic and corporate, constituting a public instrumentality, organized and existing under the laws of the State

of Maryland and which term includes, as context requires, Wheelabrator as successor assignee of certain of the Authority's rights, title and interest pursuant to the New Assignment.

"Contract" means this Hawkins Point Disposal Contract as the same may be amended, modified or supplemented in accordance with the terms hereof.

"Deliverable Waste" means Residues; provided, however, that "Deliverable Waste" shall under no circumstances include Hazardous Waste or waste which the City is entitled to reject pursuant to Section 2.3 (a)(4) hereof.

"Disposal Agreement Termination Date" shall have the meaning specified in the Subdivision User Contract between the City and the Authority.

"Facility" shall have the meaning ascribed thereto in the New Waste Disposal Agreement.

"Facility Agreement" shall have the meaning specified in recital clause B.

"Hawkins Point Landfill" means the landfill known as the "Quarantine Road Landfill."

"Hawkins Point Property" means the property which is located in Baltimore City, Maryland, vicinity Quarantine Road and the Outer Harbor Crossing, and is more particularly described in Exhibit A hereto.

"Hazardous Waste" means (a) any substance that is listed, defined, designated or classified under all applicable laws relating to air, water, land and the generation, storage, use, handling, transportation, treatment, management, disposal and/or remediation of any material, substance, constituent or waste, including (i) the Clean Air Act, as amended, 42 U.S.C. § 7401; (ii) the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.; (iii) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq.; (iv) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; (v) the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq.; (vi) Occupational Safety and Health Act of 1970, as amended; (vii) the Emergency Planning and Community Right-to-Know Act, as amended, 42 U.S.C. § 11001 et seq.; (viii) the Clean Water Act, 33 U.S.C. § 1368 et seq., (ix) Executive Order 11738, 3 C.F.R. § 1974 Comp., to the extent enacted, effective and applicable, the mandatory standards and policies of the state energy conservation plan for the State of Maryland, prepared in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6201 et seq., (x) the Controlled Substances Act, 21 USC 801 et seq., or any equivalent state law and (xi) any other similar applicable federal, state or local law; (b) hazardous material, substance, constituent or waste, (c) toxic material, substance, constituent or waste, (d) radioactive matters, material, substance, constituent or waste, (e) dangerous material, substance, constituent or waste, (f) pollutant, (g) contaminant, or (h) special waste; (i) petroleum, petroleum products, polychlorinated biphenyl, pesticides, asbestos, or asbestos-containing materials, (j) any explosives and ordnance materials, pathological wastes, lead acid batteries, sludges, highly inflammable substances, cesspool or other human wastes, human and animal remains, (k) any material that a residue landfill cannot accept pursuant to any law of the City, the State of Maryland or any governmental body having jurisdiction over the parties; and (l) any substances which are determined by the U.S. Environmental Protection Agency or any other federal, state, or local agency subsequent to November 3, 1982 to be hazardous, toxic, dangerous, harmful, or otherwise designated as a "waste ban."

"Holiday" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. In the event such day falls on a Sunday, Holiday shall include such other day as may be designated by the City.

"New Assignment" shall have the meaning specified in recital clause L.

"Original Contract" shall have the meaning specified in recital clause E.

"Original Effective Date" shall have the meaning specified in recital clause E.

"Participating Subdivisions" means Baltimore County, Maryland and the Mayor and City Council of Baltimore.

"Non-Processible Waste" means any waste (other than Residues) of a character determined by the operator of the Facility to be unacceptable for processing at the Facility (whether or not delivered to the Facility), such determination to be made in accordance with the Subdivision User Contracts in respect of any waste delivered thereunder, including, without limitation, construction debris, street sweepings, sludge and industrial wastes.

"Residues" means the material remaining after the processing of waste at the Facility, such as fly ash, bottom ash and sifting, but shall not include Hazardous Waste.

"Subdivision User Contract" means either of the contracts for the disposal of waste between the Authority and each of the Participating Subdivisions referred to in recital clause B, as amended, or replaced, from time to time, in each case providing for waste disposal at the Facility.

"Tipping Fees" means the fees, each as determined in accordance with Exhibit C.

The term "ton" means a "short ton" of two thousand pounds.

"Uncontrollable Circumstances" means any act, event, or condition that is beyond the reasonable control of the party relying thereon as justification for not performing an obligation, covenant or agreement or complying with any condition required of such party under this Contract, to the extent such act, event or condition is not the result of or does not arise from the willful or negligent act, error or omission, failure to exercise reasonable care or diligence, equipment failure or breach of this Contract on the part of the party. Such acts, conditions or events include, but are not limited to, the following (but only to the extent and for such duration as such act, condition or event reasonably affects a party's performance under this Contract):

(a) (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence, an act of the public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, or (ii) a strike, lockout, or similar industrial or labor action;

(b) the failure to obtain, or suspension, termination, interruption or failure of renewal of any governmental approval essential to the operation, ownership or possession of the Facility as provided for herein or required with respect hereto or the performance by a party of its obligations hereunder, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing party, provided that the contesting in good faith of any such failure to obtain, suspension, termination, interruption or failure of renewal

shall not be construed as a willful or negligent action or a lack of reasonable diligence of such non-performing party; and

