

SPECIFICATIONS, PROPOSAL, AND CONTRACT

For services in the Borough of McSherrystown for the following:

Municipal Solid Waste Hauling and Recycling Services for the Borough of McSherrystown

ISSUED
March 12, 2026

Bids for Municipal Solid Waste Hauling and Recycling Service as covered by attached specifications must be received by Borough Council of the Borough of McSherrystown before 2:00 p.m., legal time, May 6, 2026, at the office of the Borough Manager Secretary/Treasurer, 338 Main Street, McSherrystown, Pennsylvania 17344.

BOROUGH COUNCIL OF THE BOROUGH OF MCSHERRYSTOWN

For further information please contact:
Jessica Friert, Borough Manager Secretary/Treasurer
717-688-9284
secretary@mcsherrystownboro.org

NOTICE - SEEKING BIDS

The Borough of McSherrystown is accepting sealed bids for: **Municipal Solid Waste Hauling and Recycling Services for the Borough of McSherrystown**. A complete proposal packet may be obtained from: Jessica Freiart, Borough Manager Secretary/Treasurer, Borough of McSherrystown, 338 Main Street, McSherrystown, PA 17344.

There will not be a Pre-Bid meeting to discuss this Bid and Agreement. A Performance Bond is required for this Bid, in the amount of 50% of the highest annual contract price for any one of the three years. A Proposal Bond in the amount of 10% of the Bidder's 2026 maximum price is to be included with the Bid.

Bids shall be submitted only on the Bid Form included in the Bidding Documents. While Bidders may make comments to clarify their bid, Bidders cannot change, modify, delete, alter, amend or make additions to the wording to any of the Bidding Documents, including but not limited to the Agreement. Unauthorized conditions, exceptions, limitations, or provisions attached to the bid may be cause for rejection of the bid. Any questions regarding the Bidding Documents shall be submitted as Requests for Interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the Bid opening date.

Borough Council intends to award the contract to the overall lowest responsible, responsive bidder, as determined by Borough Council in the best interest of the Borough; reserves the right to reject any or all bids; to waive any defects, errors, omissions, irregularities or informalities in a Bid or the Bid procedure; and to accept any Bid which it may deem to be for or in the best interest of the Borough.

Bids will be received at the above address **until 2:00 p.m. on Wednesday, May 6, 2026**. Any Bid received after this date and time will be returned unopened. Bids will be opened at 3:00 p.m. on May 6, 2026. All bids must be in a sealed envelope clearly marked "Bid for Borough of McSherrystown", bearing the name of the bidder and "Municipal Solid Waste Hauling and Recycling Services for the Borough of McSherrystown." If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on its face. Please mail bids to Attn: Jessica Freiart, Borough Manager Secretary/Treasurer.

Bids may be taken under advisement and the award of the contract, if awarded, will be made within 60 days after the date of the opening of the Bids. The Borough Council reserves the rights to formally accept a Bid and award a Contract by public announcement at a public meeting of the Borough.

INSTRUCTIONS TO BIDDERS

1. Project Overview

The Borough of McSherrystown (the "Borough") is seeking bids from qualified bidders for the following service and as further described in the Specifications herein:

Municipal Solid Waste Hauling and Recycling Services for the Borough of McSherrystown. The Borough intends to award a three (3) year Contract¹ to begin on July 1, 2026 and end on June 30, 2029. The Contract will also contain two (2) one-year optional extensions; the option exclusively being with the Borough. Said Contract shall be for the exclusive right and privilege of collecting and hauling municipal solid waste and recyclable material from all participating dwelling units within the limits of the Borough, those commercial or not-for-profit customers so designated by the Borough as having a "residential-style" trash pickup by the Borough, and those facilities owned/operated by the Borough. The Successful Bidder will be required to execute the Agreement in its current form, without any modifications. Failure of a Successful Bidder to timely execute the Agreement and submit all executed Contract Documents will result in the Borough utilizing the Successful Bidder's Bid Bond.

2. Bidding Documents

The Bidding Documents include the following documents:

- Notice / Advertisement
- Instructions to Bidders
- General Terms and Conditions
- Specifications
- Non-Discrimination Notice
- Bidder Affidavit
- Non-Collusion Affidavit
- Bidder's Questionnaire
- Proposal Bond
- Proposal
- Agreement
- W-9 Form

¹ The term "Contract" shall be an inclusive term used throughout the Bidding Documents to represent all the Bidding Documents and their terms and conditions. The term "Agreement" shall refer specifically to the document that is a part of the Bidding Documents and labeled "Agreement."

- Receipt of Confirmation of Bidding and Contract Documents
- Addenda (if released by Borough)
- Receipt of Addenda (if Addenda is released by the Borough)

3. Copies of Bidding: Documents

A complete set of Bidding Documents may be obtained by the Bidder at:

Borough of McSherrystown, 338 Main Street, McSherrystown, PA 17344.

The Bidding Documents may also be obtained electronically at <http://www.mcsherrystownboro.org>. All prospective bidders who obtained the Bidding Documents electronically must email a "Receipt of Confirmation" form no later than 4:00 PM on March 30, 2026 to Jessica Freiert at secretary@mcsherrystownboro.org.

Complete sets of the Bidding Documents shall be used in preparing the Bid. The Borough does not assume responsibility for any errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

4. Contractor

The Successful Bidder (i.e. the entity/individual chosen by the Borough to have the lowest, responsible bid) will be known as the "Contractor," and both terms are used interchangeably in the Bidding Documents.² The Contractor to whom the Contract is awarded will be required to comply with all applicable federal and state laws, rules, regulations, orders and approvals, and all applicable Borough ordinances, rules, and regulations. Included within this requirement, but not limited to, is compliance with the PA Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003) and the PA Municipal Waste Management Regulations (Pa. Code Title 25, Chapters 271-285).

5. Qualifications of Bidders

To demonstrate Bidder's qualifications to perform the Work and/or Services, the Bidder shall submit with the Bid a completed Bidder's Questionnaire, as contained in the Bidding Documents.

Submission of financial information is not required with the Bid, however, the Borough reserves the right to request such information within five (5) calendar days after the Bid opening date.

² Successful Bidder will be used primarily when referring to the Successful Bidder/Contractor before the Agreement is signed, and Contractor will be used in reference to the Successful Bidder/Contractor after the Agreement would be signed.

Each Bid must contain evidence of Bidder's qualification to conduct business in the Commonwealth of Pennsylvania, or covenant to obtain such qualification prior to and as a condition of the award for the Contract.

No bid will be accepted from, nor will any contract be awarded to any person who is in arrears with the Borough upon debt or contract, or who is in default as surety or otherwise, upon any obligation to said Borough or whose work has heretofore proved unsatisfactory or dilatory.

6. Interpretations and Addenda

Any questions or requests for interpretation of any provision of the Bidding Documents or Specifications shall be made in writing and directed to Jessica Freiert, Borough Manager Secretary/Treasurer, at 717-688-9284, or secretary@mcsherrystownboro.org at least five (5) days prior to the submission deadline.

The Borough may issue an Addendum if deemed necessary by the Borough to address or clarify the Bidding Documents prior to the submission deadline. Questions received after five (5) days prior to the date for opening Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral statements, interpretations or clarifications will not be binding or legally effective. A Bidder who fails to acknowledge receipt of any such Addendum with its Bid, as documented in a "Receipt of Addenda" form will be construed as though the Addendum had been received and acknowledged.

7. Security

7.1 All bonds shall be in the form and substance prescribed by the Bidding Documents except as provided otherwise by Laws and/or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to conduct business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this Section 7: Security, Contractor shall promptly notify the Borough and, within twenty (20) days after the event giving rise to such notification, provide another bond and surety.

7.2 **Proposal Security.** Each Bid must be accompanied by Bid security made payable to the Borough in an amount often percent (10%) of Bidder's maximum first year Bid price and in the form of a certified or bank check or a Bid Bond (on form attached) issued by a surety meeting the requirements of this Paragraph.

All instruments of Bid security shall be valid and remain in effect for at least one hundred twenty (120) days from the date of the bid opening. Substitute Bid Bond forms are not acceptable.

The Bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished acceptable Contract bonds and insurance certificate, if required, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish acceptable Contract bonds and insurance certificates, if required, within fifteen (15) days after the Notice of Intent to Award, the Borough may annul the Notice of Intent to Award and the full amount of the Bid security of that Bidder will be forfeited.

The Borough will return the Bid security and financial information, if any, of all Bidders, except the three apparent lowest responsible, responsive Bidders as determined by the Borough upon evaluation, within thirty (30) days after the date of Bid opening; and upon execution of the Agreement and furnishing of acceptable Contract bonds and insurance certificate by the Successful Bidder, the remaining Bid securities and financial information, if any, of the each of the three lowest Bidders will also be returned.

