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SOLID WASTE MANAGEMENT SERVICES AGREEMENT

Dated as of May 1, 1993

between

County of Franklin, New York

and

County of Franklin Solid Waste
Management Authority

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SOLID WASTE MANAGEMENT SERVICES AGREEMENT

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SOLID WASTE MANAGEMENT SERVICES AGREEMENT

THIS SOLID WASTE MANAGEMENT SERVICES AGREEMENT (hereinafter referred to as the "Solid Waste Management Services Agreement" or the "Agreement") is made and entered into as of the 1st day of May, 1993, by and between the County of Franklin, New York (the "County"), a body corporate and politic constituting a public benefit corporation of the State of New York, and the County of Franklin Solid Waste Management Authority (the "Authority"), a public authority organized and existing under the laws of the State of New York (the "State").

RECITALS

WHEREAS, the County of Franklin Solid Waste Management Authority (the "Authority") is a body corporate and politic constituting a public benefit corporation of the State, created by the New York State Legislature pursuant to Chapter 665 of the Laws of 1988 of the State and Title 13-I of the Public Authorities Law of the State (the "Act") for the benefit of the County of Franklin (the "County") for certain purposes described therein; and

WHEREAS, in March of 1991 the Department of Environmental Conservation ("DEC") approved a final solid waste management plan (SWMP) submitted by the Authority which provides for the development of an integrated solid waste management system by the Authority; and

WHEREAS, the Authority is authorized pursuant to the Act to acquire interests in real and personal property; and

WHEREAS, the Authority is authorized pursuant to the Act to collect, receive, transport, process, dispose of, sell, store, convey and recycle solid waste in the County; and

WHEREAS, the Authority is authorized pursuant to the Act to plan, develop and construct projects and to assist in the planning, development and construction of and the financing of the cost of any solid waste management facility to be located in the County; and

WHEREAS, the Authority and the County are authorized pursuant to the Act to contract for the purpose of receiving, treating and disposing of solid waste; and

WHEREAS, the Authority and the County desire to enter into a solid waste management services agreement (the "Solid Waste Management Services Agreement") providing for the payment by the County, from appropriations therefor, of amounts set forth in such agreement to assure the operation and solvency of the solid waste management system to be developed by the Authority;

WHEREAS, the Authority is authorized pursuant to the Act to fix and collect rates, rentals, fees and other charges for the use of the facilities of or services rendered by, or any commodities furnished by, the Authority; and

WHEREAS, the Authority is authorized to borrow money and issue bonds or notes in anticipation of the issuance of bonds to finance all or part of the cost of the System (as hereinafter defined); and

WHEREAS, in 1989 the Authority issued one-year bond anticipation notes (the "1989 BANS") in the aggregate principal amount of \$460,000 for the purpose of providing for start-up and certain preliminary expenses related to the development of a solid waste management project (the "Project") for the County; and

WHEREAS, in 1990 the Authority issued one-year bond anticipation notes (the "1990 BANS") in the aggregate principal amount of \$1,100,000 for the purpose of repaying the principal of and interest on the 1989 BANS and providing for additional start-up and certain preliminary expenses related to the development of the Project in the County; and

WHEREAS, in 1991 the Authority issued one-year bond anticipation notes (the "1991 BANS") in the aggregate principal amount of \$2,075,000 for the purpose of repaying the principal of and interest on the 1990 BANS and providing for additional start-up and certain preliminary expenses related to the development of the Project in the County; and

WHEREAS, in 1992 the Authority issued one-year bond anticipation notes (the "1992 BANS") in the aggregate principal amount of \$3,775,000 for the purpose of repaying the principal of and interest on the 1991 BANS and providing for additional start-up and certain preliminary expenses related to the development of the Project in the County; and

WHEREAS, in 1993 the Authority issued one-year bond anticipation notes (the "1993 BANS") in the aggregate principal amount of \$5,725,000 for the purpose of repaying the principal of and interest on the 1992 BANS and providing for the costs related to the development and design of the System (the 1993 BANS, together with the 1989 BANS, 1990 BANS, 1991 BANS and 1992 BANS are hereinafter collectively referred to as the "Authority Notes"); and

WHEREAS, the Authority Notes have been and are presently secured by the contractual obligation of the County to appropriate money to the Authority in accordance with a Financing Agreement dated as of January 1, 1989 by and between the Authority and the County; and

WHEREAS, the Authority intends to issue long-term Bonds to finance the construction of the System for collecting and managing solid waste in the County:

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained herein the parties hereto hereby covenant and agree as follows:

ARTICLE I

Section 1.1 DEFINITIONS.

Certain terms used in this Agreement shall have the meanings set forth in Appendix A to this Agreement.

ARTICLE II

OBLIGATIONS RELATING TO DELIVERY AND ACCEPTANCE OF WASTE; OPERATING PROCEDURES

Section 2.1 DELIVERY AND ACCEPTANCE OF WASTE.

(a) Delivery of Solid Waste.

Beginning on the Commencement Date, the County shall deliver or cause to be delivered to the System substantially all of the Solid Waste produced within the County. The Authority shall advise the County 30 days in advance of the estimated date of the Commencement Date. Such Solid Waste shall be delivered to the Landfills or to any other place, including any Transfer Stations or other components of the System which have been or may be established in the County, as the Authority may from time to time direct.

The Authority and the County recognize that the tonnage of Solid Waste generated within the County and deliverable under this Agreement may vary from time to time depending, among other factors, upon the season in which such waste is collected, and that the County cannot predict with precision its need for Solid Waste disposal capacity in any given month.

(b) Disposal of Waste

The Authority shall accept and dispose of all Solid Waste delivered to the System by or on behalf of the County. In the event of an Uncontrollable Circumstance affecting the ability to use a portion of the System, the Authority will use its best

efforts to provide services hereunder, which services may entail significant increases in Expenses.

Section 2.2 RECEIVING HOURS.

Regional Landfill receiving hours are scheduled to be 8:00 a.m. to 3:30 p.m., Tuesday through Saturday, holidays excepted. Receiving hours at the Bellmont, Dickinson, Fort Covington and Tupper Lake Transfer Stations are scheduled to be 8:00 a.m. to 3:30 p.m., three days a week and at the Malone and Harrietstown Transfer Stations are scheduled to be 8:00 a.m. to 3:30 p.m., Tuesday through Saturday. The Authority may establish other reasonable receiving hours at its sole discretion.

Section 2.3 EMERGENCY DELIVERIES.

In the event of a natural disaster or other emergency condition, the Authority will use its best efforts to receive Solid Waste at hours other than designated in Section 2.2 and, if necessary, at facilities other than those owned or operated by the Authority, to the extent permitted by Applicable Law. Additional charges for deliveries under this Section 2.3 shall be payable to the Authority for any additional costs it incurs.

Section 2.4 ADDITIONAL RECEIVING HOURS.

The Authority may, upon the request of the County or otherwise, agree to receive Solid Waste at hours other than the receiving hours specified in Section 2.2 to the extent permitted by Applicable Law. Additional charges for operations outside of receiving hours pursuant to this Section 2.4 shall be payable to the Authority for any additional costs it incurs.

Section 2.5 REPAIRS AND MAINTENANCE.

The Authority will cause the System to be maintained in good condition, including such repairs and replacements as may be required for the Landfills and any Transfer Stations which may be established by the Authority during the term of this Agreement. The System shall be maintained in good repair and in a neat and orderly condition to protect the System against deterioration and to maintain the efficiency and the aesthetic quality of the System.