(c) (i) the adoption, amendment, promulgation, issuance, modification, repeal or written change in administrative or judicial interpretation, of any applicable law or regulation after November 3, 1982, (ii) the order or judgment of any governmental body having jurisdiction issued after such date (unless such order or judgment is issued to enforce compliance with any applicable law or regulation which was in effect as of such date); (iii) to the extent occurring after such date, (A) the denial of an application for, a delay in the review, issuance or renewal of, or the suspension, termination, or interruption of any governmental approval, or (B) the imposition of a term, condition or requirement in a governmental approval which is materially more stringent or burdensome than the terms and conditions set forth in connection with the issuance of such governmental approval; provided that any changes in applicable laws relating to taxes, fees or charges imposed by any governmental body having jurisdiction shall not be an Uncontrollable Circumstance pursuant to this subparagraph (iii); provided further that, in the case of subparagraphs (ii) and (iii), only to the extent such order, judgment or occurrence, as applicable, is not the result of willful or negligent action, error or omission or lack of reasonable diligence of whichever party is asserting the occurrence of an Uncontrollable Circumstance under this paragraph (c); provided, however, that the contesting in good faith or the failure in good faith to contest any such order, judgment or occurrence shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; and

(d) the failure of any subcontractor or supplier (except a subcontractor or supplier which is an Affiliate of the party claiming the Uncontrollable Circumstance selected with reasonable care and good faith to furnish labor, services, materials, or equipment in connection with the operation or maintenance of the Facility by the date agreed to, provided that the non-performing party is not reasonably able timely to obtain substitute labor, services, materials or equipment.

ARTICLE II

SCOPE OF AGREEMENT

Section 2.1 Acquisition and Development of Hawkins Point Land-fill; Delivery and Disposal of Deliverable Waste.

(a) Reserved.

(b) From and after the date (the "Start-up Date") on which the start-up and testing procedures for the Facility shall begin in accordance with the final delivery schedule and the final Performance Test (as defined in the Facility Agreement) plan and schedule (copies of which shall be furnished to the City), the Authority may deliver, or cause to be delivered, to the Hawkins Point Landfill, and the City shall accept for disposal at the Hawkins Point Landfill, in each calendar year (prorated for any portion thereof), up to 150,000 tons of Deliverable Waste (the "Basic Capacity") in accordance with the terms of this Contract and except as otherwise provided for herein; provided, however, that the City shall not be required under this Section 2.1(b) to accept in any week more than 5,000 tons of Deliverable Waste. In the event that the Basic Capacity for any year shall exceed the sum of (i) the number of tons of Deliverable Waste delivered by the Authority under this Section 2.1(b) during such year, plus (ii) the number of tons, if any, of such Basic Capacity used by

the City under Section 2.2(c), such excess number of tons shall be available for use by the City in any subsequent year at such times and in such amounts as the City may deem advisable, subject to the provisions of Section 2.2 and the other terms and conditions hereof.

No waste delivered to and accepted by the City at the Hawkins Point Landfill shall be (x) deemed to have been delivered by or on behalf of the Authority under this Section 2.1(b) or (z) applied to reduce the amounts of waste required to be accepted under this Section 2.1(b), unless such waste is delivered by or on behalf of the Authority pursuant to this Contract. The parties acknowledge that the Authority may from time to time deliver or cause to be delivered to the Hawkins Point Landfill quantities of solid waste on behalf of other persons (including, without limitation, the Participating Subdivisions) pursuant to independent arrangements between such other persons and the City (or other operator of the Hawkins Point Landfill). In the event that the Authority shall make such deliveries pursuant to such other arrangements, such deliveries shall not be applied to reduce the amounts required to be accepted by the City hereunder. The parties shall establish promptly after the date hereof mutually agreeable bookkeeping or other appropriate procedures designed to identify the arrangements under which such deliveries are made.

(c) Reserved.

Section 2.2 City Utilization and Maintenance of Landfill Capacity; Uncontrollable Circumstances; Total or Partial Closing of Hawkins Point Landfill.

(a) In the exercise of its duties under the Act, the Authority has determined that it is in the best interests of the metropolitan Baltimore region that it be the express policy of the Authority and the City that, to the extent feasible, solid waste generated within such region be disposed of at processing facilities, and that the use of sanitary landfills be limited in light of both health and environmental needs and the practical limitations on the availability of suitable landfill sites. In particular, the Authority has determined that the primary disposal sites for solid waste generated in the metropolitan Baltimore area should be the Disposal Facilities. At the same time, the Authority and the City recognize that certain types of waste cannot be disposed of at processing facilities and must therefore be land-filled. In particular, the City needs additional sanitary landfill capacity for quantities of sludge, street sweepings, demolition debris and other types of Non-Processable waste. The City acknowledges that it has participated in the development of such policy through its representation as a member of the Authority and concurs in such policy. Accordingly, to facilitate the implementation of such policy as part of the Authority's regional program, the City agrees that it shall not permit the disposal of Acceptable Waste (except such Waste delivered on behalf of the Authority hereunder) at the Hawkins Point Landfill at a rate in excess of 15,000 tons per calendar year, except to the extent necessary to dispose of a greater quantity of such waste in the event that the Authority and the City determine, in accordance with clause (i) to the proviso to Section 2.4(d), that such waste cannot be accepted for disposal at the Disposal Facilities; and that, accordingly, except as otherwise expressly provided herein, capacity available to the City hereunder shall be used only for the disposal of Non-Processable Waste and Residues.

