

MEMORANDUM OF UNDERSTANDING

To be incorporated as an amendment to the existing 2007 Host Community Agreement

1. \$3.5 million payment to Town upon execution of an amended Host Community Agreement (“HCA”), which will be held in escrow until all legal challenges to the HCA or any of the other actions referenced herein have been defeated and are unappealable; payment will be returned to SMI if preceding condition cannot be met.
2. The HCA shall be amended as follows:
 - a. In lieu of quarterly payments, beginning January 1, 2019, host community payments shall be no less than \$5 million, said \$5 million to be paid in advance towards the Town’s anticipated 5.5% share of SMI’s gross revenues, which will be held in escrow until all legal challenges to any of the actions referenced herein have been defeated and are unappealable; payment will be returned to SMI if preceding condition cannot be met.
 - i. Beginning 2019, in the event 5.5% of SMI’s year-end gross revenues exceed the above \$5 million payment, that additional difference shall be paid to the Town on January 1 of the following year, together with the \$5 million advance due for that year.
 - b. The above advance payment shall be paid on January 1 of each year thereafter.
 - i. The above percentage shall be increased as follows:
 1. starting 2022, to 6.0%, starting 2025 to 6.25%, starting 2028 to 6.5%.
 - c. If SMI’s gross revenue drops below thirty million dollars (\$30,000,000.00) in any calendar year while the HCA is effective, the host community fee for that year shall revert to the revenue share percentages under the HCA without any minimum advance obligation, payable in quarterly installments; any overpayments shall be credited against the next host community fee owed under the HCA or refunded to SMI. However, in the event host community fee payments do not total five million dollars (\$5,000,000.00) in any given year, the Town may, in its sole discretion, exercise the right to change the contractual closure date to that year in which the aforementioned payment failure occurs.
 - d. SMI shall stop accepting solid waste by 12/31/2037 and shall begin closure activities as required by the DEC.
 - e. HCA shall include a closure date of 12/31/2037, and SMI agrees to limit any request for DEC permits to 2037.
 - f. Reimbursement of the Town’s professional consultants’ fees (including engineering and legal) relating to the operation of SMI, up to \$100,000.00/year, which will be held in escrow until all legal challenges to any of the actions referenced herein have been defeated and are unappealable; payment will be returned to SMI if preceding condition cannot be met.

3. Current Town Board will undertake to adopt a local law that is consistent with and mirrors the amended HCA insofar as incorporating a firm closure date of all solid waste management activities at SMI as set forth above. The new local law would amend/supersede Local Law #3 of 2016. SMI will not challenge such adoption.
4. Current Town Board agrees not to oppose infill of former Tantalio site.
5. Breach of the amended HCA by the parties shall be enforced pursuant to the same terms as the 2007 HCA.