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**STONE RIDGE I LANDFILL  
FINAL NEGOTIATED AGREEMENT**

**CITY OF MUSKEGO  
WAUKESHA COUNTY, WISCONSIN**

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Menomonee Falls, WI 53051  
(414)-251-4000

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TITLE AND INTRODUCTION

This agreement between the City of Muskego and Waste Management of Wisconsin, Inc. shall be known as the "Stone Ridge I. Landfill Final Negotiated Agreement".

This Agreement ("Agreement") is made and entered into by and between Waste Management of Wisconsin, Inc., a Wisconsin corporation (hereinafter referred to as "Operator"), and the City of Muskego, a Wisconsin municipal corporation (hereinafter referred to as "City").

This Final Negotiated Agreement is the final product of the negotiating process provided for under § 144.445, Wis. Stats. This agreement between the Stone Ridge Landfill Siting Committee and the Operator shall be deemed a final agreement upon approval thereof by the City and Operator.

## DEFINITIONS

Active Fill Area means the total capacity finally approved by the Department of Natural Resources as the disposal capacity for the Disposal of Solid Waste by the Operator at the Solid Waste Facility, in the area depicted and described in Exhibit "A", and as described in the January 5, 1989 Revised Feasibility Study.

Acknowledged Transporter means any person who is identified by the Operator at any time as a transporter of Solid Waste to the Active Fill Area at the Solid Waste Facility. Acknowledged transporters do not include the residents of the City of Muskego authorized by this Agreement to Store or Dispose of Solid Waste at the Landfill.

Agent Transporter means a division of the Operator that hauls Solid Waste to the Active Fill Area for Disposal.

CERCLA means the Comprehensive Environmental Response, Compensation and Liability Act.

City means the City of Muskego, its officers, its employees and its agents.

County means the County of Waukesha, its officers, its employees and its agents.

Department means the Wisconsin Department of Natural Resources or its successor agency.

Discharge means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Solid Waste or Hazardous Waste.

Disposal or Dispose means the discharge, deposit, injection, dumping or placing of Solid Waste in the Active Fill Area at the Solid Waste Facility. This term does not include the Storage or the Treatment of Waste at the Solid Waste Facility.

Disposal Operations means the activities at the Solid Waste Facility related to or associated with the Disposal of Solid Waste, including the constructing, surveying, environmental monitoring, environmental testing, repairing, maintaining, operating (including the extraction and transportation of sub-base, daily cover and rooting zone materials) and closing of the Active Fill Area, and including the covering of the Active Fill Area, where all of the above-noted activities occur anytime during the term of this Agreement.

Emergency means an unforeseen circumstance at any time that jeopardizes the public health, safety and welfare or that jeopardizes the environment or safety of property in the City.

Expansion means the expansion at any time by any means by the Operator of the design capacity of the Active Fill Area of the Solid Waste Facility beyond the total approved design capacity of approximately seven hundred forty-one thousand (741,000) cubic yards of solid waste and cover materials authorized for Disposal in the Active Fill Area at the Solid Waste Facility.

Final Closure means the date at which time no further Solid Waste shall be Disposed in the Active Fill Area at the Solid Waste Facility by the Operator or by any other person, which shall be the earliest date of the following:

- a) the date the Operator notifies the City, in writing, that the Operator is no longer Disposing and no other person is Disposing Solid Waste in the Active Fill Area.
- b) the date the Department of Natural Resources orders the Operator, in writing, to no longer Dispose and to no longer allow any other person to Dispose Solid Waste in the Active Fill Area, or
- c) the date the Operator has Disposed or has allowed the Disposal in the Active Fill Area at the Solid Waste Facility a total of approximately seven hundred forty-one thousand (741,000) cubic yards of both Solid Waste and cover materials in the Active Fill Area.

Final Use refers to the Active Fill Area which, after Final Closure, the Operator will maintain as open space with a vegetative cover.

Hazardous Waste means any Waste identified as a Hazardous Waste by the Department, under § 144.62(2)(b), Wis. Stats., or its successor statute, or identified as a Hazardous Waste by regulations adopted by the Department in Chapter NR-600 et seq., Administrative Code, or its successor chapters. This term does not include incidental household Hazardous Waste from residences.