(b) The Authority recognizes that, prior to the Commercial Operations Date (as defined in the City's Subdivision User Contract), the City will need additional sanitary landfill capacity for the disposal of quantities of Acceptable Waste in excess of the normal operating capacity of the Puleask Incinerator and, accordingly, subject to the proviso below in this Section 2.2(b), the City shall, prior to such Date, be entitled to accept for disposal at the Hawkins Point Landfill Acceptable Waste, in

addition to other Deliverable Waste, in such amounts and at such times as the City reasonably determines necessary or desirable.

From and after the Commercial Operations Date, the City shall be entitled to accept for disposal at the Hawkins Point Landfill for the account of any person or persons other than the Authority: (i) Residues, (ii) sludge and other Non-Processable Wastes, and (iii) Acceptable Wastes, in each case in such amounts or at such rates (subject, in the case of Acceptable Wastes, to the provisions of the last sentence of Section 2.2(a)) as the City shall deem necessary or desirable, provided that notwithstanding anything herein to the contrary, the City shall not at any time after the date hereof so accept waste (except waste delivered by the Authority hereunder) in such amounts or at such rates as would impair the ability of the City to accept Deliverable Waste at the Hawkins Point Landfill in the amounts required to be accepted hereunder throughout the term of this Contract or to preserve the Reserve Capacity, as such Capacity may be adjusted in accordance with the terms hereof.

(c) The Authority recognizes that the City may from time to time need additional disposal capacity to dispose of quantities of waste in excess of those now anticipated by the City. Accordingly, subject to the terms and conditions hereof, the City shall be entitled, in respect of any year prior to the Disposal Agreement Termination Date, to use all or any portion of the Authority's Basic Capacity for such year to the extent that (i) such use shall be necessary to dispose of waste which cannot reasonably be accepted for disposal at other waste disposal facilities in the City, and (ii) the Authority does not reasonably anticipate that it will need such portion of such Capacity during such year. Upon the request of the City from time to time, the Authority shall advise the City of its estimate of its requirements for such Capacity during such year. The Authority may revise any such estimate by further notice to the City.

(d) The City shall not refuse to accept Deliverable Waste hereunder at the Hawkins Point Landfill except to the extent that it is unable so to accept Deliverable Waste as a result of Uncontrollable Circumstances. The City shall diligently take all reasonable action in good faith to overcome or remove any such uncontrollable circumstance. The City shall give the Authority prompt notice of any proposed total or partial closing of the Hawkins Point Landfill or of any other matters which could result in a total or partial closing of the Hawkins Point Landfill upon obtaining knowledge thereof. In the event of any such total or partial closing during which the City shall have been permitted to refuse Deliverable Waste under this Section 2.2(c), the Reserve Capacity reserved for use by the Authority pursuant to Section 2.1(c) shall be automatically increased by the aggregate amount of Deliverable Waste so refused.

Section 2.3 Right to Refuse Waste.

- (a) Notwithstanding any other provision hereof, the City may refuse delivery of:
- (1) Any Deliverable Waste in excess of the amounts permitted to be delivered by or on behalf of the Authority pursuant to Section 2.1 hereof.
 - (2) Any Hazardous Waste.
 - (3) Any Deliverable Waste delivered at hours other than the Receiving Hours or at hours other than those provided in Section 3.2.
 - (4) Any waste of the type set forth in Exhibit B hereto.

(b) The City shall have the right (but not the obligation) to inspect all vehicles delivering waste to the Hawkins Point Landfill for the account of the Authority, and shall have the right to require that the Authority remove from any such vehicle before it is unloaded all waste which is not Deliverable Waste and to require that the Authority separate Residues, Acceptable Waste and Non-Processible Waste, each one from each of the others. If the City determines that it is impractical to separate Deliverable Waste from other waste in any vehicle or to separate Residues, Acceptable Waste and Non-Processible Waste, each one from each of the others, or the Authority or its employees or designated haulers delivering such waste are unwilling to make such separation, then the City may reject the entire vehicle, and the Authority shall forthwith remove the entire delivery from the Hawkins Point Landfill for disposal elsewhere with all costs of such removal and disposal to be borne by the Authority.

(c) In the event the City wrongfully refuses to accept Deliverable Waste hereunder, the City shall reimburse the Authority for the amount by which the direct costs and expenses incurred by the Authority in hauling away and disposing of such wrongfully refused Deliverable Waste exceeds the amounts that would otherwise have been payable hereunder in respect of such disposal. In the event of a dispute hereunder, the burden of proof of wrongful refusal shall be on the Authority.