Section 2.6 [Intentionally Omitted].

Section 2.7 REGULATORY REQUIREMENTS.

The Authority will operate or cause the System to be operated in a manner which will not violate Applicable Law. The Authority shall not be deemed to have breached its obligations under the preceding sentence in respect of any period during which it may in good faith be contesting the validity or application of

any such Applicable Law or be diligently attempting to comply therewith, in each case to the extent that Applicable Law permits continued operation pending resolution of said dispute.

Section 2.8 PERMITTED HAULERS; RULES AND REGULATIONS.

(a) In accordance with Local Law #7, the Authority shall require that no hauler or any other Person, excluding individuals using a Transfer Station for their own Solid Waste in accordance with the regulations of the Authority, may collect Solid Waste in the County nor deliver Solid Waste into the System without first obtaining a permit from the Authority to become a Permitted Hauler. As conditions of obtaining a permit, such Persons shall provide the Authority such information as the Authority may reasonably request and shall abide by the rules and regulations of the Authority. Such rules and regulations may be in regard to such matters as identification and condition of vehicles, payment of tipping fees and other charges, insurance, area(s) of collection, manner of loading, transporting, and delivery of waste, and any other matter reasonably related, directly or indirectly, to the lawful, efficient, economical and safe operation of the System.

(b) The Authority may impose these registration requirements with respect to some or all classes of persons, and differently with respect to different classes, which it, in its reasonable discretion and from time to time, deems prudent.

(c) The Authority shall implement regulations to provide for revocation of the permit of any Permitted Hauler who fails to deliver Solid Waste collected in the County into the System or otherwise fails to abide by the rules and regulations of the Authority.

Section 2.9 WEIGHING RECORDS.

(a) The Authority shall operate and maintain motor truck scales calibrated to the accuracy required by New York law and, excepting passenger automobiles (which may include pick-up and other small trucks), shall weigh all vehicles delivering Solid Waste to the System (whether or not the Authority accepts the waste so delivered) and shall record the weights thereof. Notwithstanding the foregoing, the Authority shall not be obligated to weigh any vehicle delivering waste to the System at hours other than the receiving hours or such other hours as may be established under Sections 2.3 and 2.4 or any vehicle not meeting the requirements of Section 2.15.

(b) Vehicles delivering Solid Waste to the System shall be weighed upon entering a System facility and a record shall be made indicating gross weight, tare weight, date and time and vehicle identification. If any scale is incapacitated, the Authority shall estimate the quantity of waste delivered. These

estimates shall take the place of actual weighing records during the scale outage.

(c) The Authority shall maintain daily records of the total tonnage of Solid Waste delivered to the System and the components thereof, the tonnage of Acceptable Waste accepted by the Authority, and the tonnages of Recyclable Materials and Refused Waste, respectively. The Authority shall furnish to the County such information regarding such waste as may be reasonably required by the County. Copies of all weight records shall be forwarded by the Authority to the County or maintained by the Authority for a period of at least two years.

Section 2.10 OWNERSHIP OF WASTE.

(a) Upon acceptance by the Authority of Solid Waste, the Authority shall receive title to such waste. Waste shall be deemed to have been accepted by the Authority if it has been appropriately deposited at a Transfer Station or at the Regional Landfill and the person delivering such waste has left the Transfer Station or Regional Landfill.

(b) Neither the County nor the Authority shall ever have or be deemed to have title to Hazardous Waste or any other waste which is not Solid Waste.

Section 2.11 DISPOSAL OF SOLID WASTE; RECYCLABLE MATERIALS.

(a) The Authority may refuse to accept waste which is not Solid Waste at any time and the Person who delivered it shall promptly remove all such waste so refused at its own cost and expense or, if such Person fails to do so, the Authority may remove such waste at the expense of such Person. The Authority may require any Person who is discovered to have delivered waste which is not Solid Waste to reimburse it for its reasonable expenses of removing and disposing of such Waste.

(b) The Authority shall recycle Recyclable Materials in conformity with Applicable Law, including Local Law #7 and the regulations of the Authority.

Section 2.12 MANNER OF DELIVERIES.

(a) The Authority shall require Permitted Haulers to use their best efforts to deliver only Solid Waste to the System, and not to take any vehicle onto the Transfer Stations or Landfill sites which is leaking or carrying refuse which may leak, spill, or be blown or scattered on the Transfer Stations or Landfill sites before unloading at the Transfer Stations or the Landfill sites, all in accordance with the Authority's regulations.

The Authority may assess a penalty, fine or surcharge on, or prohibit entry or suspend the registration of, in accordance with Applicable Law, including Local Law #7 or regulations of the Authority, any Person who (i) attempts to deliver Hazardous Waste or liquid waste to the System or (ii) brings a vehicle into the System, or conducts itself at the Transfer Stations or on the Landfill sites, in violation of Local Law #7 or the regulations of the Authority. The Authority shall notify the County of each penalty so assessed. Any such regulations of the Authority shall specify that a person who fails to pay any penalty assessed under this Section 2.12 within 30 days following receipt of written notice thereof may be refused entry by the Authority to the System.

(b) The Authority may accept delivery of Solid Waste from any Person holding a permit from the Authority. All Tipping Fees collected with respect to Solid Waste will be credited to the account of the County pursuant to Section 3.7.

Section 2.13 REFUSAL OF DELIVERIES.

(a) Extent of Refusal Rights. Notwithstanding Sections 2.1, 2.3 or 2.4, the Authority may refuse delivery of any:

- (i) Waste which is not Solid Waste;
- (ii) Solid Waste which the Authority is not obligated to accept under Section 2.13(b);
- (iii) Solid Waste delivered at hours other than Receiving Hours, or such other hours as may be established under Sections 2.3 or 2.4; and
- (iv) Solid Waste delivered by vehicles not conforming to the conditions established in Section 2.15; and
- (v) any waste not in conformity with Local Law #7 or any regulations of the Authority.

(b) Inspection of Delivered Waste. The Authority may inspect the contents of all vehicles delivering waste to the System, and shall have the right to require that the Person delivering such waste remove from any such vehicle before it is unloaded at a receiving area of the System any waste which is not Solid Waste. If the Authority reasonably determines that it is impracticable to separate Solid Waste from waste which is not Solid Waste in any vehicle, or the Person delivering such waste is unwilling to make such separation, then the Authority may refuse to accept the contents of the entire vehicle or take such other enforcement action as may be permitted by Applicable Law, including Local Law #7 and any regulations of the Authority.

Section 2.14 DELIVERIES.

The Authority shall accept all Solid Waste delivered to the System by or on behalf of the County pursuant to this Agreement. The Authority shall collect the applicable Tipping Fee from all Persons delivering Solid Waste to the System.

Section 2.15 VEHICLE REQUIREMENTS.

Vehicles delivering waste to the System must conform to New York State Department of Environmental Conservation and Department of Motor Vehicles regulations and other Applicable Law regarding the handling of solid waste. The Authority may from time to time make reasonable exceptions from such policy if permitted to do so by Applicable Law.

Section 2.16 OTHER CONTRACTS FOR WASTE DELIVERY.

