

SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This Second Amendment to the Memorandum of Understanding (the “Second Amendment”) is entered into by and between **DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT** (“DCED”) and **THE INTERGOVERNMENTAL COOPERATION AUTHORITY FOR HARRISBURG** (“ICA Harrisburg”).

Pursuant to the Memorandum of Understanding (“MOU”) by and between DCED and ICA Harrisburg, as amended by the First Amendment to Memorandum of Understanding, DCED has transferred funds to ICA Harrisburg to cover operational expenses in the amount of One Hundred Thousand Dollars (\$100,000.00) each year for fiscal years FY 2018/19 through FY 2022/23. Pursuant to Section 204 of the Act of October 24, 2018 (P.L. 751, No. 124), known as the Intergovernmental Cooperation Authorities Act for Cities of the Third Class (the “Act”), ICA Harrisburg has a term of existence of approximately five (5) years, said termination date being December 31 of the fourth full calendar year following the year in which an intergovernmental cooperation agreement is entered into under Section 203(d) of the Act.

While the governing authorities of ICA Harrisburg and the City of Harrisburg have negotiated and approved the terms of an intergovernmental cooperation agreement as contemplated under Section 203(d) of the Act, the parties thereto have not executed and formally entered into an intergovernmental cooperation agreement. Pursuant to Section 706 of the Act, the distressed status of a city under the act of July 10, 1987 (P.L. 246, No. 47), known as the Municipalities Financial Recovery Act (“Act 47”), shall terminate when an intergovernmental cooperation agreement is entered into by the ICA Harrisburg and the City of Harrisburg. By Order dated September 9, 2021, issued by The Honorable Michael H. Wojcik in *The Commonwealth of Pennsylvania, et al. v. RBC Capital Markets Corporation, et.al.*, Commonwealth Court of Pennsylvania, Docket No. 368 M.D. 2018 (“Harrisburg Incinerator Litigation”), the Act 47 Coordinator for the City of Harrisburg remains the sole plaintiff in litigation initiated by the Commonwealth of Pennsylvania, *et al.*, against various defendants to recover damages arising out of The Harrisburg Authority’s Resource Recovery Facility retrofit project. The termination of distressed status and the resulting elimination of the Act 47 Coordinator position by operation of law under Section 706 of the Act will result in significant harm to the City of Harrisburg to the extent that the Act 47 Coordinator is the sole party with legal standing to pursue claims against the defendants in the Harrisburg Incinerator Litigation. The City of Harrisburg is exploring the feasibility of transferring or assigning the Act 47 Coordinator’s legal standing in the Harrisburg Incinerator Litigation to a third-party agency so as to enable the ICA Harrisburg and the City of Harrisburg to enter into an intergovernmental cooperation agreement and terminate the City of Harrisburg’s distressed status under Act 47.

Because the ICA Harrisburg and the City of Harrisburg have not entered into an intergovernmental cooperation agreement, the ICA Harrisburg’s five (5) year term of existence under Section 204 of the Act has not yet begun to run. Consequently, with the termination of funding of ICA Harrisburg operations after FY 2022/23 under the MOU, as amended, it is necessary and appropriate to extend funding for ICA Harrisburg for an additional five (5) years through Fiscal Year 2027/28 to ensure the ICA Harrisburg is properly funded to fulfill its statutory

duties and powers as set forth in the Act in furtherance of assisting the City of Harrisburg with achieving financial stability.

DCED and ICA Harrisburg now desire to amend the MOU to extend the termination date of the MOU and provide for additional funding to ICA Harrisburg for an additional five (5) fiscal years.

The parties to this Second Amendment set forth the following as the terms and conditions of their understanding:

1. Paragraph 1 of the MOU is amended to read:

1. DCED Responsibilities.

- a. Upon the full execution of the MOU, DCED shall transfer to ICA Harrisburg the amount of One Hundred Thousand Dollars (\$100,000.00) to cover operational expenses for the first year of the ICA Harrisburg's operation.
- b. DCED shall make available to the ICA Harrisburg, on an annual basis, the sum of One Hundred Thousand Dollars (\$100,000.00) to cover operation expenses incurred each fiscal year beginning with Fiscal Year 2019/20 and ending with Fiscal Year 2027/28. The funds shall be transferred by DCED to ICA Harrisburg on the following schedule:
 - (i) For Fiscal Year 2019/20, One Hundred Thousand Dollars (\$100,000.00) to be transferred upon the full execution of the First Amendment.
 - (ii) For Fiscal Year 2020/21, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2020.
 - (iii) For Fiscal Year 2021/22, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2021.
 - (iv) For Fiscal Year 2022/23, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2022.
 - (v) For Fiscal Year 2023/24, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2023.
 - (vi) For Fiscal Year 2024/25, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2024.
 - (vii) For Fiscal Year 2025/26, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2025.
 - (viii) For Fiscal Year 2026/27, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2026.

(ix) For Fiscal Year 2027/28, One Hundred Thousand Dollars (\$100,000.00) to be transferred on or after July 1, 2027.

2. The Termination Date of the MOU is extended from June 30, 2023 to June 30, 2028. ICA Harrisburg's requirement to provide DCED with a copy of ICA Harrisburg's Annual Report due on December 31, 2028, for Fiscal Year 2027/28 shall survive the termination of the MOU.

3. Unless otherwise defined herein, the terms used herein shall have the same meanings as set forth in the MOU.

4. All other terms and conditions of the MOU not expressly amended or modified herein, or in any previous amendment, if applicable, shall continue in full force and effect.

[SIGNATURE PAGE FOLLOWS]

The parties, through their authorized representatives, have signed this MOU below.


**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT**

**INTERGOVERNMENTAL COOPERATION
AUTHORITY FOR HARRISBURG**



Executive Deputy Secretary Date


5/3/23



Chairman Date


4.26.23

APPROVED AS TO FORM AND LEGALITY:



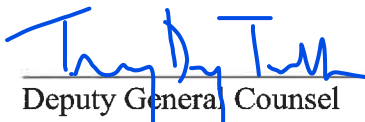
Office of Chief Counsel Date
DCED

6/8/23



Legal Counsel Date
ICA Harrisburg

4.26.2023



Deputy General Counsel Date
Office of General Counsel

6/16/23

Approved as to fiscal responsibility, budgetary appropriateness and availability of additional funds in the amount of \$500,000.00 under Appropriation Symbols:

- 11141xx000 2430102000 6343117 FY 2019/20 \$100,000
- 11141xx000 2430102000 6343117 FY 2020/21 \$100,000
- 11141xx000 2430102000 6343117 FY 2021/22 \$100,000
- 11141xx000 2430102000 6343117 FY 2022/23 \$100,000
- 11141xx000 2430102000 6343117 FY 2023/24 \$100,000
- 11141xx000 2430102000 6343117 FY 2024/25 \$100,000
- 11141xx000 2430102000 6343117 FY 2025/26 \$100,000
- 11141xx000 2430102000 6343117 FY 2026/27 \$100,000
- 11141xx000 2430102000 6343117 FY 2027/28 \$100,000

Contract # 4000022622

Intergovernmental Cooperation Authority – Third Class Cities Line Item
100% Commonwealth funds

Comptroller Operation Date