7.3 **Performance Bond.** When the apparent Successful Bidder delivers the signed Agreement to the Borough, it must be accompanied by the required Performance Bond on the form provided in the Bidding Documents. Substitute Bond forms are not acceptable.

The Contractor shall furnish Performance Bond, in an amount equal to fifty percent (50%) of the highest annual contract price for any one of the three (3) years as security for the faithful performance of all of Contractor's obligations under the Bidding Documents. This bond shall remain in effect until final payment is paid, except as provided otherwise by laws or regulations or by the Bidding Documents.

8. Proposal Form

The Bid shall be submitted as detailed in the Specifications. The Borough, in its sole and absolute discretion, will choose whichever Bid price is determined to be in the best interests of the Borough. The Bid price of each item on the Proposal form must

be stated in numerals and, if required, in words. Subject to the Borough's right to correct a Bidder's mathematical totals, a discrepancy between the word and numeral for a particular item will be resolved in favor of the word.

The Proposal Form (hereinafter the "Bid") of an individual must be signed by the individual person. The Bid of a partnership must state the names of each partner and it must be signed by at least one partner. The Bid of a corporation must show the State of incorporation and must be signed by the President, Vice President, or any other employee duly authorized pursuant to a corporate resolution. Bids signed by employees other than the President or Vice President shall include a resolution demonstrating that employee is indeed authorized to act on behalf of and to bind the corporation. The Bid of an LLC must be signed by an authorized member of the LLC, with the signature witnessed. All names must be typed or printed below each signature. Bid prices shall be inclusive and shall include, if applicable, all taxes of whatever nature. Submission of prices for Alternates, if any, is mandatory.

The following should be considered by the Bidder with Bid submission, if applicable:

Tax: Pennsylvania sales tax is **not** to be included in the bid. Tax exemption certificate will be furnished to the Contractor. The Borough is sales tax exempt. However, the Contractor is not exempt from the obligation to follow appropriate tax laws in the procurement of materials and services used in the performance of this Agreement. Bidder shall obtain legal advice to determine how and to what extent the Borough's tax exemption may be utilized by the Contractor. The Borough will provide, at the Contractor's request, documentation required to obtain applicable tax exemptions.

9. Submission of Bids

Bids shall be submitted no later than the time and place indicated in the Notice. All bids must be in a sealed envelope clearly marked "Bid for Borough of McSherrystown", bearing the name of the bidder and "Municipal Solid Waste Hauling and Recycling Service for the Borough of McSherrystown". If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Please mail bids to Attention: Jessica Freiart, Borough Manager Secretary/Treasurer. The Bidder is solely responsible for delivering Bid to the Borough at the location of, and by the time of, the Bid opening designated in the Notice.

The following completed documents are to be submitted with the Bid and will become a condition of the Bid:

- Proposal
- Proposal Bond
- Bidder Affidavit
- Non-Collusion Affidavit
- Bidder's Questionnaire
- Receipt of Addenda (if applicable)

Bidders may provide comments to clarify or describe their respective technical offer, but Bidders cannot change, modify, delete, alter, amend or make additions to the wording to any of the Bidding Documents, including but not limited to the Agreement, General Conditions, Specifications, or the Proposal form. Unauthorized conditions, exceptions, limitations, or provisions attached to the bid may be cause for rejection of the bid. Any questions regarding the Bidding Documents shall be submitted as a request for interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the Bid opening date.

It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, including but not limited to any Addenda or Memorandum and the related data identified in the Bidding Documents;
- B. if specified, or if, in Bidder's judgment, any local condition may affect cost, progress, or performance of the services, visit the Borough of McSherrystown to become familiar with the local conditions;
- C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or the performance of the Work and/or Services;
- D. carefully study and correlate the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Borough of McSherrystown, with the Bidding Documents;
- E. promptly give the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by the Borough is acceptable to Bidder; and
- F. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing the Work and/or Services.

10. DISPOSAL COSTS PER DISPOSAL AGREEMENT BETWEEN

MCSHERRYSTOWN BOROUGH AND THE YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY.

The successful bidder will be responsible for all payments due to the refuse authority for all refuse delivered to the incinerator as McSherrystown Borough refuse and per the agreement between the refuse authority and the Borough of McSherrystown. The cost of disposal for the 2026 year is \$85.00 per ton.

11. Escalator Clause

The final contract entered into between the Borough and successful bidder will contain an escalator clause providing for an adjustment in the quarterly payments to be made to the Contractor to reflect any increase or decrease in the actual costs incurred by the Contractor during the previous quarter as a result of any increase or decrease in the contract tipping fee charged by the York County Solid Waste and Refuse Authority after the effective date of the contract for refuse collected within the Borough and disposed of at the incinerator operated by said Authority. The quarterly payments due the Contractor shall be adjusted based upon the difference in the actual rate paid by said Contractor and such rate. Said adjustments shall be based solely upon the total number of tons of refuse collected by the Contractor within McSherrystown Borough , and shall be made quarterly upon submission by the Contractor to the Borough of the amounts collected and disposed of during the previous quarterly period, all of which weight slips, receipts, or other satisfactory evidence shall be certified by the Contractor to be accurate and applicable solely to refuse collected within McSherrystown Borough and disposed of. Unless the Contractor complies with these requirements, no additional payments shall be made to it as a result of any such increased in the contract tipping fee, and the Borough shall have the right to estimate the amount of any reduction in the quarterly payments due it as a result of any such decreases in the contract tipping fee.

12. Modification and Withdrawal of Bids

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

After the Bid opening, Bidder may withdraw its Bid only by complying with applicable federal, state, or local statues, ordinances, laws, and regulations. Unless prohibited by such applicable laws and regulations, or if there are no applicable laws and regulations, Bidder shall forfeit the entire amount of Bid security upon withdrawal of its Bid.

13. Bids to Remain Subject to Acceptance

Bids shall remain open for a period of sixty (60) days from the date of Bid opening

unless award is delayed by a required approval from a governmental agency, the sale of bonds or notes, or the award of a grant or grants, in which event the Bids shall remain open for a period of one hundred twenty (120) days from the date of Bid opening. The Borough will either award the Contract as defined in Section 14 below within the applicable time period or reject all Bids, returning the Bid security to the Bidders. Thirty (30) day extensions of the date for the award may be made by the mutual written consent of the Borough and the apparent Successful Bidder.

14. Award of Contract

The Borough reserves the right, without limitation, to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder, if the Borough, in its sole and absolute discretion, believes that it would not be in the best interest of the project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Borough.

The Borough Council of the Borough of McSherrystown intends to award the contract to the overall lowest responsible, responsive bidder, as determined by Borough Council in its sole and absolute discretion to be in the best interest of the Borough.

In evaluating Bids, the Borough may conduct such investigations as the Borough, in its sole and absolute discretion, deems necessary and/or desirable to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed sub-contractors, suppliers, and other persons and organizations to perform and furnish the Services in accordance with the Bidding Documents to the Borough's satisfaction within the prescribed time. The Borough reserves the right to interview bidders.

If the Contract is to be awarded, the Borough will give the apparent Successful Bidder a Notice of Intent to Award.

The Successful Bidder is required to complete an Internal Revenue Service Form (W-9) providing the Successful Bidder's taxpayer identification number (TIN), address, and, if applicable, certification regarding backup withholding prior to and as a condition of the award of the Contract. The Borough may waive this provision in the event the Borough is in possession of an accurate and up to date W-9 form for the Successful Bidder.

15. Signing of Agreement/ Contract

When the Borough gives a Notice of Intent to Award to the apparent Successful

Bidder, it will be accompanied by four (4) unsigned counterparts of the Agreement (with the final agreement to be updated based on the disposal option selected by the Borough) (each with a copy of the Bid submission). Within fifteen (15) days thereafter, apparent Successful Bidder shall sign and deliver to the Borough the four (4) signed counterparts of the Agreement accompanied by the required insurance certificate(s) and completed W-9 form. The Bid may be rejected, at the sole and absolute discretion of the Borough, if the apparent Successful Bidder does not execute, and deliver to the Borough, the Agreement and insurance certificate(s) and completed W-9 form, within fifteen (15) days from the date of the Notice of Intent to Award.

GENERAL TERMS AND CONDITIONS

1. Labor and Equipment

The Contractor agrees to furnish all labor, tools, and equipment and to pay all expenses necessary for or in connection with, the Work to be done or Services to be supplied hereunder in consideration of the payments hereinafter provided to be paid to the Contractor by the Borough.

