

**HOST MUNICIPALITY FEE AGREEMENT**

Entered into this \_\_\_\_\_ day of November 2014 by and between

Keystone Sanitary Landfill, Inc. 249 Dunham Dr. Dunmore, Pa. (Keystone)

and

Borough of Dunmore, 400 S. Blakely St. Dunmore Pa. (Dunmore)

In consideration of mutual benefits, it is hereby understood, acknowledged and agreed by and between the parties as follows:

1. All receivables due from Dunmore to Keystone shall be forgiven and brought to a balance of zero through the date of this Agreement. Further there shall be no claim for credit, setoff or reimbursement for any sum paid to the Borough hereunder and Keystone shall waive any right of contribution be it equitable, statutory, or in common law with regard to waste unearthed and moved within the landfill
2. Dunmore shall have the right to dispose, at Keystone, any and all residential municipal solid waste generated within the geographic boundaries of the Borough, for the operational life of the landfill, at no cost, charge, fee or setoff to the Borough. Also including waste from any public/community buildings/parks. The parties acknowledge any interruption of service, except as provided herein would cause irreparable harm to the Borough.
3. Dunmore shall have right to available air space for the operational life of the landfill provided that the landfill is open and accepting waste.
4. In addition to and exclusive of any host municipality fees or other fees payable to Dunmore by virtue of Act 101 of 1988 or any other State or Federal Act, Rule, Regulation, Decision or Order (in 2014, currently \$.41), Keystone will pay to Dunmore the following additional

minimum sums, per ton of waste received, deemed acceptable and disposed at Keystone on or after December 1, 2014:

- December 1, 2014 through November 30, 2015 - sum of seventy-nine (\$.79) cents, by way of explanation and not limitation the aggregate sum is \$1.20 inclusive of the current state host fee.
- December 1, 2015 - sum of eighty-nine (\$.89) cents, by way of explanation and not limitation the aggregate sum is \$1.30 inclusive of the current state host fee.
- December 1, 2016 - sum of ninety-nine cents (\$.99), by way of explanation and not limitation the aggregate sum is \$1.40 inclusive of the current state host fee.
- December 1, 2017 - sum of one dollar and nine cents (\$1.09), by way of explanation and not limitation the aggregate sum is \$1.50 inclusive of the current state host fee.
- December 1, 2018 and thereafter, Keystone will pay an additional one (\$.01) cent per ton per year, on waste received, deemed acceptable and disposed at Keystone and continuing in one cent increases for each year on December 1st. This fee shall be calculated on the calendar quarter and shall be paid within thirty calendar days after the end of each quarter, without any right of setoff or claim. Calculation documentation shall accompany prompt payment. As to buried waste on the unlined portion of the landfill, where waste will be excavated and placed on the lined portion, no host waste fee of any kind will be paid to the Borough. The parties agree the minimum waste fee currently at forty-one cents shall not be reduced below that amount at any time regardless of any other State or Federal Act, Rule, Regulation, Decision or Order.

5. Dunmore School District (“District”) Fee.

Commencing as of December 1, 2014, Keystone shall provide the Borough an additional fee of Twenty-Five Thousand Dollars (\$25,000.00) per calendar quarter year, dedicated for the use and benefit of the Dunmore Borough School District or consolidated district for which it may become a part. The funds shall be used for implementation for nutrition, for the advancement of curriculum and materials in: Science, Technology, Engineering and Math (“STEM”) and promote literacy, and the District shall acknowledge same as a condition of forwarding same. The fees and services to the District are for the benefit of the Borough and no third party rights in the District are created hereunder. After ten (10) years from the date hereof, the parties agree to re-examine the contribution to the District for any additional contribution.