Initial Term shall be the period from the execution of this Agreement by the City and the Operator until Final Closure.

Landfill see "Solid Waste Facility".

Landfill Fund means the Fund created under Exhibit "F".

Local Approvals means any local approval as "Local Approvals" are defined in § 144.445(3)(d), Wis. Stats., or its successor provisions.

Local Committee means the negotiating committee created under Section 144.445, Wis. Stats., which consists of four (4) City and two (2) County members.

Long-Term Care or Long-Term Care Operations means any activities at the Active Fill Area, including routine care, maintenance and monitoring in the Active Fill Area and where all of the above-noted activities occur any time following the Final Closure of the Active Fill Area. Long term care operations by the Operator and by its agents shall not be considered Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area for purposes of this Agreement.

Operator means Waste Management of Wisconsin, Inc., its employees, agents, successors or assigns.

Pre-existing Local Approvals means any pre-existing local approvals as "pre-existing local approvals" are defined in § 144.445(3)(fm), Wis. Stats., or its successor provisions.

Remedial Actions means those actions consistent with a temporary and permanent remedy which are taken instead of or in addition to removal actions in the event of a release or threatened release at the Active Fill Area of any pollutant or contaminant into the environment, to prevent or minimize the release of such pollutants or contaminants so that the pollution or contamination

does not migrate to cause any danger to the present or future public health or welfare of the residents of the City or to the environment in the County. The term includes, but is not limited to, such actions at the location of the release of the pollutants or contaminants as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, clean-up of released pollutants or contaminants, recycling or reuse of pollutants or contaminants, diversion of pollutants or contaminants, destruction of pollutants or contaminants, segregation of pollutants or contaminants, dredging or excavations, repair or replacement of leaking containers, collection of leachate and run-off, on-site treatment or incinerations, provision of alternative water supplies to residents in the County and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the permanent relocation of residents where the Department of Natural Resources determines such relocations are more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction or secure disposition off-site of pollutants or contaminants or other actions that may be necessary to protect the public health or welfare of the residents of the City. The term does not include off-site treatment of pollutants or contaminants or the storage, treatment, destruction or secure disposition off-site of such waste unless the Department of Natural Resources determines in writing that such actions are:

- a) more cost-effective than other remedial actions, or
- b) are necessary to protect the public health or welfare of the residents of the City or the environment of the County from a potential or present risk which may be created by further exposure to the continual presence of such pollutants or contaminants.

Removal Action means the clean-up action or removal action of released pollutants or contaminants from the environment, such actions as may be necessarily taken in the event of release of pollutants or contaminants into the environment from the Active Fill Area, such actions as may be necessary to monitor, assess and evaluate the release or threat of release of pollutants or contaminants, the disposal of removed pollutants or contaminants, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare of the residents of the City or to the environment in the County, which may otherwise result from a release or threat of release of pollutants or contaminants at or from the Active Fill Area. The term includes, in addition, without being limited to, security fencing or other measures to limit access to the Solid Waste Facility, provision of alternative water supplies to the residents of the County, temporary evacuation of the residents of the County and housing of threatened residents of the City.

Solid Waste means garbage, ash, refuse, rubbish, sludge from a waste treatment plant, water supply treatment plant or air

pollution control facility, and other discarded or salvageable materials, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities. Solid Waste may include, but is not limited to, paper, wood, metal, glass, cloth and products thereof; litter and street rubbish; and lumber, concrete, dirt, stone, plastic, bricks, tar, asphalt, plaster, masonry, and other debris resulting from the construction or the demolition of structures, buildings, roads and other manmade structures. Solid Waste does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 147, Wis. Stats., or its successor chapter; or sources, special nuclear or by-product materials as defined in § 140.52, Wis. Stats., or its successor section. Solid Waste, for the purpose of this Agreement, does not include Hazardous Waste other than incidental household Hazardous Waste from residences.