2. Inspection of Work or Goods

The Borough reserves the right to inspect the Contractor's Work, Goods, or other deliverables, and direct changes to the Contractor's methods and procedures within the scope of this Contract. Periodic inspections will be performed by the Borough or its agents.

3. Termination and Suspension

Should the Contractor fail to perform the Work and/or Services to the satisfaction of the Borough or to comply with any of the provisions of the Agreement, the Borough may terminate the Agreement for cause upon seven (7) days written notice of intent to terminate to the Contractor. Contractor's services will not be terminated if the Contractor begins within seven (7) days of receipt of the notice of intent to terminate to correct and cure the deficiencies set forth in said notice and it proceeds in a diligent manner to cure such deficiencies within no more than fifteen (15) days of receipt of said notice, unless the Borough in its sole and absolute discretion extends such time to cure in writing.

Notwithstanding the foregoing, the Borough may terminate this Agreement without cause and without prejudice to any other right or remedy of the Borough upon seven (7) days' written notice to Contractor.

Contractor may only terminate this Agreement in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Contract as provided for herein, Contractor agrees that Contractor shall not be paid an amount of loss of anticipated profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the

Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Agreement, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

4. Permits, Licenses, etc.

All permits, licenses, inspections, ratings, certificates and/ or approvals related to the performance of the services, including any and all necessary Federal, State and local permits for the construction and operation of a Municipal Waste processing and disposal facility, are the sole responsibility of the Contractor and all expenses for such should be included in the Bid proposal. Failure to obtain and maintain such permits shall constitute a breach of the Agreement. Additional Permit requirements may be set forth in the Specifications.

5. Invoices and Payment

The Contractor shall forward an invoice to the Borough on a quarterly basis within ten (10) days after the completion of each quarter. All payments will be processed through the Borough's standard accounts payable system. The Contractor Invoices should be marked NET 30 DAYS.

If the Borough objects to any portion of an Invoice, the Borough shall so notify the Contractor in writing within twenty (20) days of receipt of the invoice. The Borough shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by the Borough on all disputed invoiced amounts resolved in the Contractor's favor and unpaid for more than forty-five (45) days after date of the notice of the dispute.

6. Assignment

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

7. Insurance

When the apparent Successful Bidder delivers the signed Agreement to the Borough, it must be accompanied by the required insurance certificate on the latest version of the ACORD 25 Certificate of Insurance form. Unless otherwise specified, the Contractor

shall, at its sole cost and expense, maintain the following minimum types of insurance and limits as specified herein. The Borough of McSherrystown, its elected officers and employees, are to be named as additional insured on all policies required herein, except Workmen's Compensation. The insurance shall provide for at least thirty (30) days prior written notice to be given to the Borough in the event the insurance is materially changed, canceled, or non-renewed. Before starting work the Contractor shall furnish to the Borough for its examination and approval such policies of insurance with all endorsements, or a conformed specimen thereof certified by the agent of the insurance company, together with certificates of the insurance company of such insurance.

A. WORKMEN'S COMPENSATION - Statutory limit as required by the Commonwealth of Pennsylvania.

B. BUSINESS AUTOMOBILE - Covering Any Automobile (Symbol I)

Bodily Injury Liability and Property Damage Liability \$1,000,000 (CSL)

C. COMMERCIAL GENERAL LIABILITY (CGL)

| | |
|---|-------------|
| General Aggregate Limit | \$1,000,000 |
| Products-Completed Operations Aggregate Limit | \$1,000,000 |
| Personal & Advertising Injury Limit | \$1,000,000 |
| Each Occurrence Limit | \$1,000,000 |
| Fire Damage Limit | \$ 50,000 |
| Medical Expense Limit | \$ 5,000 |

8. Indemnification

The Contractor and its sub-contractors, if any, successors and assigns, shall release, hold harmless, and indemnify the Borough, its officers, elected officials, agents, representatives, and employees acting within the scope of their official duties from and against any and all damages, costs, claims, suits, demands and expenses (including but not limited to reasonable attorneys' fees) to the extent caused by the negligent acts, errors, or omissions of the Contractor, its employees, sub-contractors, agents, servants, and/or anyone acting under the Contractor's control and/or the Contractor's direction, in the performance of the requirements of this Agreement. The Contractor shall defend any lawsuit commenced against the Borough and shall pay any judgments and costs connected with such proceeding which are based upon the negligent acts, errors or omissions of the Contractor or its sub-contractors. If the Contractor is successful in defending such a lawsuit, then the Borough will reimburse the Contractor for its costs and expenses associated with such defense only to the extent that such liabilities arise from an action which can be properly brought against the Borough as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 *et. seq.* and in accordance with such limits of liability set forth in the Act, along with

payment for any withheld invoices. This Section 8 shall survive the termination of this Agreement.

9. Taxes

All taxes of whatsoever kind, nature and description payable in respect to the performance of this Agreement are to be paid by the Contractor unless otherwise provided by law.

The Successful Bidder is required to complete an Internal Revenue Service Form (W-9) providing the Successful Bidder's taxpayer identification number (TIN), address, and, if applicable, certification regarding backup withholding. The Successful Bidder must submit a completed (W-9) Form along with the executed Agreement. The Borough may waive this provision in the event the Borough is in possession of an accurate and up to date W-9 form.

10. Pennsylvania Right to Know Law.

The Contractor acknowledges and understands that any information received by the Borough is subject to the Pennsylvania Right to Know Law, 65 P.S. § 67.101 *et seq.* The Contractor duties regarding the Right To Know Law are continuing duties that survive the expiration of this Agreement. Contractor releases any and all claims, demands, suits, costs and/or expenses resulting from and/or arising out of, directly or indirectly, the release of any information pursuant to the Right To Know Law.

11. Compliance with Laws

All Work and/or Services performed under this Agreement shall conform with all applicable Federal, State, and local laws, statues, ordinance or rules, including but not be limited to the following:

- A. Pennsylvania Act 247 of 1972, as amended, relating to the prevention of environmental pollution and the preservation of public natural resources.
- B. The Pennsylvania Human Relations Act No. 222 of 1955, as amended.
- C. The Pennsylvania Public Works Contract Regulation Law, as amended by Act 142 of 1994 as it relates to timely payment by Contractor and Subcontractor to its Subcontractors.
- D. The Pennsylvania Antbid-Rigging Act, 73 P.S. 16] 1 *et seq.*, regarding contracts for the purchase of equipment, goods, services or materials or for construction or repair let or to be let by a government agency.
- E. The Pennsylvania Right to Know Law, 65 P.S. § 67.101 *et seq.*

SPECIFICATIONS

Project: Municipal Solid Waste Hauling and Recycling Services for the Borough of McSherrystown

A. Specifications Applicable to Municipal Solid Waste Hauling (hereinafter "MSW") and Recycling Services (hereinafter "Recycling")

1. SCOPE OF WORK

The scope of work under the Contract for Municipal Solid Waste Hauling consists of the collection and disposal in the manner herein described of all MSW including yard waste from all residential and some commercial establishments (including single-family and multi-family dwelling units) within the limits of the Borough. All bidders may submit pricing for both residential curbside and commercial dumpster collection. The residential curbside price should appear as a quarterly price per residential unit. The dumpster pricing should appear as a price per cubic yard. The Borough reserves the right to award bids separately for residential collection as well as commercial collection. The bid amount for residential pickup should be as described on the bid form provided. Included in the bag collection the bidder must accept grass/yard clippings. All bid amounts should reflect all cost of collection and disposal such as labor, equipment, disposal, etc. The bid shall be awarded based on 997 residential units times (4) four quarters for a yearly total, 16,480 cu. yards per year for commercial dumpsters, and 2,184 cu. yards per year for cardboard dumpsters. Bidders shall not rely upon these estimates and by the submission of a bid, a bidder warrants and agrees that in formulating and submitting a bid, the bidder has relied solely upon bidder's inspection of the sites at which the work will be performed and upon bidder's own judgment as to the amount and nature of the work to be performed. The successful commercial bidder will be responsible for providing miscellaneous size dumpsters at various locations within the Borough of McSherrystown. The cubic yard size and number of dumps per week will be determined by the Borough. Any status change to the number of cubic yards collected will be revised by Borough office personnel at the time of billing and adjusted accordingly. The successful commercial bidder will be responsible for providing a dumpster for cardboard collection for once a week service if needed. The scope of work under the Contract for Recycling consists of the collection of the following recyclable materials: clear and colored glass, aluminum, steel and bimetallic cans, newsprint, plastic, and corrugated cardboard. Bidder shall also provide an alternative price for MSW only, without Recycling collection.