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Resolution
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The Authority may enter into agreements with Persons other than the County for the disposal of Solid Waste; provided, however, that the County at all times shall have the first call on any waste disposal capacity and provided, further, however, that the Authority may not enter into any such agreement with any Person other than the County without the prior approval of the County as evidenced by a resolution of the County Legislature.

ARTICLE III

WASTE MANAGEMENT SERVICES REQUIREMENTS; PAYMENT

Section 3.1 DISPOSAL SERVICES REQUIREMENTS.

(a) Pursuant to the Act, the Authority has performed and agrees to continue to perform planning, developmental, environmental and other services for the County with respect to Solid Waste, such services to constitute services such that the County is obligated to make payments under Section 3.3 of this Agreement notwithstanding the status of the System. Beginning on the Commencement Date, the Authority shall provide these services and additional Solid Waste management services to the County in accordance with Applicable Law and the terms of this Agreement.

(b) The County shall pay the Authority for providing the foregoing services in the manner hereinafter provided.

Section 3.2 TIPPING FEES.

(a) Persons delivering Solid Waste to the System shall pay a Tipping Fee to the Authority with respect to such waste. The Tipping Fee shall be established and adjusted from time to time,

but not more often than monthly. The Tipping Fee shall be established in an amount the Authority reasonably determines as necessary to currently recover its capital and other expenses incurred (on an accrual basis) due to the ownership, improvement, operation and maintenance of the System and the Authority, including Debt Service, plus any amount paid by the County as a Service Fee Shortfall with respect to a prior Fiscal Year pursuant to Section 3.7(e) (such fees and expenses collectively referred to herein as "Expenses"). The Authority may, but shall not be obligated to, set and collect different Tipping Fees for different classes of waste and/or with respect to characteristics other than weight (e.g., per vehicle, by vehicle type, measured or estimated volume). If the County disagrees with the Tipping Fees as so established, it -- for itself or on behalf of any other person -- may request the Independent Public Accountants to review the Authority's determination. If the Independent Public Accountants determine that the Tipping Fees have been established in an amount which is likely to produce revenues in excess of the Authority's Expenses, the Authority shall reduce the Tipping Fees but in no event less than an amount which is projected by the Independent Public Accountants to meet all of its obligations under the Applicable Financing Agreements. The determination of the Independent Public Accountants shall be communicated to the County and the Authority and shall be subject to arbitration.

(b) Tipping Fees will be paid in cash upon acceptance of Solid Waste to the System, or in such other manner as may be determined by the Authority.

Section 3.3 PAYMENT OF SERVICE FEE BY COUNTY;
INSTALLMENTS.

(a) In consideration of the Authority's performance of certain activities relating to Solid Waste disposal pursuant to Section 3.1(a), the County shall pay from its general fund to the Authority a Service Fee as set forth in this Agreement. The Service Fee payable to the Authority by the County with respect to any Fiscal Year shall be an amount equal to (i) Debt Service PLUS (ii) Operating and Maintenance Costs MINUS (iii) Net Investment Earnings, if any, for such Fiscal Year; provided that in no event shall the Service Fee be less than zero. All such amounts shall be calculated on a cash basis.

(b) Beginning on July 1, 1994, the County shall pay the Authority one-twelfth of the Estimated Service Fee (determined pursuant to Section 3.6) payable with respect to any Fiscal Year on the first day of each month of that Fiscal Year.

(c) The Authority shall pay the County Reimbursement Amounts pursuant to Section 3.5, except as provided therein.

(d) An adjustment and accounting shall be made each year pursuant to Section 3.7.

Section 3.4 [Intentionally Omitted].

Section 3.5 REIMBURSEMENT AMOUNT.

(a) The Authority shall pay to the County within five (5) days after the end of each month, the Reimbursement Amount, which shall equal the Tipping Fees and User Fees, if any, received by the Authority during the preceding month up to the amount forwarded on an aggregate basis in such Fiscal Year pursuant to Section 3.3(a) above. Notwithstanding the previous sentence, for the initial two months under which payments are made in accordance with Section 3.3(b) above, the Reimbursement Amount may include any monies under the control of the Authority up to the amounts forwarded for such months pursuant to Section 3.3(a) above.

(b) Notwithstanding anything to the contrary contained herein, in the event the County fails to appropriate the amount necessary to pay the Estimated Service Fee in any Fiscal Year, the Authority shall not be obligated to pay the County any Reimbursement Amounts for any month in such Fiscal Year. Instead, such Reimbursement Amounts shall be retained by the Authority and paid to the Trustee in an amount equal to the amount which the County was obligated to pay as an Estimated Service Fee during each Fiscal Year within which the County fails to appropriate the Estimated Service Fee.

Oct 1 Section 3.6 ESTIMATED SERVICE FEE.

a. The Service Fee payable with respect to any Fiscal Year, as estimated by the Authority, shall be submitted in writing to the County no less than 90 days prior to the beginning of the fiscal year of the County ("Estimated Service Fee") or as reasonably required by the County. The Estimated Service Fee for the Fiscal Year beginning on July 1, 1993 shall be calculated no later than September 30, 1993. The Estimated Service Fee shall equal (i) the Authority's estimate of Debt Service, PLUS (ii) the Authority's estimate of Operating and Maintenance Costs, (iii) MINUS the Authority's estimate of Net Investment Earnings (provided that Net Investment Earnings are only credited against the Debt Service component of the Estimated Service Fee to the extent that such Net Investment Earnings are available to be applied to the payment of Debt Service); the cash basis of accounting shall be used to determine the amounts used herein. The County shall include in its annual budget for such next Fiscal Year an amount equal to the Estimated Service Fee so determined. In the event an Uncontrollable Circumstance causes Expenses to increase, as referred to in Section 2.1(b), the Authority shall promptly prepare an amended Estimated Service Fee which shall be the basis for payments for the remainder of such Fiscal Year. If the County

reasonably disagrees with the Estimated Service Fee as estimated by the Authority, it may request the Independent Public Accountants to review the estimate. The estimate of the Authority, as it may be revised by the Independent Public Accountants, as to the Estimated Service Fee payable by the County pursuant to Section 3.3 in any Fiscal Year shall be subject to arbitration. Notwithstanding the pendency of a review by the Independent Public Accountants, the County shall promptly pay any amount determined by the Authority to be due pursuant to this Section 3.6(a), subject to later adjustment if determined to be appropriate by the Independent Public Accountants.

(b) The County covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which the Service Fee may be made, including providing for such payments to the extent necessary in each budget throughout the term of this Agreement.

Section 3.7 YEAR-END ADJUSTMENT; ACCOUNTING.

(a) ^{b c t 1} Within 90 days of the end of each Fiscal Year, beginning with the Fiscal Year beginning on July 1, 1993, the Authority shall make an accounting with respect to such Fiscal Year of the following, in accordance with the accrual method:

- (i) Debt Service;
- (ii) Net Investment Earnings;
- (iii) Tipping Fees and User Fees;
- (iv) Operating and Maintenance Costs; and
- (v) Amounts of Solid Waste delivered by or on behalf of the County.

To the extent possible, all such amounts shall be reconciled with the financial statements of the Authority prepared by the Independent Public Accountants.

(b) The Authority shall calculate the Actual Service Fee for such preceding Fiscal Year. The Actual Service Fee for such a Fiscal Year shall be equal to (i) Debt Service, PLUS (ii) Operating and Maintenance Costs, MINUS (iii) Net Investment Earnings MINUS (iv) the aggregate amount of all Reimbursement Amounts paid by the Authority to the County for such Fiscal Year pursuant to Section 3.5 hereof. All such amounts shall be calculated on a cash basis.