Solid Waste Facility is collectively all the Solid Waste Disposal Facilities located within the area described in Exhibit "B". This term shall include both the Active Fill Area consisting of a Solid Waste Disposal Facility, to be located on seventeen (17) acres described and depicted in Exhibit "A"; and a second Solid Waste Disposal Facility located on approximately Forty-Six and Eight/Tenths (46.8) acres; the Original Landfill and the Southeast Landfill, both of which have been placed by the USEPA on the

National Priorities List (superfund); all of which may also be collectively referred to as the "Landfill".

Special Waste shall be those classified as "Special Wastes" by the Department of Natural Resources and shall include all subsequent modifications and inclusions of such definition, whether by statute, administrative regulation or DNR rule.

Standing Committee means the monitoring committee established under Exhibit "D".

Storage or Store means the holding of Waste at the Solid Waste Facility, at the end of which period the Waste is to be then treated, processed, or ultimately disposed of in the Active Fill Area at the Solid Waste Facility. Storage shall not include temporary holding of waste so as to constitute use as a transfer station, unless approved under the appropriate City ordinances.

Storage Operations means any activities at the Solid Waste Facility related to the Storage of Waste and where all the above-noted activities occur anytime during the Initial Term of this contract.

Treat or Treatment means any method, technique or process at the Solid Waste Facility which is designed to change the physical, chemical or biological character or composition of the Solid Waste.

Treatment Operations means any activities at the Solid Waste Facility related to the Treatment of Solid Waste and where any of the above-noted activities occur anytime during the initial term of this Agreement.

USEPA means United States Environmental Protection Agency.

Waste means Solid Waste, including construction waste, demolition waste, ash, sludge, refuse, rubbish garbage, discarded recyclable materials, hazardous and/or nuclear waste. (Hazardous or nuclear waste is included by definition, though is expressly prohibited from Disposal at the Active Fill Area.)

Waste Facility Siting Board means the Wisconsin Waste Facility Siting Board or its successor agency.

## I. BACKGROUND INFORMATION

### A. Site Information.

The name of the Solid Waste Facility is the Stone Ridge Landfill (Northern Expansion), formerly known as the Muskego Sanitary Landfill, (Northern expansion), and is also known as Stone Ridge I.

### B. Address of Site.

The address of this Solid Waste Facility, both for location and mailing purposes, shall be Stone Ridge Landfill, S82 W21595 Wauer Lane, Muskego, Wisconsin 53150. The legal description of the Solid Waste Facility is as set forth in Exhibit "B".

### C. Owner.

The current owner of the Solid Waste Facility is Waste Management of Wisconsin, Inc. Such corporation shall also be the operator and is referred to as "Operator" and the term "Operator" shall also refer to the corporation's employees, agents, successors or assigns.

D. Construction Of Active Fill Area.

This Active Fill Area shall be constructed and operated pursuant to the Revised Feasibility Report dated January 5, 1989 and submitted in April, 1989 under final report no. 13377. The Feasibility Report and its future amendments and modifications, as approved by the DNR, are incorporated in their entirety into this contract and specific standing is granted to the City of Muskego and Waukesha County to enforce those terms. Similarly, the Plan of Operation for this expansion and all future modifications and amendments to such plan of operation, as approved by the Department of Natural Resources, are also incorporated by reference and may be separately enforced by the City of Muskego and Waukesha County. A Feasibility Report and Plan of Operation which shall cover the second expansion of 46.8 acres shall also be referred to herein only by reference, such second expansion to be dealt with under a separate agreement.

1. Design concept: This landfill is proposed as a groundwater separation, clay lined landfill.
2. Total proposed design capacity: 741,000 cubic yards (total air space); 500,175 tons of waste.
3. Expected site life: 4 years.
4. Proposed date of closure: 1995.
5. Proposed licensed acreage: 17 acres. (This agreement shall cover the current acreage proposed in the revised feasibility study as set forth in Exhibit "A", subject to height

and volume limitations as set forth in the Revised Feasibility Report.)

E. License.

The Operator operated a landfill under DNR License No. 2895, which is located on property adjacent to the Active Fill Area referenced herein.