2. COLLECTION VEHICLES

All collection vehicles used in the performance of the Contract shall be duly licensed and inspected by the Commonwealth of Pennsylvania and shall operate within the weight allowed according to federal, state, and local laws and regulations. Appropriate container vehicles shall be used that are in proper working condition and that prevent loss in the

transit of liquid or solid cargo. All vehicles MUST be kept clean and free from offensive odors. All the required equipment must be in and be maintained in proper working order. All vehicles must be clearly identified on both sides with Contractor's name and telephone number.

3. COLLECTION TIMES

All collections shall be made between the hours of **5:00 AM** and **5:00 PM**, provided, however, that this shall not prevent the collection of materials on any emergency basis. The extension of the emergency hours shall always be subject to the approval of the Borough. The Contractor shall collect all MSW from each Borough unit at least once per week. The Contractor shall collect all Recycling from each Borough unit bi-weekly. The day(s) of week for such collection is discretionary. Collection of MSW and Recycling shall be made on the same day.

Collection will not be made on the following Holidays: NEW YEARS DAY, MEMORIAL DAY, JULY 4th, LABOR DAY, THANKSGIVING DAY, and CHRISTMAS DAY. Unless other arrangements are made by the Contractor with the approval of the Borough, collection shall occur within 24 hours of the above-stated holidays. The Contractor is responsible for coordination of holiday pick-ups with the Borough and the Borough will advertise holiday pick-ups on its website.

The Borough will refer all complaints concerning missed service to the Contractor. In case of missed service reported by the Borough or a customer, the Contractor shall collect MSW or Recycling for the customer within twenty-four (24) hours after notification.

All MSW and Recycling to be collected must be placed by customers at the designated location in time for collection by the Contractor. MSW and Recycling taters shall be placed for collection along the alley, public street, or private street abounding and abutting the property. MSW and Recycling taters shall be placed for collection at ground level on the property, not within the cai lway of a street or alley, and accessible to the side or curb of the street or alley from which collection is made. The location for placement of trash cans or toters for pick-up shall, to the greatest extent possible, be uniform and shall be determined by the Contractor with Borough approval.

4. MSW AND RECYCLING COLLECTED TO BE PROPERTY OF CONTRACTOR

From the time of placement of MSW and Recycling materials at the curb or a similar area for collection, those materials shall be and become the propeliy of the Contractor. It shall be a violation of the Borough's Recycling Ordinance, Chapter 179 of the Code of the Borough of McSherrystown, for any person(s) not authorized by the Borough to collect or pick up or cause to be collected or picked up any such recyclable material.

The Contractor shall dispose of all MSW and Recycling collected within the Borough in a proper and workmanlike manner in conformity with all existing laws, rules, and regulations and at an approved disposal site. As the MSW and Recycling become the property of the Contractor at the time the materials are placed at the designated area, any failure of the Contractor to comply with existing laws, rules, and regulations shall be solely the liability of the Contractor and the Contractor agrees to indemnify, defend, and hold the Borough harmless for any violations by the Contractor.

5. HAULING LOCATION

At all times during the term of the Contact, Bidder shall take whatever action is required to cause all MSW generated within the Borough of McSherrystown to be delivered to the York County Incinerator as McSherrystown Borough refuse only and a copy of the tonnage delivered report must be forwarded to the Borough Office on a quarterly basis. All Recycling, if applicable, must be processed through a proper recycling facility and a copy of the tonnage delivered report must be forwarded to the Borough Office on a quarterly basis. Bidder will be responsible for all payments due to the York County Solid Waste and Refuse Authority for all MSW delivered to the incinerator as Borough refuse and per the agreement between the York County Solid Waste and Refuse Authority and the Borough. The agreement between the York County Solid Waste and Refuse Authority and the Borough shall be incorporated herewith and made a part of the Contract Documents.

B. Municipal Solid Waste Specifications

1. CARRY-OUT SERVICE

The Contractor shall provide, for the same price as the regular collection service or the optional service, whichever is applicable, a carry-out service to residents who possess disabilities that preclude them from taking MSW and Recycling to the designated location as described above. This service shall only be available to persons regarded as disabled under the Americans with Disabilities Act of 1990, whose dwelling unit does not have residing therein another individual capable of transporting MSW and Recycling to the designated location.

2. NON-MODIFICATION OF SERVICE FEE

The approved rate for service shall not be increased due to **any increase in Contractor's fuel costs or other operating or overhead expenses, excepting out the tipping fee charged by the York County Solid Waste and Refuse Authority as referenced in the Contract Documents**, including, but not limited to, tipping, dumping, or disposal fees, except only if approved by the McSherrystown Borough Council in its sole discretion.

3. BULK ITEM CLEAN-UP

The Contractor shall provide all equipment and personnel necessary to collect one (1) bulk item per customer per week. This service shall be provided to remove items too large or bulky to fit into a standard container or bag and be provided during the same permitted hours and days as regular pickup service. The Contractor shall provide notice to the residents setting forth items that will not be collected under the Contract.

The Contractor shall provide sufficient equipment and personnel to remove all bulk items (i.e., furniture, appliances, maximum of one (1) tire without rim and other similar household items), and MSW collected under the regular service placed at the designated location as set forth above. The Contractor shall not be required to remove any item that two (2) employees are unable to lift onto a truck. The Contractor shall provide a carry-out service for bulk items in accordance with Paragraph 1 above.

The Borough shall reserve the right to deem what items are to be picked up by the Contractor. The disposal of items containing Freon must be arranged directly with the Contractor and such items must be picked up within five (5) working days. Covered Devices, as defined below, are not accepted under bulk item clean-up or regular service.

4. TREE TRIMMINGS, BRUSH, AND YARD WASTE

Tree trimmings, hedge trimmings, brush, leaves, and similar items **shall be** collected by the Contractor. Garden waste, including grass clippings, tree stumps, dirt and stones **shall not be** collected by the Contractor as a part of regular or optional MSW collection service.

5. TRASH SERVICE FOR FACILITIES OF THE BOROUGH

The Contractor shall provide MSW collection and disposal service, including the provision of a dumpster, at no charge to the Borough at a minimum of **three (3) sites** to be determined by the Borough. Said dumpsters shall be located at each site by the Contractor unless otherwise directed by the Borough and shall be no smaller than **four (4) cubic yards** unless agreed upon by the Borough. The Contractor shall receive written notice designating the locations for the aforesaid dumpster sites.

C. Recycling Specifications

1. EDUCATION

It is the intent of the Borough to establish public information and education programs concerning Recycling program features and requirements in accordance with the law of the Commonwealth of Pennsylvania and in accordance with the education requirements necessary for any grants to the Borough. The Contractor shall be responsible for providing all necessary information to comply with any and all requirements of existing laws, rules and regulations, as well as all requirements imposed by any grant or program that the Borough is a recipient of or involved in. Additionally, at least once each Contract year, not less than two (2) weeks prior to the start of the Contract year, the Contractor will prepare and distribute to each and every dwelling unit under the Contract a brief explanation of the Recycling program setting forth the materials to be recycled and how those materials are to be prepared for collection. The Contractor shall prepare and distribute to every dwelling unit under the Contract an explanation of any amendments to the Recycling program during the term of the Contract. Prior to distribution, all education materials must be approved by the Borough.

D. Definitions

ALUMINUM CANS -All food and beverage containers consisting of aluminum, excluding aluminum foil, trays, plates, and miscellaneous aluminum products.

BIMETALLIC CANS - All food and beverage containers consisting of a steel (ferrous) cylinder bottom and aluminum top.

CARDBOARD - Layered paper or cardboard in which one (1) or more layers is pressed into parallel grooves or ridges and which is normally used for wrapping, packing, shipping, and/or storage of dry materials. This would also include boxes used for the packaging of cereal, pasta, etc. All such corrugated cardboard shall be broken down and placed in the Recycling toter.

CARTONS - All light boxes or containers, typically one made of waxed cardboard or plastic in which drinks or foodstuffs are packaged.

COVERED DEVICES - As per act 108 of 2010 (Covered Device Recycling Act), desktop computers, tablets, laptop computers, computer monitors, computer peripherals, televisions and e-readers that have a browser and internet connection are not part of this Contract.

GLASS - All empty bottles, jars, or other containers made of clear, green, or brown

glass. This includes all food and beverage containers made of glass. Excluded are blue glass, ceramics, light bulbs, pottery, and flat glass commonly known as window or plate glass.

NEWSPRINT - Paper commonly having printed thereon news and other matters of public interest, including magazines, and periodicals. This paper shall have no food contact.