(d) The Authority, and its employees or designated haulers, shall use their best efforts to deliver only Deliverable Waste to the Hawkins Point Landfill, and not to bring any vehicle onto the Hawkins Point Landfill which is carrying refuse which may leak, spill or allow waste to be blown or scattered on the Hawkins Point Landfill before unloading, all in accordance with the City's regulations. The Authority shall bear the cost of correcting any damage or cleaning up any spillage caused by its employees or its designated haulers, and shall reimburse the City on demand for all such costs.

(e) Upon acceptance by the City of any waste delivered in accordance with this Contract, the City will receive title thereto.

(f) The Authority shall cause the owner/operator of the Facility to procure and maintain during the term hereof the types and amounts of insurance specified in Section 9.1 of the City's Subdivision User Contract.

Section 2.4 Tipping Fees: Advance Payment.

(a) The City acknowledges that the operating and maintenance costs incurred by the City in disposing of waste hereunder will vary depending on the nature of such waste and, in particular, that such costs relating to the disposal of Residues will be significantly lower than those relating to other types of waste because of ease of handling and other factors. The City further acknowledges that, because of its relative density, the disposal of Residues will consume less landfill capacity than the disposal of other types of waste, thereby potentially increasing the expected life of the Hawkins Point Landfill. Moreover, the City acknowledges the Authority's undertaking under Section 2.4(c) not to dispose of any Residues generated by the Facility at any other sanitary landfill site. The City and the Authority also acknowledge that it is the City's stated policy to preserve landfill disposal capacity under its control by charging fees not less than the disposal fees which the City is required to pay to others for the disposal of the City's waste. In light of the foregoing, the Authority shall, except as provided in Sections 2.4(b) and 2.6, pay to the City the Tipping Fee for each ton of Residues that is accepted for disposal by the City pursuant to this Contract.

(l) The Tipping Fee per ton for Residues to be accepted by the City at the Hawkins Point Landfill hereunder shall be as set forth in Exhibit C hereto.

(b) Reserved.

(c) The Authority agrees that until termination of the Contract shall have occurred, it shall deliver all Residues generated by the Facility to the Hawkins Point Landfill pursuant to the Contract and shall not dispose of any Residues generated by the Facility at any sanitary land-fill site other than the Hawkins Point Landfill or otherwise transfer or dispose of such Residues. Except to the extent that the Authority is prevented from delivering Deliverable Waste by reason of any inability or refusal by the City to accept such Deliverable Waste at the Hawkins Point Landfill, if the Authority makes payments in respect of Tipping Fees hereunder in any calendar year (prorated for portions of years) after the Commercial Operations Date in an amount less than the product of (a) the prevailing Tipping Fee from time to time for Residues multiplied by (b) 15,000 tons (hereinafter such product is referred to as the "Minimum Payment"), then in addition to all other payments due by the Authority to the City hereunder, within 21 days of the date of invoice (which invoice shall not be given until after the end of the calendar year which is the subject of such invoice), the Authority shall make an additional payment to the City in an amount equal to the difference between the payments made by the Authority in respect of Tipping Fees for Deliverable Waste delivered to the Hawkins Point Landfill by the Authority during such calendar year and the Minimum Payment.

(d) Reserved.

Section 2.5 Weight Records, etc.

The City shall operate and maintain motor truck scales, calibrated to the accuracy required by Maryland law, to weigh all vehicles delivering waste to the Hawkins Point Landfill. Each vehicle delivering waste for the account of the Authority shall have its tare weight and an identification of the Authority permanently indicated and conspicuously displayed on the exterior of the vehicle in a location designated by the City. The City and the Authority may require from time to time the revalidation of the tare weight of any vehicle or the reweighing of unloaded vehicles. Each loaded vehicle shall be weighed, indicating gross weight, tare weight, type of waste, date and time and vehicle identification on a weight record. The Authority shall cause Residues, Acceptable Waste and Non-Processible Waste to be delivered separately so that each loaded vehicle contains only one of Residues, Acceptable Waste and Non-Processible Waste.

If all weighing facilities are incapacitated or are being tested, the City shall estimate the quantity of waste delivered on the basis of truck volumes and estimated data obtained through historical information pertinent to the Hawkins Point Landfill. These estimates shall be the basis for records during the outage and shall take the place of actual weighing records during the scale outage. If, upon conclusion of testing, the test indicates that the scale did not meet the accuracy requirements of Maryland law, any adjustments of scale records actually recorded since the previous test will be negotiated by the City and the Authority, and payments due from the Authority shall be adjusted consistent with such adjustments of scale records.

The City shall maintain daily records of the total tonnage of Acceptable Waste, Residues and Non-Processible Waste delivered to the Hawkins Point Landfill by all persons and the tonnage of Deliverable Waste accepted by the City hereunder. The City shall furnish to the Authority in respect of each month such information as may be reasonably requested by the Authority from time to time

with respect to the matters covered by this Contract. Copies of all weight tickets will be maintained by the City for a period of at least two years.

Section 2.6 Monthly Invoice.

Not earlier than the seventh day of each calendar month, the City shall submit to the Authority an invoice signed by an authorized official of the City certifying to the number of tons of each of Residues, Acceptable Waste and Non-Processible Waste delivered by or on behalf of the Authority hereunder and accepted by the City during the previous calendar month and the applicable Tipping Fee for such tonnage of waste.