F. City Waste.

The Operator has provided the City of Muskego with free disposal of residential waste. This Agreement provides for free disposal for a minimum of four years as more specifically provided for hereinafter in this Agreement.

G. Acceptable Waste Types.

The acceptable waste types shall be non-hazardous and non-nuclear municipal, commercial and industrial solid waste including refuse, garbage, combustible and noncombustible demolition waste.

H. Estimated Waste Quantities.

This Solid Waste Facility is estimated to average 225,000 to 255,000 tons per year.

I. Notices.

Notices submitted to the operator may be submitted in person or by first class mail to the following address:

Waste Management of Wisconsin, Inc.  
W124 N8925 Boundary Road  
Menomonee Falls, Wisconsin 53051  
(414) 251-4000

J. Designated Contact.

The operator shall provide contact persons and shall be required to keep current telephone numbers available to the City,

County, and Standing Committee. Furthermore, a twenty-four (24) hour emergency telephone number shall be provided by the Operator at all times.

K. EPA Superfund Action.

The Environmental Protection Agency (EPA) has initiated a proceeding under CERCLA regarding the closed landfills located on a portion of the property described in Exhibit "B" under which both Waste Management of Wisconsin, Inc. and the City of Muskego have been identified as potentially responsible parties. The parties hereto have negotiated this Agreement with the understanding that the City's liability may be found to be up to \$14 million or more, which would include City costs related to defending such actions and the impact of such action on the City's bond ratings; although the City continues to challenge and object to any liability pertaining to the ongoing CERCLA proceedings.

L. Property Value Protection Plan.

The properties identified in Exhibit "I" shall be eligible to participate in a local property value protection program funded by the Landfill Fund.

1. To be eligible for this program, owners of real estate listed in Exhibit "I" must notify the City Clerk, in writing, of their intent to sell their real estate and improvements within thirty (30) days prior to putting their property up for sale. Within thirty (30) days of providing the Standing Committee with notice of intent to sell, the property owners shall submit a fair market

value appraisal of their real estate and improvements performed by a real estate appraiser certified as a member of the Institute of Appraisers or recognized by the National Appraisers Association. Such appraisal shall include the fair market value both a) of the date on which the appraisal is performed and, b) as of the date on which the appraisal is performed, but making the sole additional assumption that the Active Fill Area and Borrow Pit was not being licensed or used as a landfill or Borrow Pit. The difference between the two valuations shall equal the "diminished fair market value" of the real estate and improvements. In the event that the Standing Committee disagrees with the valuations arrived at, the Standing Committee may direct that a second appraisal, performed in the same manner as the first, be completed within sixty (60) days. The cost for reasonable appraisal expenses under this subsection shall be paid from the Landfill Fund.

2. Computation of Fair Market Value. For purposes of this subsection, "fair market value" means the value of the real estate and improvements as if the Active Fill Area was not licensed or operated as a landfill at the time such value is established; nor that the Borrow Pit was used as such. Fair market value shall be established as follows:

- a. by a single appraisal under section 1 of this section if the results are acceptable to both the property owners and the Standing Committee; or,
  - b. by agreement between the two (2) appraisers retained under section 1 of this section. If the two appraisers retained under section 1 cannot agree, they shall meet forthwith and have five (5) days in which to agree upon a fair market value of such real estate and improvements. If they are unable to agree after the expiration of such time, the appraisers shall have seven (7) days in which to choose a mutually-agreeable third appraiser who shall act as a review appraiser and shall arrive at a fair market value within fifteen (15) days of his or her retention. "Diminished fair market value" which is defined in sections 1 and 2 of this section, shall be established in the same manner as described in said subsection.
3. Any property owner seeking compensation under this section shall list, and shall continue to list, their real estate and improvements for sale at a price equal to one hundred ten percent (110%) of the fair market value of such property until:
- a. the property owners sell such property for an amount equal to or greater than the fair market