(c) The Authority shall calculate the Year-End Adjustment for such Fiscal Year. The Year-End Adjustment shall be equal to (i) the Actual Service Fee MINUS (ii) the

Estimated Service Fee paid by the County during such Fiscal Year, PLUS (iii) the aggregate amount of all Reimbursement Amounts paid by the Authority to the County for such Fiscal Year pursuant to Section 3.5 hereof.

(d) If for any Fiscal Year the Year End Adjustment is a negative amount, such amount (a "Service Fee Surplus") shall be deposited in the General Fund of the Authority created under the Bond Resolution; provided, however, that if such Service Fee Surplus occurs in the final year of this Agreement, such amount shall be paid by the Authority to the County within 15 business days of the official calculation of such Service Fee Surplus.

(e) If for any Fiscal Year the Year End Adjustment is a positive amount, the amount so determined (a "Service Fee Shortfall") shall be paid by the County to the Authority within 15 days of receipt of an invoice therefor. Except in the case of the final Fiscal Year of the term of this Agreement, in the event that the County pays a Service Fee Shortfall, such amount shall become owing to the County from the Authority and shall be recovered through a Tipping Fee adjustment pursuant to Section 4.2(a) and repaid to the County over the Fiscal Year subsequent to the Fiscal Year within which such Service Fee Shortfall was paid; provided, however, that failure to repay such amount as specified will not constitute a default or give rise to any additional rights of the County against the Authority except in the case of the final Fiscal Year of the term of this Agreement.

(f) The County may request the Independent Public Accountants to review the Authority's accounting. The Authority's accounting, as reviewed and approved or modified by the Independent Public Accountants, shall be subject to arbitration. Notwithstanding the pendency of a review by the Independent Public Accountants, the County shall promptly pay any amount determined by the Authority to be due pursuant to section 3.7(e), subject to later adjustment if determined to be appropriate by the Independent Public Accountants.

Section 3.8 NO SET-OFF, ABATEMENT, ETC.

The obligations of the County to pay the Service Fee to the Authority under the terms of this Agreement shall not be subject to diminution by reason of any 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 the County hereunder or limit recourse against the County. The foregoing provisions of this Section 3.8 shall not affect any right of the County to pursue independently any claim it may have against the Authority or any other person based upon

non-performance by the Authority or any other person of its obligations hereunder.

Section 3.9 CURRENT EXPENSE.

The payment obligations of the County under this Agreement shall constitute a current and necessary expense of the County for each Fiscal Year and shall not constitute an indebtedness of the County within the meaning of the Constitution and laws of the State of New York.

ARTICLE IV

[Intentionally Omitted]

ARTICLE V

[Intentionally Omitted]

ARTICLE VI

[Intentionally Omitted]

ARTICLE VII

INSURANCE

Section 7.1 TYPES OF INSURANCE.

The Authority shall obtain and maintain, or cause to be obtained and maintained, if and as available upon commercially reasonable terms, insurance with respect to the operation of the System as follows:

(a) Workers' Compensation Insurance coverage in Compliance with the Workers' Compensation Law of New York State;

(b) Employers' Liability Insurance coverage, subject to the minimum Limit of Primary Bodily Injury Liability Insurance required to support the purchase of the Umbrella Liability Insurance set forth in Section 7.1(e);

(c) Comprehensive General Liability Insurance covering the System including independent contractors, products and

operations, to be extended by the following endorsements, if available:

- (i) A Broad form Comprehensive General Liability Endorsement (including Personal Injury and Blanket Contractual Liability coverage);
- (ii) An endorsement deleting the Explosion, Collapse and Underground Hazards Exclusion;
- (iii) An endorsement deleting the Employment and Contractual Exclusions with respect to Personal Injury Liability coverage; and
- (iv) An endorsement stipulating that the limits of liability shall include punitive or exemplary damages awarded against an insured in all jurisdictions where such damage awards are not contrary to established law. The applicable limit of liability shall be the minimum combined single limit of primary insurance required to support the purchase of the Umbrella Liability Insurance set forth in Section 7.1(e). Coverage shall be no less than \$250,000/\$500,000 for bodily injury and property damage; \$500,000 combined single limit;

(d) Comprehensive Automobile Liability Insurance average applicable to all owned, hired and non-owned vehicles subject to the minimum Combined Single Limit of Primary insurance required to support the purchase of the Umbrella Liability set forth in Section 7.1(e). Limits shall be no less than \$250,000 per occurrence, \$500,000 aggregate; \$150,000 property damage; and

(e) Umbrella Liability Insurance coverage with a limit of liability of at least \$1,000,000 per occurrence and if applicable, in the minimum aggregate (bodily injury and property damage combined) of \$10,000,000.

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; provided, however, that the Authority shall have the right to injunctive relief for breach by the County of its obligations under Section 2.1(a) above. Therefore, no party shall have the right to

terminate this Agreement for cause for any breach except that the County shall have the right to terminate this Agreement for an Event of Default if such Event of Default consists of the failure by the Authority to accept and dispose of Solid Waste delivered to the System in accordance with Section 2.1(b) for a period of 60 or more consecutive days.

Section 8.2 EVENTS OF DEFAULT BY THE AUTHORITY.

(a) The failure on the part of the Authority to pay any undisputed amount required to be paid to the County under this Agreement or determined to be owing pursuant to Section 11.2 shall constitute a default hereunder and shall entitle the County, in its discretion, to a mandatory injunction to compel payment, if the County has made written demand therefor (accompanied by notice that unless such amount is paid within 30 days after such demand the default will constitute an Event of Default), and such amount is not so paid.

(b) Subject to the provisions of Section 8.1 above, the persistent or repeated failure or refusal by the Authority substantially to fulfill any of its material obligations in accordance with this Agreement shall constitute default hereunder unless such failure or refusal shall be excused or justified by Uncontrollable Circumstance; provided, however, that no such failure or refusal shall constitute an Event of Default unless and until:

- (i) the County 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, if with respect to an Event of Default by the Authority consisting of a failure to accept and dispose of Solid Waste delivered to the System in accordance with Section 2.1(b), which will in its opinion give the County 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 five (5) business days from the date of the notice given pursuant to clause (i) of this Section 8.2), provided, that if the Authority shall have commenced to take reasonable 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.

Section 8.3 EVENTS OF DEFAULT BY THE COUNTY.

(a) The failure on the part of the County to pay, within 30 days of receipt of written notice therefor, any amount required to be paid to the Authority under this Agreement, or determined to be owing pursuant to Section 11.2, shall constitute a default hereunder and shall entitle the Authority, in its discretion, to a judgment, mandamus, mandatory injunction and all other legal or equitable remedies afforded by Applicable Law to compel payment, if the Authority has made written demand therefor (accompanied by notice that unless such amount is paid within 30 days after such demand the default will constitute an Event of Default), and such amount is not so paid.

(b) The persistent or repeated failure or refusal by the County substantially to fulfill any of its material obligations in accordance with this Agreement shall constitute default hereunder 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 County 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 County unless such default is corrected within a reasonable period of time, and
- (ii) The County 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 five (5) business days from the date of the notice given pursuant to clause (i) of this Section 8.3(b), provided that if the County shall have commenced to take reasonable 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 County is continuing to take reasonable steps to correct such default.