The Authority shall pay the City the amount invoiced within 21 days of the date of such invoice. The Authority may, as its election, pay and discharge any portion of an invoice in respect of Residues delivered on behalf of the Authority hereunder by submitting a certificate to the effect that Tipping Fees in respect of the number of tons of such Residues covered by such portion have been prepaid pursuant to Section 2.4(b). If the Authority has a reasonable doubt concerning the computation of any part of the monthly invoice, it shall have (without penalty or interest) twenty (20) additional days to conduct a verification audit of that portion of the invoice. The City shall make available to the Authority promptly upon its request such records as may be reasonably requested for the purpose of conducting such audit.

Late payment shall carry a service charge of one and one quarter percent (1.25%) for each month or a fraction thereof during the period of delinquency.

Section 2.7 Term, etc.

This Contract shall be effective as of January 1, 2012 and, unless sooner terminated in accordance with the terms hereof, shall continue in effect until December 31, 2021. Nothing in this Section 2.7 shall affect the rights and obligations of the parties under the Original Contract arising on or after the Original Effective Date, up to, but not including January 1, 2012, which shall be governed by and subject to the terms and conditions of the Original Contract.

Section 2.8 Early Termination.

In the event that the Facility Agreement shall have been terminated pursuant to Section 12.2 or 12.3 thereof, either party hereto may terminate this Contract, by written notice to the other party. Upon the termination of this Contract under Section 2.7 or this Section 2.8 or otherwise, the City will, on 90 days' notice from the Authority, refund to the Authority a dollar amount equal to the number of tons remaining in any unused portion of the Prepaid Tonnage, multiplied by \$7.20.

ARTICLE III

OPERATION AND MAINTENANCE OF HAWKINS POINT LANDFILL

Section 3.1 Permits and Maintenance.

The City shall, at its own expense, provide all maintenance for the Hawkins Point Landfill, bear all costs of operating the Hawkins Point Landfill, and provide, maintain and operate the Hawkins Point Landfill in accordance with applicable law (including obtaining any necessary permits, licenses or approvals for the Hawkins Point Landfill). In the event the City determines to lease, and not to acquire title to, the Hawkins Point Property, the City will perform its obligations under such

lease and take all such action as may be necessary to keep such lease in full force and effect throughout the term hereof.

Except for the Tipping Fees and other amounts expressly set forth herein, the Authority shall not be responsible for the payment of any expenses incurred by the City in connection with the performance of its obligations hereunder.

Section 3.2 Receiving Hours.

The City shall keep the Hawkins Point Landfill open for the receiving of Deliverable Waste from 6:00 a.m. until 4:00 p.m., Monday through Saturday, excluding Holidays (the "Receiving Hours"). Upon the agreement of the City, the Authority may deliver Deliverable Waste to the Hawkins Point Landfill at hours other than the Receiving Hours. Upon reasonable notice, and the provision of evidence by the Authority to the City, in form and substance satisfactory to the City, that a natural disaster or other emergency condition has occurred or is existing in connection with the Facility which makes necessary the delivery of Deliverable Waste at the Hawkins Point Landfill at hours other than the Receiving Hours, the City shall accept Deliverable Waste at the Hawkins Point Landfill on a temporary basis at hours other than the Receiving Hours to the extent permitted by applicable law. The Authority shall reimburse the City for any additional out-of-pocket expenses incurred by the City in accepting such waste at such hours.

ARTICLE IV

DEFAULT AND REMEDIES

Section 4.1 Remedies for Default.

The Authority and the City agree that in the event of a breach by the Authority under this Contract the right to recover damages or to be reimbursed will constitute an adequate remedy and that neither party will have a right to terminate this Contract for any breach by the Authority.

The Authority and the City agree that a breach by the City of its obligations under this Contract may cause irreparable harm to the Authority and, without limiting any other rights or remedies which the Authority may have with respect to such breach, the Authority shall be entitled to injunctive relief to specifically enforce the City's undertakings hereunder.

ARTICLE V

MISCELLANEOUS

Section 5.1 Assignment.

This Contract may not be assigned by the City without the prior written consent of the Authority (which consent shall not be unreasonably withheld). This Contract may not be assigned by the Authority without the prior written consent of the City (which consent shall not be unreasonably withheld), except that the Authority or any permitted assignee thereof may, without the consent of the City, assign or otherwise make available its interest and obligations hereunder to (a) the owner/operator of the Facility or any permitted assignee thereof under the Facility Agreement or (b) a trustee or trustees as collateral for or otherwise in connection with arrangements for the financing or refinancing of the costs in respect of the acquisition, design, construction, equipping and start-up of all or part of the Facility or any capital improvement in connection with the operation or

maintenance thereof. In the event of an assignment by the Authority under this Section, the City shall be notified thereof in writing and shall accept Deliverable Waste and payments therefor from such person as may be designated by such assignee in such notice or otherwise.

Section 5.2 Notices.