PLASTICS - All food, beverage, and detergent containers comprised of the following resins:

- #1 Polyethylene Terephthalate (PETE)
- #2 High Density Polyethylene (HDPE)
- #5 PP Polypropylene

STEEL CANS - All food and beverage containers consisting of steel.

E. Billing

The Contractor shall provide an option for the Contractor to handle the billing services for the units within the Borough. This option may be selected in the sole and absolute discretion of the Borough.

| Boro Acct # | Name | Dumpster Location | Capacity | Mailing Address |
|--|------|--|-----------|--|
| 30030 ACNB | | 369 Main St. (electric wires) | 2 yd. | PO Box 3129, Gettysburg, PA 17325 |
| 30066 A.M.P. | | | 4 yd. | 238 Main St., McSherrystown, PA 17344 |
| 30001 Annunciation Church/School | | 316 North St. | 6 yd. | 26 N. Third St., McSherrystown, PA 17344 |
| 30041 Annunciation Cemetery | | N. Fifth St. extended | 2 yd. | 26 N. Third St., McSherrystown, PA 17344 |
| 30064 ASJ-Imaging | | 235 South St. (electric-wires) | n/a | cancelled dumpster 11/03/2020 |
| 30044 ASK, LLC | | 8 S. Sixth St. | 8 yd. | PO Box 55, Abbottstown, PA 17301 |
| 30062 ASST | | 350 South St. | 2 yd. | 350 South St, McSherrystown, PA 17344 |
| Blinds Unlimited | | Rear 541 Main St. | 4 yd. | |
| 30064 Robert Breighner | | 147 Main St. | 2 yd. | 147 Main St |
| 30056 Cecilian Village | | | 2 yd. | 96 Academy St., McSherrystown, PA 17344 |
| 30046 Colgan Enterprises (Rooming) | | 359 Main St. Rear (next to ACNB) | 2 yd. | 102 Granite Ln, Hanover, PA 17331 |
| 30067 Creative Ewe Yarn Shop | | | 1 yd. | 11 N. Fifth St., McSherrystown, PA 17344 |
| 30002 Delone Catholic H.S. | | Delone Ave | (2) 6 yd. | 140 S. Oxford Ave., McSherrystown PA 17344 |
| 30002 Delone Catholic H.S. | | South St | | |
| 30023 Estill (Lynn Ct. Apts.) Trone Real Estate LLC | | 220 & 221 N. Fifth St. | (2) 8 yd. | 350 Third St., Hanover, PA 17331 |
| 30042 F & H Services | | 210 S. Fourth St. (In front of White Deer) | 4 yd. | 1259 Mud Run Rd., York Springs, PA 17372 |
| 30031 F.X. Smith | | 372 North St. (across alley from Colgan/acnb) | 2 yd. | 372 North St., McSherrystown, PA 17344 |
| 30057 Gene Reynolds | | Rear 345 Main St. | 2 yd. | PO Box 61, McSherrystown, PA 17344 |
| 30058 Golden Dragon | | 7 S. Sixth St. | 2 yd. | 7 S. Sixth St |
| 30004 Hardee's | | 638 Main St. | (1) 8 yd. | 22 East King St., Shippensburg, PA 17257 |
| 30074 Helena Agri-Enterprises LLC | | | 2 yd. | PO Box 8, McSherrystown, PA 17344 |
| 30034 Hossler Crabs (Steve) | | 200 Main St. (electric wires) | 4 yd. | 200-3 Main St., McSherrystown, PA 17344 |
| 30070 JAB Holdings LLC | | | 2 yd. | 188 Fern Dr., New Oxford, PA 17350 |
| 30005 K of C | | 342 Main St. (electric wires) | 6 yd. | 342 Main St., McSherrystown, PA 17344 |
| 30072 Life Discovery Church | | | 4 yd. | 414 Main St., McSherrystown, PA 17344 |
| 30050 McSherrystown Family Practice | | 70 Academy St. | 2 yd. | 70 Academy St., McSherrystown, PA 17344 |
| 30009 McSherrystown Home Assoc. | | 369 North St. (electric wires) | 6 yd. | 369 North St., McSherrystown, PA 17344 |
| 30025 McSherrystown Interfaith Housing | | 80 Main St. | 6 yd. | 40 East High St., Gettysburg, PA 17325 |
| 30010 McSherrystown Moose | | 534 South St. | 6 yd. | 534 South St., McSherrystown, PA 17344 |
| 30042 Mummer's Auto | | 36 Main St. | n/a | cxld dumpster 03/31/21, now residential svc |
| 30073 Anthony Murren | | | 2 yd. | 306 Ridge Ave., McSherrystown, PA 17344 |
| 30011 North Fifth Street Diner | | 10 N. Fifth St. | 2 yd. | 10 N. Fifth St., McSherrystown, PA 17344 |
| 30043 North St. Tavern | | 218 North St. | n/a | dumpster service cancelled/now residential svc |
| 30055 On Angels Wings Florist | | Rear 358 Main St. | 2 yd. | 358 Rear Main St., McSherrystown, PA 17344 |
| 30006 Main St. Tavern Ratt's | | 604 Main St. (electric wires) | 2 yd. | 604 Main St., McSherrystown, PA 17344 |
| 30059 Sharon Reese | | 601 Main St. (1st block 6th st on north side) | 2 yd. | 601A Main St., McSherrystown, PA 17344 |
| 30043 Wm. & Anita Reese | | 304 Main St. | 2 yd. | 261 Princess St., Hanover, PA 17331 |
| 30071 Carmela Scarnadella | | | 1 yd. | 59 Irish Dr., New Oxford, PA 17350 |
| 30063 Schindler Elevator | | 350 South St. (rear - S. Fourth St.) | (2) 4 yd. | 23 Industrial Dr., Hanover, PA 17331 |
| 30024 Sheaffer Apts. | | 300 Main St. | 4 yd. | 227 W. High St., Gettysburg, PA 17325 |
| 30028 Donnelly & Sons Nathan Simpson | | 131-135 South St. | 2 yd. | 400 Deagan Rd., Hanover, PA 17331 |
| 30045 Tony A. Smith | | | 4 yd. | 59 Franklin Dr., McSherrystown, PA 17344 |
| 30047 St. Joseph's Village | | 80 Main St. | 6 yd. | 50 Academy St., McSherrystown, PA 17344 |
| 30060 Storm Rental | | 5 N. Sixth St. (1st block across from Storm Rental) | 2 yd. | 274 Barley Circle, Hanover, PA 17331 |
| 30069 Studio 360 | | | 1 yd. | 318 Main St., McSherrystown, PA 17344 |
| 30065 Teamzilla | | | 1.5 yd. | 200 S. Fourth St., McSherrystown, PA 17344 |
| 30068 Thomas Land Development (Gebhart) | | | 4 yd. | 150 Narrow Dr., Hanover PA 17331 |
| 30019 Uni-Plus Conv.Mart Tobacco Outlet Minmart Inc. | | 434 Main St. | 2 yd. | 9 Eldon Ln, Carlisle, PA 17015 |
| 30052 Trone Rental Properties LLC | | 5 - 25 Front St. | 6 yd. | 350 Third St., Hanover, PA 17331 |
| 30018 Turkey Hill Cumberland Farms | | 639 Main St. (electric wires) | 4 yd. | Prokarma-CMF112, PO Box 2410, Omaha, NE 68103-2410 |
| 30053 Turning Point (Toters) | | 419-421 Main St. | 2 yd. | 40 East High St., Gettysburg, PA 17325 |
| 30022 W. Park McSherrystown | | 65 North St. | (2) 6 yd. | PO Box 556, Hanover, PA 17331 |
| 30049 White Deer Mailing | | 295 N. Fifth St. | 2 yd. | PO Box 1245, Hanover, PA 17331 |

NON-DISCRIMINATION NOTICE

During the term of the Agreement, the Contractor agrees as follows:

- A. Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, sex or disability. Contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- B. Contractor shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, sex, or disability.
- C. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by contractor.
- D. It shall be no defense to a finding of a noncompliance with Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause that contract has delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that contractor will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause, Contractor shall then employ and fill vacancies through other non-discrimination employment procedures.
- F. Contractor shall comply with the Contract Compliance Regulations of the

Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of contractor's non-compliance with the non-discrimination clause of this Agreement or with any such laws, this Agreement may, after hearing and adjudication, be terminated or suspended, in whole or in part, and contractor may be declared temporarily ineligible for Commonwealth of Pennsylvania contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.