Section 8.4 TERMINATION ON DEFAULT.

Termination for cause in accordance with the second sentence of Section 8.1 may be exercised only after 30 days prior written notice of termination to the Authority. The proper exercise of such right of termination shall be in addition to and not in substitution for such other remedies, whether damages or otherwise, as the County may have.

Section 8.5 SURVIVAL OF CERTAIN RIGHTS AND OBLIGATIONS.

No termination of this Agreement shall limit or otherwise affect the respective rights and obligations of either party accrued prior to the date of such termination.

ARTICLE IX

TERM

Section 9.1 TERM.

This Agreement shall commence on the date of execution of this Agreement and, unless sooner terminated in accordance with the terms hereof, shall continue in effect until the later of (a) the twentieth anniversary of the Commencement Date or (b) the Maturity Date; provided, however, that in no event shall this Agreement have a term of greater than twenty five years from the latest date of execution of this Agreement.

Section 9.2 RIGHTS OF FIRST REFUSAL.

(a) The County agrees that before entering into negotiations with any third party for the disposal of Solid Waste following the expiration of this Agreement on terms similar in whole or in part to those contained herein, the County shall first negotiate in good faith with the Authority for such disposal.

(b) Similarly, if the Authority proposes to continue to operate the System or any component thereof beyond the term hereof, the Authority shall so advise the County and, upon the request of the County, negotiate in good faith the terms upon which the Authority would accept and dispose of an amount of Solid Waste up to the capacity of the System.

(c) The Authority shall notify the County at least six (6) months before the termination of this Agreement if it proposes to continue to operate the System or any component thereof beyond the term hereof so that the County and the Authority may enter into negotiations, if desired, as to what arrangements will be made for

continuing the service provided under this Agreement beyond the termination date.

(d) If the County and the Authority do not reach an agreement on the terms of a Renewal Agreement ninety (90) days prior to the expiration of this Agreement, the County may proceed to negotiate with third parties.

ARTICLE X

REPRESENTATIONS AND WARRANTIES

Section 10.1 REPRESENTATIONS AND WARRANTIES OF THE COUNTY.

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

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

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

(c) The execution by the County of this Agreement and the performance by the County of its obligations in connection with the transactions contemplated hereby or the fulfillment by the County of the terms or conditions hereof (i) do not conflict with, violate or result in a breach of any constitution, law or governmental regulation applicable to the County, or condition of any judgment or decree, or any agreement or instrument, to which the County is a party or by which the County or any of its properties or assets are bound, or constitutes a default thereunder or (ii) 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 County.

(d) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution of this Agreement by the County 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 County's knowledge, threatened, against the County, wherein an unfavorable decision, ruling or pending would materially, adversely affect the performance by the County 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 agreement or instrument entered into by the County 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 County:

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

(b) The Authority has duly authorized the execution of this Agreement and such agreement has been duly executed by the Authority and constitutes legal, valid and binding obligations of the Authority, enforceable against the Authority in accordance with its terms.

(c) The execution by the Authority of this Agreement and the performance by the Authority of its obligations in connection with the transactions contemplated hereby or the fulfillment by the Authority of the respective terms or conditions hereof (i) do not conflict with, violate or result in a breach of any constitution, law or governmental regulation applicable to the Authority, 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 hereunder or (ii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority.

(d) No approval, authorization, order or consent of, declaration, registration or filing with, any governmental Authority is required for the valid execution of this 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, is 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 Agreement or any other agreement or instrument entered into by the Authority in connection with the transactions contemplated hereby.

ARTICLE XI

MISCELLANEOUS

Section 11.1 UNCONTROLLABLE CIRCUMSTANCE.

Each party hereto 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 affecting the party seeking to be excused from performance; provided, however, that in no event shall an Uncontrollable Circumstance excuse the County from performing any obligation to make any payment hereunder in accordance with the terms hereof. Each party shall seek diligently and in good faith to overcome or remove any Uncontrollable Circumstance, provided, however, that the settlement of any legal action or administrative proceedings shall be entirely in the discretion of the party suffering the same, and such party shall not be required to make settlement of legal actions or administrative proceedings when such settlement would be unfavorable, in the judgment of the party suffering the legal action or administrative proceedings. A party claiming the benefit of this Section 11.1 shall give prompt notice thereof to the other party. The Authority and the County shall notify each other of the adoption, promulgation, issuance, material modification or change in interpretation of any material federal, state or local law, regulation, rule, requirement, or ordinance constituting Applicable Law occurring after the date hereof which comes to the attention of either party.

Section 11.2 DISPUTE RESOLUTION.

(a) Subject to Applicable Law, and except as explicitly provided otherwise in this Agreement, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, which the parties are unable to resolve themselves shall be finally settled by Arbitration in accordance with this Section 11.2 and (except to the extent consistent with the express provisions of this Section) the commercial Arbitration Rules of the American Arbitration Association, by, in the discretion of the County, a single arbitrator or three arbitrators, chosen in accordance with such Rules. The Agreement to arbitrate disputes as provided in this agreement shall be specifically enforceable in any court having jurisdiction.

(b) No individual who is, or has at any time been, an officer, employee, or consultant of either party shall be an arbitrator without the express written consent of both parties.

(c) Either party may initiate Arbitration by giving notice to the other party and to the Syracuse, New York Regional Director of the American Arbitration Association, requesting Arbitration of any controversy or claim arbitrable hereunder. The award of the arbitrator shall be in writing and shall include written findings of fact. New York State law shall govern any arbitration proceedings held hereunder.

(d) All Arbitration proceedings shall be held in Malone, New York, or such other place reasonably convenient to the parties as the arbitrator or arbitrators shall determine. Each of the parties shall produce such records as the Arbitrator may request.

(e) The arbitrator(s) shall determine a fair and equitable allocation of the reasonable fees and expenses of each party incurred in connection with any Arbitration hereunder, and such allocation shall be binding upon the parties.

(f) Each party submits to the jurisdiction of the arbitrator or arbitrators appointed in accordance herewith. The determination of the arbitrator or arbitrators shall be final and binding upon the parties and may be entered in any court having jurisdiction.

(g) The parties shall continue to perform in accordance with the terms of this Agreement during the pendency of any arbitration proceeding.

Section 11.3 ASSIGNMENT.

This Agreement may not be assigned by either party except that the Authority may, without the consent of the County, assign its interest and obligations hereunder to a trustee or trustees as collateral for or otherwise in connection with arrangements for the financing or refinancing of all or part of the System or any modification thereof or addition thereto. In the event of an assignment by the Authority under this Section 11.3, the County 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.

Section 11.4 RELATIONSHIP OF THE PARTIES.

Nothing in this Agreement shall be deemed to constitute either party a partner, agent, local representative of the other party or to create any fiduciary relationship between the parties.

Section 11.5 NOTICES.

(a) All notices, consents, invoices and other communications required, permitted or otherwise delivered under this Agreement shall, (except as permitted under Article II) be in writing and may be telexed, cabled or 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 County:

County of Franklin
County Legislature
County Courthouse
63 W. Main Street
Malone, New York 12953
Attention: Chairman, Board of Legislators

If to the Authority:

County of Franklin Solid Waste
Management Authority
121 East Main Street
Malone, New York 12953
Attention: Executive Director

(b) Changes in the respective addresses to which such notices, consents, invoices, or other communications may be directed may be made from time to time by either party by notice to the other party. Notices and consents shall be considered to have been given when received.