All notices and consents required or permitted by this Contract shall be in writing, shall be either delivered or transmitted by registered or certified mail, return receipt requested, postage prepaid, with notice deemed to be given upon receipt, and shall be addressed as follows:

If to the Authority:

**Wheelabrator Baltimore, L.P.
c/o Wheelabrator Technologies Inc.
4 Liberty Lane West
Hampton, New Hampshire 03842
Attention: General Counsel**

with copies to:

**Wheelabrator Baltimore, L.P.
1801 Annapolis Road
Baltimore, Maryland 21230
Attention: Plant Manager**

and

**Northeast Maryland Waste Disposal Authority
100 South Charles Street, Tower II, Suite 402
Baltimore, Maryland 21202**

Attention: Executive Director

If to the City:

**Director of Finance
Baltimore City
City Hall
Baltimore, Maryland 21202**

with copies to the Director of Public Works and the City Solicitor at such address.

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

Section 5.3 Entire and Complete Agreement.

This Contract constitutes the entire and complete agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous representations, understandings, arrangements and commitments in respect of the subject matter hereof, all of such, whether oral or written, having been merged herein.

Section 5.4 Binding Effect.

This Contract shall be binding and inure to the benefit of the parties hereto and any successor or assignee acquiring an interest hereunder.

Section 5.5 Other Documents.

Each party agrees to execute and deliver any instruments and to perform any acts that may be necessary or reasonably requested by the other party in order to give full effect to this Contract.

Section 5.6 Applicable Law.

The law of the State of Maryland shall govern the validity, interpretation, construction and performance of this Contract.

Section 5.7 Waiver.

Unless otherwise specifically provided by the terms of this Contract, no delay or failure to exercise a right, remedy, power or privilege resulting from any breach of this Contract shall impair such right, remedy, power or privilege or shall be construed to be a waiver thereof. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Contract 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 any other breach under this Contract.

Section 5.8 Headings.

Captions and headings in this Contract are for ease of reference only and do not constitute a part of this Contract.

Section 5.9 Counterparts.

This Contract may be executed in more than one counterpart, each of which shall be deemed an original and all of which, when executed and delivered, shall constitute one and the same instrument.

Section 5.10 Waiver of Sovereign Immunity.

The City reserves any rights it may have under applicable law in respect to any right or defense of sovereign immunity (or similar rights and defenses).

The Authority, to the maximum extent permitted by applicable law, hereby irrevocably waives and renounces any and all rights to sovereign immunity (or similar rights and defenses) it may have under applicable law with respect to, and agrees not to raise sovereign immunity (or any similar defense) as a defense to, any claim, suit or proceeding (of whatever nature) based on or arising out of this Contract, or the transactions contemplated hereby, or any breach hereof by the Authority, asserted or brought by or on behalf of the City, its Affiliates or any officer, employee or agent thereof.

Section 5.11 Severability.

In the event that any provision of this Contract shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the parties hereto shall negotiate in good faith and

agree as to such amendments, modifications or supplements of or to this Contract 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 herein, and the other provisions of this Contract shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

Section 5.12 Representations and Warranties of the City.

The City hereby makes the following representations and warranties to and for the benefit of the Authority, its successors and assigns:

(a) The City is a political subdivision of the State of Maryland and a body politic and corporate, duly organized and validly existing under the constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Contract.

(b) The City has duly authorized the execution and delivery of this Contract and this Contract has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

(c) Neither the execution or delivery by the City of this Contract, nor the performance by the City of its obligations in connection with the transactions contemplated hereby or the fulfillment by the City of the terms or conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the City, (ii) conflicts with, violates or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the City is a party or by which the City or any of its properties or assets are bound, or constitutes a default thereunder or (iii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the City.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and delivery of this Contract by the City, except such as have been duly obtained or made.

(e) 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 hereunder or in connection with the other transactions contemplated hereby or which, in any way, would adversely affect the validity or enforceability of this Contract or any agreement or instrument entered into by the City in connection with the transactions contemplated hereby.

Section 5.13 Representations and Warranties of the Authority.

The Authority hereby makes the following representations and warranties to and for the benefit of the City:

(a) The Authority is a body politic and corporate and a public instrumentality of the State of Maryland, duly organized and validly existing under the constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this Contract.

(b) The Authority has duly authorized the execution and delivery of this Contract and such Contract has been duly executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms.

(c) Neither the execution or delivery by the Authority of this Contract, nor the performance by the Authority of its obligations in connection with the transactions contemplated by such Contract, or the fulfillment by the Authority of the terms or conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Authority, or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Authority is a party or by which the Authority or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and delivery of this Contract by the Authority, except such as have been duly obtained or made.

(e) 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 Authority's knowledge, threatened, against the Authority, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Authority of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Contract, or any other agreement or instrument entered into by the Authority in connection with the transactions contemplated hereby.

Section 5.14 Limitation of Liability.