6. The District may also have the right to dispose, at Keystone, any and all municipal solid waste generated from the District buildings, activities or fields, for the operational life of the landfill, at no cost, charge, fee or setoff to the District, not to exceed twenty-two (22) tons per week, subject however to the restriction that such refuse be disposed of in a Borough vehicle or District owned vehicle designated for its use for its collection. It is intended that no co-mingled waste, other than authorized Borough waste identified in paragraph 1, from the District be deposited in the landfill. Keystone may establish reasonable rules to insure compliance by the District on waste disposal. In the event the District uses Borough vehicles and labor, the District shall be responsible for the Boroughs costs. This Agreement does not repeal or limit the rights and responsibilities set forth in the document captioned Keystone Sanitary Landfill Host Community Benefit and Settlement Agreement issued by the Borough of Dunmore on September 29, 1999,

including by way of explanation and not limitation, Keystone's responsibilities under Section 1A and the parties agreement in Section 2 to dialogue, as maybe necessary from time to time, including 25 Pa. Code § 271.211(a). In so accepting the benefits conveyed herein, the Borough does not waive or otherwise relinquish any rights it may have to identify and report any future concerns associated with Landfill activities to the Keystone and appropriate regulatory authorities, pursuant to the cooperation and coordination provisions described herein or therein.

7. Memorandum of Agreement.

The parties agree that a Memorandum of this Agreement may be put in recordable form at the election of the Borough and filed as appropriate, including but not limited to in the Recorder of Deeds Office of Lackawanna County, Pennsylvania.

8. Pre-Existing Landfill.

Without enlarging or diminishing any rights or obligations according to the permit, the Borough acknowledges that Keystone is a pre-existing landfill entitled to the protections afforded to such use. The Borough acknowledges that its' zoning ordinance at §11.185 defines sanitary landfill as a facility pursuant to PADEP regulations governing sanitary landfills. Keystone shall make immediate application for an opinion to the Dunmore Borough Zoning Officer under, inter alia 53 P.S 10916.2, to confirm the landfill is a pre-existing use as a landfill, as that term is defined in the Solid Waste Management Act; and is not a building under the current zoning ordinance pertaining to maximum building height.

9. Indemnification.

Keystone shall indemnify and hold Borough (including the members of the Borough Council, employees, agents, consultants and attorneys) harmless from and against any and all loss, damage claims, causes of action, and other expenses arising from bodily injury, including death to persons, or property damage, including environmental liability, caused by Keystone's operation of the Landfill or its performance under the Host Agreement and any amendments, except where such loss, damage claim, cause of action or expense results from the willful misconduct of Borough or its Council, employees, agents, consultants or attorneys.

10. Any sum due but unpaid thirty days from the due date, as set forth in Paragraph 4, shall incur a late payment penalty in the amount of five (5%) per month of the face amount due and shall bear interest at the annualized rate of New York Prime (WSJ or similar indices if it ceases publication) plus two (2%) percent.

11. Keystone represents it holds a single permit for a landfill located in the Boroughs of Dunmore and Throop, Lackawanna County, Pennsylvania, namely Permit No.101247, and the terms hereof bind the permit holder. This Agreement is intended to be binding upon the successors and assigns of Keystone.

12. F&L Realty, F&L Realty, Corp, F&L Realty Company, Inc., F&L Realty, Inc., Keystone Company, Keystone Landfill, Inc. as the owner(s) of the parcel hereby join, consent and acknowledge the terms hereof and they are considered covenants running with the land.

**KEYSTONE SANITARY LANDFILL, INC.**

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

**DUNMORE BOROUGH COUNCIL**

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

Before me, Notary Public, personally appeared Louis DeNaples, who stated that as President of Keystone Sanitary Landfill, Inc., having been authorized to do so, signed the document for the purposes set forth therein.

\_\_\_\_\_ stamp/seal

Notary public

Before me, Notary Public, personally appeared Michael McHale, who stated that as President of Dunmore Borough Council, having been authorized to do so, signed the document for the purposes set forth therein.

\_\_\_\_\_ stamp/seal

Notary public

**F & L REALTY**

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President

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Secretary

**F & L REALTY CORP**

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President

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Secretary

**F & L REALTY COMPANY**

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President

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Secretary

**F & L REALTY, INC.**

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President

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Secretary

**KEYSTONE COMPANY**

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President

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Secretary

**KEYSTONE LANDFILL, INC.**

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President

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Secretary