Section 11.6 ENTIRE AND COMPLETE AGREEMENT.

This Agreement, together with Appendix A, constitutes the entire and complete agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous understandings, arrangements, commitments and representations pertaining to the subject matter hereof, 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 promises and 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 Agreement.

Section 11.9 GOVERNING LAW.

(a) The law of the State of New York shall govern the validity, interpretation, construction and performance of this Agreement and the obligations to make payments hereunder.

(b) The obligations of the County to make payments hereunder shall, to the extent applicable, be in conformity with section t(1) of the Act.

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 which shall be deemed an original, and all of which when executed shall together constitute one and the same instrument.

Section 11.12 AMENDMENT OR WAIVER, ETC.

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; provided, however, that no such amendment to this Agreement may be made in contravention of the Bond Resolution, dated as of May 1, 1993, as amended or supplemented, a copy of which shall be provided to the County.

Section 11.13 WAIVER OF SOVEREIGN IMMUNITY.

The County and the Authority, to the maximum extent permitted by Applicable Law, hereby irrevocably waive and renounce any and all rights to sovereign immunity (or similar rights and defenses) which they may have under Applicable Law with respect to, and agree 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, asserted or brought by or on behalf of the other or any successor or assignee acquiring an interest hereunder consistent with Section 11.3.

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 hereto 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 CONFLICTS.

In the event of a conflict between this Agreement and any Applicable Financing Agreement entered into by the Authority, the provisions of such financing agreement shall govern.

Section 11.16 THIRD PARTY BENEFICIARY.

The Trustee is hereby declared a third party beneficiary of the right of the Authority to receive the payments set forth above in Article III. Following an Event of Default as set forth in Article 8, the Trustee shall be entitled to a judgment, mandamus, mandatory injunction and all other legal or equitable remedies afforded by Applicable Law to compel payment by the County, if the Trustee has made written demand therefor and any deficiency is not paid within thirty days of such demand.

IN WITNESS WHEREOF, the County of Franklin, New York has caused this Agreement to be executed in its name by Gordon Perham, Chairman of the Franklin County Legislature and has caused its seal to be attached to this Agreement as of the first day of May, 1993.

COUNTY OF FRANKLIN, NEW YORK

(SEAL)

By: Gordon Perham
(Vice) Chairman
Legislature of the
County of Franklin

ATTEST:

By: Glenn J. Anderson
Clerk of the Franklin County Legislature

IN WITNESS WHEREOF, the County of Franklin Solid Waste Management 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 the first day of May, 1993.

COUNTY OF FRANKLIN
SOLID WASTE MANAGEMENT AUTHORITY

(SEAL)

By: Wayne Rogers
(Vice) Chairman

ATTEST:

By: Dorothy Fuller
Secretary

DEFINITIONS

"Actual Service Fee" means the Service Fee for a Fiscal Year using actual data pursuant to Section 3.7(b).

"Applicable Law" means any law, regulation, requirement or order of any federal, state or local agency, court or other governmental body, applicable from time to time to the acquisition, design, construction, equipping, testing, start-up, financing, ownership, possession or operation of the System or the performance of any obligations under any agreement entered into in connection therewith.

"Authority" means the County of Franklin Solid Waste Management Authority and its successors and permitted assigns.

"Authority Representative" means an authorized representative of the Authority designated in accordance with Section 11.5.

"Bond Resolution" means the resolution adopted by the Authority authorizing the issuance of the Bonds and constituting a contract among the Authority, the Trustee and the holders from time to time of the Bonds.

"Bonds" means debt obligations of the Authority incurred to finance the development, acquisition, construction and equipping of any part of the System, and improvements, repairs or additions thereto or modifications hereof.

"C&D Landfills" means the construction and demolition debris landfills to be constructed by the Authority.

"Changes" has the meaning given in Section 6.1(a).

"Commencement Date" means July 1, 1994 or any such earlier date as shall be mutually agreed upon by the parties.

"Consolidation Landfills" means landfills operated by the Towns of Malone, Village of Saranac Lake and Village of Tupper Lake pursuant to the Landfill Consolidation Plan and owned by the Village of Malone, Village of Saranac Lake and the Town of Altamont, respectively.

"County" means the County of Franklin, New York, and its successors and permitted assigns.

"County Representative" means an authorized representative of the County designated in accordance with Section 11.5.

"Debt Service" means an amount equal to the aggregate amount required for scheduled interest (excluding any interest payments payable out of the proceeds of any Bonds), principal and premium, if any, payments to be made by or on behalf of the Authority during or with respect to a Fiscal Year pursuant to the Bond Resolution, any other resolution of the Authority or other financing agreement entered into by the Authority with respect to the acquisition, design, construction, equipping, financing, or operation of, or any modification, improvement, repair or addition to the Waste Management System (collectively, "Applicable Financing Agreements"). Debt Service shall include (without limitation) all payments with respect to the principal of and premium (if any) and interest on the Bonds and shall exclude Subordinate Obligations (as defined in the Bond Resolution).

"DEC" means the Department of Environmental Conservation of the State of New York.

"Estimated Service Fee" means the amount established Pursuant to Section 3.6.

"Event of Default" means Events of Default as prescribed in Article VIII.

"Expenses" means the amount the Authority incurs due to the ownership, improvement, operation and maintenance of the System and the Authority, including any Debt Service, plus the amount of any Service Fee Shortfall with respect to a prior Fiscal Year.

"Fiscal Year" means the fiscal year of the Authority.

"Hazardous Waste" means a solid, semi-solid liquid, liquid or contained gaseous material which either is listed in 40 C.F.R. part 261.33, or exhibits any of the characteristics of ignitability, corrosivity, reactivity, or EP toxicity as defined in 40 C.F.R. parts 261.20 through 261.24 or New York or County of Franklin law, and successor provisions, as those may be amended from time to time; including explosives and radioactive, toxic, pathological, biological, and other hazardous wastes that, under Applicable Law require special handling in their collection, treatment, storage or disposal and containers used for such products.

"Independent Public Accountants" means that firm of certified public accountants appointed from time to time by the Authority in accordance with the Bond Resolution and Authority policy. The Independent Public Accountants shall serve until their successors are duly nominated and selected.

"Infectious Waste" means: (1) Equipment, instruments, utensils, and fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having

a communicable disease and must, therefore, be isolated is required by public health agencies; (2) laboratory wastes such as pathological specimens (e.g., all tissues, specimens of blood elements, excreta, and secretions obtained from patients or laboratory animals) and disposal fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; (3) surgical operating room pathologic specimens and disposable fomites attendant thereto and similar disposal materials from out-patient areas and emergency rooms.

"Interim Disposal System" or "Interim System" means the Consolidation Landfills and the Transfer Stations operating in accordance with the Landfill Consolidation Plan.

"Landfills" means any landfill designated for use by the Authority, including the Regional Landfill and the C&D Landfills.

"Landfill Consolidation Plan" means the landfill consolidation plan developed by the Authority and approved by the DEC on March 20, 1992.

"Landfill Sites" means land on which any Landfill is located.

"Local Law #7" means Local Law #7 of 1992 of the Board of Legislators of the County, which law became effective on September 1, 1992.

"Maturity Date" means the date on which all outstanding Bonds are retired.