Unless and until the Disposal Agreement Termination Date shall have occurred, the liability of the Authority for any payments under this Contract, including, without limitation, any Tipping Fee payments and damage payments for breach hereof or default hereunder (except any breach or default relating to the Authority's obligations under the last two sentences of Section 2.1(a)), shall be limited to the monies received by the Authority from third parties utilizing any of the landfill capacity available to the Authority hereunder. From and after such Date, the Authority's liability for any such payments shall be limited to the monies obtained from the operation of the Facility and made available for such purpose by the trustee for the benefit of the holders of any bonds, notes or other obligations issued to finance all or any portion of the Facility, or any improvements or modifications thereto, pursuant to a trust agreement or bond resolution for such bonds, notes or other obligations. The foregoing limitation on the liability of the Authority shall apply only to the Authority and shall not apply to any assignee of the Authority hereunder.

Section 5.15 Acknowledgement and Consent to New Assignment.

This City hereby acknowledges and consents to the assignment by the Authority of this Contract, and all of the Authority's rights, title, interests and obligations arising hereunder, to Wheelabrator pursuant to the New Assignment, subject to the conditions thereunder.

Section 5.16 Records and Inspections.

The Authority shall maintain records and permit inspections in accordance with Exhibit E.



IN WITNESS WHEREOF, Northeast Maryland Waste Disposal Authority has caused this Contract to be executed in its name by its authorized member, and has caused its seal to be attached to this Agreement as of this 22nd day of June, 2011.

[SEAL]

NORTHEAST MARYLAND WASTE DISPOSAL
AUTHORITY

Witness:

By *Christine W. [Signature]*

By *Robin B. [Signature]*

Executive Director

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its name by _____, and has caused the seal of the City to be attached to this Agreement, as of this ____ day of _____, 2011.

[SEAL]

MAYOR AND CITY COUNCIL OF
BALTIMORE

Witness:

By *Reene Mathis*
Alternate Councilman of the City Seal

By *Stephen D. Blake*
Mayor

Approved for form and legal sufficiency this 20th day of June 2011.

CHIEF SOLICITOR

APPROVED BY THE BOARD OF ESTIMATES:

By *Glenn Keen*

Bernice V. Taylor
Date JUL 20 2011 Clerk

ROC


EXHIBIT A

To

HAWKINS POINT DISPOSAL CONTRACT

Description of Hawkins Point Property

Beginning at the point formed by the intersection of the northwest side of Quarantine Road, as now laid out 120 feet wide, and the northeast right of way line of through highway for the Outer Harbor Crossing (Maryland Route No. 695), and running thence binding on the northeast and north right of way line of through highway for the Outer Harbor Crossing (Maryland Route No. 695) the eight following courses and distances; namely, Northwestery 50 feet, more or less, Westerly 400 feet, more or less, Westerly 50 feet, more or less, Westerly 175 feet, more or less, Westerly by a line curving to the left with a radius of 918.51 feet the distance of 800 feet, more or less, Westerly 465 feet, more or less, Westerly by a line curving to the right with a radius of 1173.24 feet the distance of 370 feet, more or less, and Westerly 505 feet, more or less, to intersect the southeast outline of the Baltimore and Ohio Railroad Company property, there situate; thence binding on the southeast outline of said Baltimore and Ohio Railroad Company property and reversely on part of the fourth line of the parcel of land conveyed by Edward L. Ward and Wife et al to the Davison Chemical Corporation (now known as W.R. Grace and Co.) by deed dated June 30, 1943 and recorded among the Land Records of Baltimore City in Liber M.L.P. No. 6474, Follo 62, to the beginning thereof, there situate, Northeastery 760 feet, more or less; thence binding on the southwest outline of said Baltimore and Ohio Railroad Company property and reversely on part of the third line of said deed, there situate, Southeastery 1.8 feet, more or less, to the beginning of the seventh line of the first parcel of land conveyed by the Davison Chemical Company et al to the Davison Chemical Corporation (now known as W.R. Grace and Co.) by deed dated December 31, 1936 and recorded among said Land Records in Liber S.C.L. No. 5595, Follo 115; thence binding on the southeast outline of said Baltimore and Ohio Railroad Company property and on the seventh and eighth lines of the first parcel of land described in last said deed, there situate, the two following courses and distances; namely, Northeastery 212 feet, more or less, and Northeastery by a line curving to the right with a radius of 875.40 feet the distance of 512 feet, more or less; thence binding in part on the ninth line of the first parcel of land described in last said deed, in part on the tenth line of the first parcel of land described in last said deed, and in all, on the southeast outline of said Baltimore and Ohio Railroad Company property, Northeastery 1696 feet, more or less; thence binding on the southeast outline of said Baltimore and Ohio Railroad Company property, and on the eleventh line of the first parcel of land described in last said deed, there situate, Easterly 1298 feet, more or less; thence binding on the line of the southeast outline of said Baltimore and Ohio Railroad Company property it projected easterly, Easterly 284 feet, more or less, to intersect a line drawn parallel with and distant 12.0 feet southerly measured at right angles from the center line of the southernmost track of the Baltimore and Ohio Railroad, Marley Neck Line; thence binding on said line so drawn, Easterly 41 feet, more or less; thence continuing to bind on a line drawn concentric with and distant 12.0 feet southerly measured radially from the center line of said track, Easterly by a line curving to the right with a radius of 931 feet, more or less, the distance of 360 feet, more or less, to intersect the southwest side of Quarantine Road, as now laid out 50 feet wide, and thence binding on the southwest and west sides of last said Quarantine Road and on the north and northwest sides of Quarantine Road mentioned firstly herein the eight following courses and distances; namely, Southeastery by a line curving to the left with a radius of 325.00 feet the distance of 223 feet, more or less, Southeastery 171 feet, more or less, Southeastery by a line curving to the right with a