- G. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the contracting agency and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to § 49.35 (relating to information concerning compliance by contractors). If contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.
- H. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- I. Contractor shall include the provisions of this non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.
- J. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49.
- K. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

BIDDER AFFIDAVIT

The Specifications and all papers required by it and submitted herewith, the Agreement, and all papers made a part hereof by its terms, are hereby made a part of this Proposal.

The undersigned bidder hereby represents as follows:

- A. That he/she or it has carefully examined the Proposal, the Contract, and the Specifications.
- B. That no officer, agent, or employee of the Borough of McSherrystown is personally interested directly or indirectly in this Proposal and the accompanying Agreement or the compensation to be paid herein under.
- C. That the Proposal is made without connection with any person, firm or corporation making a Proposal for the same work, and is in all respects fair and without collusion or fraud; and
- D. That should this Proposal be accepted by the Borough of McSherrystown within sixty (60) days of the opening of bids, he will execute the Contract and furnish any other documents within the time and in the forms and amount required by the Contract and Specifications, and that upon his failure, neglect or refusal to do so, he shall forfeit to the Borough of McSherrystown the Proposal Security, not as a penalty, but as a liquidated damage.

Name of Bidder, Corporation, Firm or Individual

By: _____
Authorized Representative

Please Print Signature

Title

Business Address of Bidder

Phone #

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. 1611 *et seq.*, governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid-rigging, and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids, are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents and an Affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid", as used in the Affidavit, has the meaning commonly associated with that term in the bidding process and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or non-competitive bid and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit, in compliance with these instructions, will result in disqualification of the bid.

NON-COLLUSION AFFIDAVIT

Contract/Bid No. _____

State of _____

County of _____

I state that I am, _____ of _____
(Title) (Name of Firm)

and that I am authorized to make this Affidavit on behalf of my firm and its owners, directors and officers. I am the person responsible in my firm for the price(s) and the amount of

this bid. I state that:

- (1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.

- (2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.

- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Agreement, or to submit a bid higher than this bid, or to submit any intentionally high or non-competitive bid or other form of complementary bid.

- (4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other non-competitive bid.

- (5) (Name of Firm) _____ its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not, in the last four (4) years, been convicted or found liable of any act prohibited by State or Federal law in any jurisdiction involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that _____ (Name of Firm) understand and acknowledges that the above representations are material and important and will be relied on by the Borough of McSherrystown in awarding the contract(s) for which this bid is submitted.

NON-COLLUSION AFFIDAVIT CONTINUED

I understand, and my firm understands, that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from the Borough of McSherrystown of the true facts relating to the submission of bid for this contract.

(Signature)

(Print Name)

(Company Position)

SWORN AND
SUBSCRIBED BEFORE
ME THIS

(Date)

Notary Public
My Commission Expires: (Date)

BIDDER'S QUESTIONNAIRE

All questions must be answered and the dates given must be clear and comprehensive. If necessary, questions may be answered on separate attached sheets with supporting documentation, if applicable. The Bidder may submit additional information if desired. The signer of this questionnaire guarantees the truth and accuracy of all statements and of all answers to interrogatories hereinafter made.

For: Borough of
 McSherrystown
 338 Main Street
 McSherrystown, PA 17344

Project: **Municipal Solid Waste Hauling and Recycling Service for the Borough of
 McSherrystown**

Submitted by:

(Bidder's Full Name) _____

(Full Address) _____

(Phone Number) _____

(State of Incorporation) _____

1. State the number of years your organization has been in business under your present business name and engaged in the type of work called for in this Bid.

2. List three (3) similar contracts your organization has entered into within the last five (5) with at least three (3) different organizations. Include project description, date, Owner, contact, and phone number of Owner's contact, as applicable.

| | Project | Date | Owner | Contact | Owner's Contact Phone Number |
|---|---------|------|-------|---------|------------------------------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |

3. Have you or any officer or partner of your organization ever requested protection under Federal Bankruptcy Laws? Y ___N ___

If so, state the name of the organization and/or individual and when protection was requested.

4. Are you or your company involved in any litigation within the past five (5) years? Y _____ N _____

If so, provide citations to the relevant filings.

5. Please provide the experience and qualifications of the management team directly responsible for the day to day operations of the waste facility. Include a description of the facility's management personnel and for each a description of their industry experience, training, and responsibilities.
6. Please provide the physical address of the facility.

7. Please provide the normal work hours the facility is open for business Monday through Sunday.

Monday to Friday _____

Saturday _____

Sunday _____

In addition, please provide any and all regularly scheduled holidays that the facility is closed or has limited hours.

- 8. The current permitted average and maximum daily, yearly, and life-of-permit tonnage limits shall be listed for the organization's disposal facility.

- 9. The undersigned hereby authorizes the Borough and its representatives to contact former clients and/ or references to discuss the bidder's performance and/ or qualifications. Bidder hereby expressly releases the Borough of McSherrystown, its agents, attorneys, engineers, representatives, board members, heirs, and assigns from any and all rights, losses, damages, claims, actions or causes of action, whether in contract or t011, law or equity, whether known or unknown, suspected or unsuspected, which the Bidder ever had, now has, or will have against the Borough of McSherrystown, former clients and / or references related to the discussion in any manner of the Bidder's performance and/ or qualifications.

Dated at this _____ day of _____ 2026.

Name of Bidder, Corporation, Firm or Individual

By: _____
Authorized Representative

Please Print Signature

Title

If the Bid is a joint venture or partnership, add additional forms of execution for each number of the joint venture in the appropriate form or forms as above.

END OF BIDDER'S QUESTIONNAIRE

PROPOSAL BOND

BIDDER (Name and Address):

SURETY (Name and Address):

OWNER (Name and Address):

BOROUGH OF MCSHERRYSTOWN
338 Main Street
McSherrystown, PA 17344

PROJECT

**Municipal Solid Waste Hauling and Recycling Services for
the Borough of McSherrystown**

Bid Date:

Project Identification:

Waste Disposal

Contract Number and Identification:

BOND

Date:

Amount:

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the full face amount of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents, the executed Agreement required by the Bidding Documents, and any Performance Bonds, Payment Bonds, Certificates of Insurance, or other documents required by the Bidding Documents and Contract Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the

Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any Performance Bonds, Payment Bonds, Certificates of Insurance, or other documents required by the Bidding Documents and Contract Documents, or

3.2 All Bids are rejected by Owner, or

3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within thirty (30) calendar days after receipt of Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award, provided that the time for issuing Notice of Award shall not in the aggregate exceed one hundred twenty (120) days from Bid opening date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to thirty (30) calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety, and in no case later than one year after Bid opening date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notice required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the first page of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

(If Bidder is an Individual)

Signature of Witness

Signature of Individual

Trading and doing business as:

Name of Business

Address of Business

(If Bidder is a Partnership - All General Partners Must Sign)

Name of Partnership

Address of Partnership

Signature of Witness

Signature of Partner

Signature of Witness

Signature of Partner

(If Bidder is a Corporation)

Attest:

Name of Corporation

Signature of
Secretary or
Assistant
Secretary

Address of Principal Office

(Corporate Seal)

State of Incorporation

Signature of President or Vice
President

Type or print name below each signature.

(Corporation Surety)

Name of Corporation

Address of Office

Signature of Witness

Signature of Attorney-in-fact

Attach an appropriate power of attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act on behalf of the corporation.

Type or print name below each signature.

NOTE: Substitute Proposal Bond Form is not acceptable. Failure to submit Bond on this form will be reason for rejection of Bid.

END OF PROPOSAL BOND

PROPOSAL

DATE.....

Project: Municipal Solid Waste Hauling and Recycling Service for the Borough of McSherrystown

ARTICLE 1 - BID RECIPIENT

- 1.01 This Bid is submitted to:
Borough of McSherrystown
338 Main Street
McSherrystown, PA 17344
Attn: Jessica Freiert
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the Borough in the form included in the Bidding Documents to perform the services as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the bidding Documents.

ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Bidding Documents, including but not limited to the Notice / Advertisement, Instructions to Bidders, and General Terms and Conditions, including without limitation those dealing with the disposition of Bid security, if applicable, and any and all agreements and/or contracts entered into by the Bidder and Borough. The Bid will remain subject to acceptance for sixty (60) days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of the Borough.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents, as set forth in the Bidding Documents that the Bidder has:
- A. examined and carefully studied the Bidding Documents, including but not limited to any Addenda, and the related data identified in the Bidding Documents;
 - B. if specified, or if, in Bidder's judgment, any local condition may affect cost, progress or the performance of the Service, Bidder has visited the Borough of McSherrystown to become familiar with the local conditions;

C. became familiar with and satisfied as to all Federal, State, and local laws and regulations that may affect cost, progress, or the performance of the service;

D. has carefully studied and correlated the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Borough of McSherrystown, with the Bidding Documents;

E. promptly gave the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovered in the Bidding Documents and confirmed that the written resolution thereof by the Borough is acceptable to Bidder; and

F. determined that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the service.

ARTICLE 4 - BASIS OF BID

4.01 Bidder will perform the Service as noted below in accordance with the Bidding and Contract Documents (indicate quantity where none is currently given) at the following FIRM prices:

Estimated Unit Counts are used for bid unit price comparison only and are in no way guaranteed for accuracy. The total unit count of 997, 16,480 cu. yards per year for commercial dumpsters, and 2,184 cu. yards per year for cardboard dumpsters from records the Borough currently uses.

Three-year contract- Alternate Bid #1

1. Provide weekly collection and disposal service of garbage, yard waste, refuse, and one (1) bulk item with a **three (3) thirty-two gallon limit**, containers provided by residents, and recycling of cardboard, newsprint, brown, green and clear glass and aluminum, bi-metal and steel cans, and #1, #2, and #5 plastics within the Borough of McSherrystown. Contractor and Borough will agree upon collection schedule. Collection and disposal service of garbage, yard waste, and refuse for commercial dumpsters at a collection schedule to be determined by the Contractor and Borough.

| | Price Per Unit | Price Per Unit |
|-------------------------------|----------------|----------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

| | Commercial Dumpsters Per | Cardboard Dumpsters Per Cubic |
|--|--------------------------|-------------------------------|
|--|--------------------------|-------------------------------|

| | Cubic Yard | Yard |
|-------------------------------|------------|------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

Three-year contract - Alternate Bid #2

1. Provide weekly collection and disposal service of garbage, yard waste, refuse, and one (1) bulk item with contractor providing one new (1) 96-gallon toter for refuse arid one new (1) 64-gallon toter for of cardboard, newsprint, brown, green and clear glass and aluminum, bi-metal and steel cans, and #1, #2, and #5 plastics within the Borough of McSherrystown. Contractor and Borough will agree upon collection schedule. Collection and disposal service of garbage, yard waste, and refuse for commercial dumpsters at a collection schedule to be determined by the Contractor and Borough.

| | Price Per Unit | Price Per Unit |
|-------------------------------|----------------|----------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

| | Commercial Dumpsters Per Cubic Yard | Cardboard Dumpsters Per Cubic Yard |
|-------------------------------|-------------------------------------|------------------------------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

Three-year contract - Municipal Solid Waste Only - Alternate Bid #3

1. Provide weekly collection and disposal service of garbage, yard waste, refuse, and one (1) bulk item with a **three (3) thirty-two gallon bag or can limit**, containers provided by residents, within the Borough of McSherrystown. Contractor and Borough will agree upon collection schedule. Collection and disposal service of garbage, yard waste, and refuse for commercial dumpsters at a collection schedule to be determined by the Contractor and Borough.

| | Price Per Unit | Price Per Unit |
|-------------------------------|----------------|----------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

| | Commercial Dumpsters Per Cubic Yard | Cardboard Dumpsters Per Cubic Yard |
|-------------------------------|-------------------------------------|------------------------------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

Three-year contract - Municipal Solid Waste Only - Alternate Bid #4

1. Provide weekly collection and disposal service of garbage, yard waste, refuse, and one (1) bulk item with contractor providing one new (1) 96-gallon toter for refuse, within the Borough of McSherrystown. Contractor and Borough will agree upon collection schedule. Collection and disposal service of garbage, yard waste, and refuse for commercial dumpsters at a collection schedule to be determined by the Contractor and Borough.

| | Price Per Unit | Price Per Unit |
|-------------------------------|----------------|----------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

| | Commercial Dumpsters Per Cubic Yard | Cardboard Dumpsters Per Cubic Yard |
|-------------------------------|-------------------------------------|------------------------------------|
| 1 st Year | \$ | \$ |
| 2 nd Year | \$ | \$ |
| 3 rd Year | \$ | \$ |
| Optional 4 th Year | \$ | \$ |
| Optional 5 th Year | \$ | \$ |

Please note the toters in Alternate Bid #2 and #4 must be plastic, watertight having lids and wheels. The Contractor shall retain ownership of all toters distributed. The toters will be collected by the Contractor upon cancellation or termination of the Agreement. The Contractor shall exercise reasonable care in handling the toters and shall not willfully break, deface, or injure the same. All toters broken or destroyed by improper or careless handling by the Contractor shall be replaced by the Contractor at his/her/its own expense within twenty-four (24) hours.

The Borough reserves the right to award none, all, one, or some combination of all the above items to the lowest responsive and qualified bidder as deemed to be in the best interest of the Borough. The bid amount for each item is the total cost to be incurred by the Borough for the subject work to be completed in accordance with the Contract Documents.

In addition to the three-year contract prices set for above, please provide a yearly and/or month fee for the Contractor to provide the billing services, if the Borough so selects in its sole and absolute discretion.

_____ Total Annual Price for Billing Service **or** ___ Per Quarter Price for Billing Service

ARTICLE 5 - TIME OF COMPLETION

5.01 Bidder agrees that the performance of the services will conform to the schedule set forth in the Agreement.

ARTICLE 6 - ATTACHMENTS TO THIS BID

6.01 The following documents are attached to and made a condition of this Bid:

- A. Required Proposal Bond;
- B. Required Bidder Questionnaire, with supporting data if required; and
- C. Required Non-Collusion Affidavit and Bidder Affidavit.

The undersigned does further declare that the statements and representations made in this Proposal are true in every respect and that said Proposal is in all respects fair and made without collusion or fraud, and that no member of the Borough Council or any agent or employee of the Borough directly, or indirectly is interested in this Proposal, or in any portion of the profits expected to accrue therefrom.

Company Name _____

Address _____

Signature _____

Printed _____

Name _____

Address _____

Name of person familiar with proposal

Phone number _____

AGREEMENT

NOTE - The Agreement will be finalized upon the Borough's selection of a waste disposal alternative.

THIS AGREEMENT (hereinafter, the "Agreement") made this _____ day of 2026 (the "Effective Date") by and between the Borough of McSherrystown, a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, (hereinafter the "Borough") and _____ (hereinafter the "Contractor").

WITNESSETH

WHEREAS, the Borough has authorized the performance of certain services in accordance with the Municipal Solid Waste Hauling and Recycling Service for the Borough of McSherrystown (hereinafter the "Specifications"), as required, all in accordance with said Contract Documents as further defined below, attached hereto and made a part herein; and

WHEREAS, the Contractor has submitted to the Borough a Bid for certain services in conformity with said Specifications, a copy of which proposal is hereto attached and made a part hereof (hereinafter the "Proposal"); and

WHEREAS, the Borough, after due consideration and appropriate action, has determined that it is in the best interest of the Borough to award a contract to the Contractor for said services included in said bid in accordance with the terms and conditions set forth herein.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that the Borough and the Contractor in consideration of the requirements, terms, and conditions of the said Specifications, General Terms and Conditions, and the offers, promises, and representations made by the Contractor in said Proposal, by each of the parties hereto, on their parts, to be observed and fulfilled, do hereby agree as follows:

Article 1 - Basis of Agreement

The above recitals are incorporated herein by reference thereto and made a part of this Agreement.

The parties hereto recognize that the Contract Documents are the basis of this Agreement, and the parties accept the same, and declare that there are no understandings, representations or promises, written or verbal, having any bearing on this Agreement which are not expressed in said Contract Documents, Contractor's Proposal, and/or written in this Agreement.

The Contract Documents include the following documents issued under the title "Specifications, Proposal and Contract Documents for Municipal Solid Waste Hauling and Recycling Services for the Borough of McSherrystown": any and all Bidding Documents, as defined in the Instructions to Bidders and including but not limited to the said Specifications and any Addenda (if released); the Bidder's completed Proposal and any required

attachments; and any and all written Amendment(s), Change Orders(s) and Notice to Proceed if issued after the Effective Date of this Agreement, which said Contract Documents are incorporated into this Agreement by reference.

Article 2 - Work/ Services

The Contractor agrees to furnish all labor, superintendence, materials, necessary equipment, other utilities and facilities, and to otherwise perform all Work and/or Services as included in the Proposal and to faithfully perform and complete all obligations connected therewith in full conformity with said Contract Documents, including but not limited to the Specifications and Bidder's Proposal, and to demonstrate and make good any guarantees and warranties therein required and contained, for all of which things faithfully and fully performed and completed, the Borough agrees to pay the Contractor and the Contractor agrees to accept from the Borough in full settlement therefor, the total sum or contract price of lawful money of the United States of America at the time, in the manner, and under the conditions named in said Contract Documents, and as listed in the Proposal.