"Net Investment Earnings" shall be an amount equal to all investment income received by or on behalf of the Authority or the County during or with respect to such Fiscal Year on funds and accounts created or maintained under any applicable financing agreement and available pursuant to the terms of such applicable financing agreements for application to debt service, less any amount required under any financing agreement to be paid or reserved to be paid in order to comply with the Internal Revenue Code and any regulations promulgated thereunder.

"Operating and Maintenance Costs" means all expenses exclusive of Debt Service incurred by the Authority due to the provision of Solid Waste management services, including its ownership, improvement, operation and maintenance of the System and excluding any payments to the County pursuant to this Agreement. The term includes, without limitation, payments made to others for goods, and services, payments made to or on behalf of members and employees of the Authority, rent, supplies, insurance,, contributions to reserves for equipment replacement, repair or expansion, and any and all other costs reasonably incurred with respect to the Authority's provision of Solid Waste management

services, including its ownership, operation and maintenance of the system, including landfill closure costs and post-closure monitoring, maintenance and repair.

"Permitted Haulers" means persons registered with the Authority pursuant to Section 2.8.

"Person" means any individual, corporation, not-for-profit corporation, public benefit corporation, partnership, joint venture, association, joint-stock company or unincorporated organization, or any government unit, agency or authority or political subdivision.

"Receiving Hours" means the times specified pursuant to Section 2.2.

"Recyclable Materials" means all components of Solid Waste which are subject to recycling in accordance with County law.

"Regional Landfill" means the multi-cell landfill to be constructed by the Authority in the County as part of the System pursuant to the Landfill Consolidation Plan.

"Refused Waste" means any waste delivered to the System that is determined by the Authority to contain waste that is not Solid Waste before such waste is disposed of at the Landfills or the Transfer Stations.

"Reimbursement Amounts" has the meaning given in Section 3.5.

"Reimbursement Period" has the meaning given in Section 3.5.

"Service Fee" means the fee payable by the County to the Authority pursuant to Section 3.3.

"Service Fee Shortfall" has the meaning given in Section 3.7(e).

"Service Fee Surplus" has the meaning given in Section 3.7(d).

"Sludge" means the accumulated semi-liquid suspension of settled solids deposited from wastewaters or other fluids in tanks or basins. It does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants.

"Solid Waste" means any garbage, refuse, other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, recyclable materials, compostable materials from residential, commercial, industrial and institutional generators in the County, and outside the County if permitted by the terms of this Agreement, by Applicable Law and by policies of the Authority, construction and demolition debris, and other waste which the Authority may dispose of in the System, or otherwise as provided in this Agreement; provided, however, that in no event shall Solid Waste include any materials that are Hazardous Waste, Infectious Waste, Sludge not permitted to be disposed of at the Landfills or the Transfer Stations by the DEC, oil, solvents, gasoline and other flammable liquids and other material excluded from the definition of Solid Waste pursuant to Applicable Law, including 40 CFR Section 261.4 as published and amended from time to time.

"System" means the Waste Management System.

"Tipping Fee" means the fees for use of the System collected by the Authority pursuant to Section 3.2.

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

"Transfer Stations" means any facility for receiving and consolidating Solid Waste for purposes of transshipping it to the Landfills, or any other Solid Waste management facility that may be established by the Authority as part of the System, including the transfer stations to be located in the Towns of Bellmont, Dickinson, Fort Covington, Harrietstown, Altamont and Malone.

"Trustee" means the bank, trust company or national banking association serving as trustee under the Bond Resolution.

"Uncontrollable Circumstance" means any event or conditions, whether affecting the System, the Authority, or the County, as the case may be, that has or may reasonably be expected to have, a material adverse effect on the ability of a party to perform its obligations hereunder if such event or condition is beyond the reasonable control, and not the result of an intentional wrongful act, willful, bad faith, or negligent action or a lack of reasonable diligence, of or by the party (the "non-performing party") relying thereon as justification for (i) not performing any obligation or complying with any condition required of such party hereunder, (ii) delaying such performance or compliance, or (iii) an adjustment to the Tipping Fee, the User Fee or the Service Fee. The following events, among others may, under appropriate circumstances, constitute Uncontrollable Circumstances:

(a) an act of God, storm, flood or similar occurrence (except for weather conditions normal for the area), landslide,

earthquake, an act of the public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence;

(b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body (including, without limitation, government preemption of materials), if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing party and the non-performing party does not control the administrative agency or governmental officer or body, provided, however, that the diligent contest in good faith of any such order 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 adoption, promulgation, issuance, material modification or change in interpretation, after the date of this Agreement, of any federal, state or local law, regulation, rule, requirement, or ordinance (if the non-performing party does not control the relevant administrative agency or governmental officer or body) (provided, however, that, for the purposes of this subsection, a law, regulation, rule, requirement, or ordinance is deemed to be duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, when it is in provisional, interim or final form and effective or to become effective without any further action by the federal, state or local governmental body, administrative agency or governmental official having jurisdiction);

(d) the failure of the jurisdiction in which the Landfills or any Transfer Station is situated or the appropriate federal or state agencies or public utilities having operational jurisdiction in the area of location of the Landfills or any Transfer Station to provide and maintain and assure the maintenance and supply of all required water lines, utilities, services and sewerage;

(e) a strike, lockout or other similar labor action, except that a lockout by the non-performing party claiming excuse shall not constitute an Uncontrollable Circumstance;

(f) the failure to obtain or maintain any essential permits or licenses from any government unit; provided, however, that the contesting in good faith of any such failure shall not be construed as a willful or negligent action or lack of reasonable diligence of the non-performing party;

(g) the failure of any subcontractor or supplier selected with reasonable care to furnish labor, services, material or equipment by the time set forth in the applicable contract; provided, however, that such labor, services, material or equipment

are not obtainable from other sources in sufficient time to permit the non-performing party to this agreement to fulfill its obligations hereunder; or

(h) a defect in manufactured equipment or components; provided, however, that such equipment or components are under warranty at the time the defect is discovered.

The term "reasonable control" include investigation or planning that is required by sound management or industry practices. The term "subcontractor" means a subcontractor at any tier.

"User Fees" means any charges, not including Tipping Fees, established by the County or the Authority during the term of this Agreement for the provision and/or use of the System chargeable to any Person for the disposal and/or recycling of Solid Waste by the Authority.

"Waste Management System" or "System" means the Landfills, the Transfer Stations and any facilities, subsequently incorporated or constructed, including sites, real and other property, and any modifications, improvements or additions thereto, and including facilities owned by the Authority or by others and used by the Authority to provide Solid Waste related services including the handling, processing, disposing and recycling of Solid Waste or used by others to provide Solid Waste management related services to the Authority for the purpose of handling, processing, disposing, or recycling of Solid Waste delivered or caused to be delivered to the Authority by the County or other Persons pursuant to agreements entered into between the Authority and such other Persons.

"Year-End Adjustment" means the amount determined in accordance with Section 3.7.

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FURTHER RESOLVED: That the Director of the Career Development Center is hereby authorized to fill said positions with monies to be taken from existing funds; and, be it

development monies to

FURTHER RESOLVED: That the Director of the Career Development Center is hereby authorized to increase the annual salary of the Fiscal Manager from \$23,416.00 to \$26,095.00 with monies to be taken from existing funds.