radius of 475.00 feet the distance of 118 feet, more or less, Southeastery 132 feet, more or less, Southerly by a line curving to the right with a radius of 175.00 feet the distance of 229 feet, more or less, Westerly 459 feet, more or less, Southwesterly by a line curving to the left with a radius of 505.80 feet the distance of 584 feet, more or less, and Southwesterly 1889 feet, more or less, to the place of beginning.

The location and course of said sanitary landfill being shown on a plat thereof numbered 341-A-12, prepared by the Surveys and Records Division and filed in the Office of the Director of the Department of Public Works on the Twenty-third (23rd) day of April, 1982, a copy of which has been initialed by the City and the Authority and filed in the records of the Authority.



EXHIBIT B

To

HAWKINS POINT DISPOSAL CONTRACT

UNACCEPTABLE WASTE AT HAWKINS POINT LANDFILL

Tree stumps (greater than 12 inches in diameter)

Tree logs and wood (greater than 6 inches in diameter and 6 feet in length)

Steel slabs and beams

Reinforcing bars

Wire and Cable

Light metal (greater than 3 feet in any dimension)

Automobile and vehicular parts

Concrete and stone (greater than 18 inches in size)

Explosives, ammunition, fire arms, etc.

Flammables (liquid and dry), incl. empty containers

Liquids of any type

Paint products

Petroleum products (incl. drained oil)

Acids, incl. empty containers

Pesticides and Insecticides, incl. empty containers

Chemicals and Poisons, incl. empty containers

Caustics (liquid and dry), incl. empty containers

Hazardous Wastes

Dead animals

Tires



EXHIBIT C

To

HAWKINS POINT DISPOSAL CONTRACT

TIPPING FEE FOR RESIDUES

The Tipping Fee per ton for Residues shall be as set forth below for the annual period below, except that Residues generated while the Facility's "grizzly separator" metal recovery system is not in operation shall be subject to a rate of \$40.00 per ton, which shall not be subject to escalation:

Calendar Year	Base Rate
1/1/12 to 12/31/12	\$18.00
1/1/13 to 12/31/13	\$18.45
1/1/14 to 12/31/14	\$18.91
1/1/15 to 12/31/15	\$19.38
1/1/16 to 12/31/16	\$19.87
1/1/17 to 12/31/17	\$20.37
1/1/18 to 12/31/18	\$20.87
1/1/19 to 12/31/19	\$21.40
1/1/20 to 12/31/20	\$21.93
1/1/21 to 12/31/21	\$22.48



EXHIBIT D

To

HAWKINS POINT DISPOSAL CONTRACT

A. Terping and unterping of trucks may only be done on the working face of the landfill or in proximity to the active cell but only within the lined footprint of the landfill.

B. If there is any doubt as to where to place the Residues, the driver must ask the landfill manager or his/her designee.

C. The City will identify the location for unloading the Residues, either by having a person on the site, or with a cone or other marker. If the driver does not see a person or marker, he/she must get direction from landfill personnel before discharging the load.

D. If the "grizzly separator" metal recovery system at Facility is not functioning, Company shall notify the City's Representative or his/her designee and Residues generated while the system is not in operation shall be subject to the higher rate set forth without metals extraction in Exhibit C. Company shall make reasonable efforts to separate and recycle the metal. However, metal which cannot be separated and is mixed with the Residues shall be landfilled and not used as daily cover. Drivers shall notify landfill personnel that the load contains above average amounts of metal.

E. In no case shall Residues be directly deposited on top of a plastic liner.

F. The Authority has the right to process any Residues delivered to the landfill in order to recover metals or other materials. The Authority has the right to market the metals extracted from the Residues at its landfill. Nothing in this Agreement shall limit the ability of the Company to market and extract metals and other materials from the Residue; provided, however, that the Company shall give the Authority sixty (60) days' prior, written notice of its intent to divert, or actual diversion of, Residues generated at the Facility from the landfill for such purposes.

EXHIBIT E

To

HAWKINS POINT DISPOSAL CONTRACT

(a) The Authority shall maintain records of all actions, and accurate books of account for all funds received and disbursed, with full documentation to substantiate the transactions under this Agreement. These records shall be retained for a period of at least three (3) years after receipt of the final payment under this Agreement. If the Authority (or Wheelabrator and its parent organization) should cease to exist, custody of these records for the Agreement will immediately be transferred to the City.

(b) At any time during the normal course of business hours and as often as the City or its representative may deem necessary, there shall be made available to the City or its representative for examination, all of the Authority's records with respect to all matters covered by this Agreement and the Authority will permit the City or its representative to audit, examine, copy and make excerpts of transcripts from such records, and to make audits of all contract invoices, materials, payrolls and other data relating to matters covered by this Agreement.