Article 3 - Time is of the Essence/ Contract Times & Term

All times set forth for the completion of the services relating thereto is of the essence of the Agreement. The Agreement shall begin on the Effective Date and terminate on June 30, 2029. In the sole and absolute discretion of the Borough, the Borough may decide, on or before July 1 of the final contract year or first option year to extend the Contract for one year under the pricing in the proposal for the applicable year. To the extent provided in the General Terms and Conditions relating to disputes, applicable provisions herein shall continue in effect after expiration or termination, including early termination prior to the standard expiration date of the term, to the extent necessary to enforce or complete the duties) obligations or responsibilities arising prior to termination, repayment of any money due and owing to either party pursuant hereto, and indemnifications specified hereto.

Article 4 - Standard of Care

The standard of care applicable to Contractor's services will be the degree of skill and diligence normally employed by professionals performing the same or similar services in the Commonwealth of Pennsylvania at the time said services are performed. The Contractor will re-perform any services not meeting this standard without additional compensation.

Article 5 - Contract Price

A. The Borough shall pay the Contractor for performance of the services relating to the Work and/or Services in accordance with the General Terms and Conditions, as provided in the Contract Documents as follows:

1 - The prices as stated in Contractor's Bid for Alternative # __.

B. Escalator Clause

This Agreement entered into between the Borough and Contractor contains an escalator clause providing for an adjustment in the quarterly payments to be made to the Contractor to reflect any increases or decreases in the actual cost incurred by the Contractor during the previous quarter as a result of any increases or decreases in the contract tipping fee

changed by the York County Solid Waste and Refuse Authority after the effective date of this Agreement for refuse collected within the Borough and disposed of at the incinerator operated by said Authority.

The quarterly payments due to the Contractor shall be adjusted based upon the difference in the actual rate paid by said Contractor and such rate. Said adjustments shall be based solely upon the total number of tons of refuse collected by the Contractor within McSherrystown Borough, and shall be made quarterly upon submission by the Contractor to the Borough of the amounts collected and disposed of during the previous quarterly period) all of which weights slips, receipts or other satisfactory evidence shall be certified by the Contractor to be accurate and applicable solely to refuse collected within McSherrystown Borough and disposed of. Unless Contractor complies with these requirements, no additional payment shall be made to it as a result of any such increased in the contract tipping fee, and the Borough shall have the right to estimate the amount of any reduction in the quarterly payments due it as a result of any such decreases in the contract tipping fee.

Article 6 - Payment Procedures

The Contractor shall submit invoices in accordance with the General Terms and Conditions, as provided in Contract Documents.

Article 7 - Independent Contractors

Any services to be performed by the Contractor or its sub-contractors, if any, under this Agreement are provided as independent contractors. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. All persons engaged in any of the services for the service to be performed pursuant to this Agreement shall at all times and places be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it, its employees, and sub-contractors perform the services. The Contractor does not have the power or authority to bind the Borough in any promise, agreement) or representation unless expressly provided written agreement to do so. The Contractor also hereby represents and warrants that it and any sub-contractors have and will continue to maintain all licenses and approvals required to conduct its business and to provide the services as required pursuant to this Agreement.

Article 8 - Contractor's Representations

In order to induce the Borough into this Agreement, the Contractor makes the following representations:

- A. The Contractor has examined and carefully studied the Contract Documents and any and all other related data as identified in the Bidding Documents, including any technical data;
- B. If specified, or if, in Contractor's judgment, any local condition may affect cost, progress or the performance of the services, Contractor has visited the Borough of McSherrystown to become familiar with the local conditions and is satisfied as to the local conditions that may affect cost, progress, or the performance of the services;
- C. Contractor is familiar with and satisfied as to all federal, state, and local Laws and

- regulations that may affect cost, progress, or the performance of the services;
- D. Contractor has carefully studied and correlated the information known to Contractor, and information and observations obtained from Contractor's visits, if any, to the Borough of McSherrystown, with the Contract Documents;
 - E. Contractor promptly gave the Borough written notice of all conflicts, errors, ambiguities) or discrepancies that Contractor discovered in the Contract Documents and the Bidding Documents and confirmed that the written resolution thereof by the Borough is acceptable to Contractor;
 - F. Contractor determined that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the services;
 - G. Contractor is in good standing with its State of Incorporation and authorized to conduct business in the Commonwealth of Pennsylvania;
 - H. Contractor is authorized to enter into this Agreement and the individual signing on behalf of Contractor is authorized to bind the Contractor to the terms set forth herein; and
 - I. Contractor shall and will maintain any and all permits, licenses, and certificates as needed to perform the services or do work as described herein.

Article 9 -Applicable Law/ Venue/ Jurisdiction

This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, and in the event of dispute the venue and jurisdiction of any action brought hereunder, upon the conclusion of mediation, as set forth in the General Terms and Conditions, shall be in Adams County Court of Common Pleas.

Article 10 - Entire Agreement/ Amendments

This Agreement contains the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties. This Agreement cannot be modified, except by a written document signed by the parties hereto. Borough Council's approval at a public meeting shall be required to amend this Agreement unless otherwise delegated to its designees.

Article 11 - Remedies

No remedy herein conferred upon any party is exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or provided by law, equity, statute, or unless otherwise stated herein. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other exercise or farther exercise thereof. Notwithstanding the foregoing, Contractor waives any and all claims to consequential, incidental compensatory or punitive damages that may arise out of and/or resulting from this Agreement, including but not limited to loss of anticipated profits or revenue or other economic loss in the event this Agreement is terminated. Further, Contractor agrees that Contractor's sole remedy for any claim arising out of or relating to this Agreement shall be payment for services rendered prior to any termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination of the Agreement for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

Article 12 - Severability

If any term, provision, covenant, or condition of this Agreement is held by a court of competitive jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

Article 13 - Counterparts

This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

Article 14 - Interpretation

Each party to this Agreement has been afforded the opportunity to review this Agreement with their own respective legal counsel. Therefore, this Agreement shall not be construed in favor for or against either party.

Article 15 - Successors and Assigns

The Borough and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

Article 16 - Assignment

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

Article 17 - Disputes

Before any litigation is brought pursuant to this Agreement, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the parties will continue to put forth names for a mutually agreeable time, after which litigation may be commenced in Adams County Court of Common Pleas if a mediator is not agreed upon. In the event mediation does not result in the successful resolution of the dispute, either party may institute any and all actions necessary to protect their rights at law and/or equity in accordance with this Agreement.

Article 18 - Termination / Suspension

Should the Contractor fail to perform the Work and/or Services to the satisfaction of the Borough or to comply with any of the provisions of the Agreement, the Borough may terminate the Agreement for cause upon seven (7) days written notice of intent to terminate to the

Contractor. Contractor's services will not be terminated if the Contractor begins within seven (7) days of receipt of the notice of intent to terminate to correct and cure the deficiencies set forth in said notice and it proceeds in a diligent manner to cure such deficiencies within no more than fifteen (15) days of receipt of said notice, unless the Borough in its sole and absolute discretion extends such time to cure in writing.

Notwithstanding the foregoing, the Borough may terminate this Agreement without cause and without prejudice to any other right or remedy of the Borough upon seven (7) days' written notice to Contractor.

Contractor may only terminate this Agreement in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Contract as provided for herein, Contractor agrees that Contractor shall not be paid an amount of loss of anticipated profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Agreement, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

Article 19 - Non-Discrimination

The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the Services of the Contractor to be provided under this Agreement on the basis of race, color, religion creed, sex, age, national origin, marital status, or presence of any sensory; mental, or physical handicap.

Article 20 - Effective Date

As used herein, the "Effective Date" shall mean the later of the Borough execution date and the Contractor execution date, each of which is set forth on the signature page hereof.

[Signatures to Follow]

(If Contractor is an Individual)

Signature of Witness

Signature of Individual

Trading and doing business as:

Name of Business

Address of Business

(If Contractor is a Partnership - All General Partners Must Sign)

Name of Partnership

Address of Partnership

Signature of Witness

Signature of Partner

Signature of Witness

Signature of Partner

(If Bidder is a Corporation)

Attest:

Name of Corporation

Signature of Secretary or Assistant
Secretary

Address of Principal Office

(Corporate Seal)

State of Incorporation

Signature of President or Vice President

Date

Attest:

BOROUGH OF MCSHERRYSTOWN

President of Borough Council

END OF AGREEMENT