Legislator olution as

Legislator Smith seconded the amendment. All Members present voted in the affirmative. Amendment unanimously adopted. All Members present voted in the affirmative on the Resolution. Resolution unanimously adopted as amended.

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Secretary King advised everyone that the following Resolution needed to be offered without objection as it didn't meet the time requirement. Chairman Perham asked if there were any objections. There were none.

their Places nter

RESOLUTION NO. 221 8-18-94 section 2.16

Center has ing several esources to

Offered by Solid Waste Committee
Relating to Authorization to Enter Into Contract With Persons Other Than the County of Franklin for the Disposal of Solid Waste

ls that the planning and is more case to program i be created

RESOLVED: That the Franklin County Solid Waste Management Authority is authorized to enter into contracts with persons other than the County of Franklin for the disposal of Solid Waste; and, be it

ion had been st two years she has been position was

FURTHER RESOLVED: That this consent is granted in compliance with Section 2.16 of the Solid Waste Management Services Agreement dated May 1, 1993 between the County of Franklin and the County of Franklin Solid Waste Management Authority.

nsidered said v, THEREFORE,

Motion made by Legislator Maroun and seconded by Legislator LaFave. All Members present voted in the affirmative. Resolution unanimously adopted.

ature hereby ounselors and

RESOLUTION NO. 222

Legislator Smith pulled this Resolution.

Class, Annual

Offered by Legislator Smith
Relating to Filling Vacancy In Franklin County Legislative District #7

Class, Annual

WHEREAS: On August 1, 1994, longtime Franklin County Legislator Clifford R. Donaldson, Jr., resigned his seat for a new position in Albany; and

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AMENDMENT TO
SOLID WASTE MANAGEMENT SERVICES AGREEMENT
between
COUNTY OF FRANKLIN, NEW YORK
and
COUNTY OF FRANKLIN SOLID WASTE
MANAGEMENT AUTHORITY

Dated: 5/18/95

AMENDMENT TO
SOLID WASTE MANAGEMENT SERVICES AGREEMENT

This Amendment to the Solid Waste Management Services Agreement which Agreement was originally dated as of May 1, 1993, is made and entered into as of the 18th day of May, 1995 by and between the County of Franklin, New York ("the County"), a body corporate and politic constituting a public benefit corporation of the State of New York, and the County of Franklin Solid Waste Management Authority (the "Authority"), a public authority organized and existing under the laws of the State of New York (the "State").

RECITALS

WHEREAS, the Authority and the County entered into a Solid Waste Management Services Agreement (the "Services Agreement") as of May 1, 1993; and

WHEREAS, the parties wish to amend the definition of "Bonds" contained in the said Services Agreement in anticipation of the advance refunding of a portion of the outstanding principal balance of the Authority's Solid Waste System Revenue Bonds, Series 1993 issued pursuant to the Authority's Bond Resolution (as defined below) and the Solid Waste System Revenue Bond Series Resolution adopted on June 8, 1993..

WHEREAS, Section 1109 of the Solid Waste System Revenue Bond Resolution, adopted by the Authority on June 8, 1993 (the "Bond Resolution") permits certain amendments and modifications to be made to the Services Agreement with the consent of The Bank of New York, as trustee, and without the consent of the holders of the Bonds (as defined therein).

NOW, THEREFORE, in consideration of One (\$1.00) Dollar and the mutual promises and covenants of each to the other contained herein the parties agree as follows:

AGREEMENT

1. The definition of "bonds" contained in Appendix A of the Service Agreement is hereby amended to read as follows:

"Bonds" means debt obligations of the Authority incurred to finance or refinance the development, acquisition, construction and equipping of any part of the System, and improvements, repairs or additions thereto or modifications thereof.

2. Except as explicitly amended above the terms of the Solid Waste Management Services Agreement between the parties dated as of May 1, 1993 are expressly ratified and confirmed.

IN WITNESS WHEREOF, the County of Franklin, New York has caused this Agreement to be executed in its name by Alfred LaFave, Chairman of the Franklin County Legislature and has caused its seal to be attached to this Amendment as of the 18th day of May, 1995.

COUNTY OF FRANKLIN

(SEAL)

BY: _____

Alfred LaFave

Alfred LaFave, Chairman

ATTEST:

BY: _____

Gloria J. Jandrew

Gloria J. Jandrew,
Clerk of the Franklin County Legislature

Δ-C

AMENDMENT TO
SOLID WASTE MANAGEMENT SERVICES AGREEMENT

between

COUNTY OF FRANKLIN, NEW YORK

and

COUNTY OF FRANKLIN SOLID WASTE
MANAGEMENT AUTHORITY

Dated: 5/18/95

AMENDMENT TO
SOLID WASTE MANAGEMENT SERVICES AGREEMENT

This Amendment to the Solid Waste Management Services Agreement which Agreement was originally dated as of May 1, 1993, is made and entered into as of the 18th day of May, 1995 by and between the County of Franklin, New York ("the County"), a body corporate and politic constituting a public benefit corporation of the State of New York, and the County of Franklin Solid Waste Management Authority (the "Authority"), a public authority organized and existing under the laws of the State of New York (the "State").

RECITALS

WHEREAS, the Authority and the County entered into a Solid Waste Management Services Agreement (the "Services Agreement") as of May 1, 1993; and

WHEREAS, the parties wish to amend the definition of "Bonds" contained in the said Services Agreement in anticipation of the advance refunding of a portion of the outstanding principal balance of the Authority's Solid Waste System Revenue Bonds, Series 1993 issued pursuant to the Authority's Bond Resolution (as defined below) and the Solid Waste System Revenue Bond Series Resolution adopted on June 8, 1993..

WHEREAS, Section 1109 of the Solid Waste System Revenue Bond Resolution, adopted by the Authority on June 8, 1993 (the "Bond Resolution") permits certain amendments and modifications to be made to the Services Agreement with the consent of The Bank of New York, as trustee, and without the consent of the holders of the Bonds (as defined therein).

NOW, THEREFORE, in consideration of One (\$1.00) Dollar and the mutual promises and covenants of each to the other contained herein the parties agree as follows:

AGREEMENT

1. The definition of "bonds" contained in Appendix A of the Service Agreement is hereby amended to read as follows:

"Bonds" means debt obligations of the Authority incurred to finance or refinance the development, acquisition, construction and equipping of any part of the System, and improvements, repairs or additions thereto or modifications thereof.

2. Except as explicitly amended above the terms of the Solid Waste Management Services Agreement between the parties dated as of May 1, 1993 are expressly ratified and confirmed.

IN WITNESS WHEREOF, the County of Franklin, New York has caused this Agreement to be executed in its name by Alfred LaFave, Chairman of the Franklin County Legislature and has caused its seal to be attached to this Amendment as of the 18th day of May, 1995.

(SEAL)

COUNTY OF FRANKLIN
BY: Alfred LaFave
Alfred LaFave, Chairman

ATTEST:

BY: Gloria J. Jandrew
Gloria J. Jandrew,
Clerk of the Franklin County Legislature

IN WITNESS WHEREOF, the County of Franklin Solid Waste Management 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 the 22nd day of May, 1995.

(SEAL)

COUNTY OF FRANKLIN
SOLID WASTE MANAGEMENT AUTHORITY
BY: Gary Mulverhill
Gary Mulverhill, Chairman

ATTEST:

BY: Dorothy McGuire
DOROTHY MCGUIRE, Secretary