value price, in which case no payment shall be made to such property owners; or

- b. the property owners receive an arm's-length written offer to purchase the property at a price lower than the fair market value. The property owners shall notify the Standing Committee of receipt of any and all such offers within seven days of receipt. Property owners must provide a sufficient acceptance period with their potential buyers so that the Standing Committee shall have no less than twenty days to review offers. The Standing Committee shall review such offers and may elect to pay the difference between the offer and the fair market value, or the diminished fair market value of the real estate and improvements, whichever is less, and shall notify the property owners of their decision in writing. The Standing Committee shall pay the property owner the designated sum after the property owner has completed the sale of their property and provided the Standing Committee proof that the transfer of the property has been recorded in the office of the Waukesha County Register of Deeds.
- c. at least one hundred eighty (180) days expire from the date such real estate and improvements had been continuously listed for sale and no offers to

purchase have been received for at least the diminished fair market value, or as approved by the Standing Committee. If no offer to purchase has been received by the property owner or approved by the Standing Committee, the property owner may request that the Standing Committee permit such property owner to lower their listing price. The property owner shall notify the Standing Committee of such a request and recommend to the Standing Committee a new listing price. Within thirty (30) days of receiving such notice, the Standing Committee shall decide whether or not to allow the property owner to list their property at a lower price, and shall determine what listing price is permissible. Property owners may request further reductions in the listing price after the expiration of ninety (90) days from the date that the Standing Committee took action on their previous request. Such requests may be made to lower the listing price after the expiration of similar ninety (90) day periods.

- d. To participate in this program, the property owners must list their real estate and improvements for sale with a licensed real estate broker; except that a property owner desiring to sell their

property on their own may attempt such a sale upon the following terms:

- i. The Standing Committee may review all offers received as if such offers were received under paragraph 4; and
  - ii. No application shall be made under paragraph c above until such time as the property owner has listed their property for sale with a licensed real estate broker for one hundred eighty (180) days.
- e. If any property owner making application under this section sustains or is threatened by such a loss so as to constitute an undue financial hardship due to an erroneous computation of diminished fair market value or due to a change in circumstances while the property is being listed for sale, a property may seek appropriate relief from the Standing Committee by filing a written application specifically stating such facts and/or factors creating the hardship and the specific relief requested. After receipt of such an application for hardship compensation or relief, the Standing Committee shall designate a time and place to consider such application and shall give notice to the property owner of such hearing. At such hearing, the applicant shall produce all evidence in support of

his/her application. Based upon the record at such hearing, the Standing Committee may either deny such request or make a finding of hardship, and grant such relief that the Standing Committee, in its sole discretion, deems appropriate.

4. If the property owner chooses to sell his/her real estate and improvements to one other than an arm's-length purchaser, such property owner shall notify the Standing Committee at least thirty (30) days prior to such proposed conveyance. If the property owner seeks compensation under this section, appraisals shall be made as provided for in section 1 of this section. Fair market value shall be determined under section 2 of this section, but the property owner shall only be entitled to payment from the Landfill Fund an amount equivalent to the diminished fair market value of the property, unless the Standing Committee determines that such property would have resulted in a sale for a greater amount or the full fair market value if listed on the market for sale. If such a finding is made, the Standing Committee shall notify the owner of the amount of compensation, if any, that has been awarded. Further, the Standing Committee shall not be obligated to make any payment if a sale or the transfer is made solely to obtain compensation under this section. If the property owner feels aggrieved by a decision of the Standing Committee with respect to

payment under this subsection, such property owner shall apply for a hearing to review such decision within fourteen (14) days after receiving written notice of the Standing Committee's final decision. All such review hearings shall be heard before the City Council.

5. Applicability of Program to Properties.

- a. This program shall apply only one (1) time to any particular parcel of property.
- b. Property owners conveying under this section shall do so by deed or land contract.
- c. Any compensation provided for hereunder is conditioned upon the Landfill Fund having sufficient sums to pay such compensation. The Standing Committee deems that insufficient funds exist, payment shall be deferred, without interest, until such time as the Standing Committee deems sufficient funds do exist to pay such claims.
- d. All applications for compensation herein shall be made prior to Final Closure.
- e. Failure of a property owner to comply with any of the provisions herein shall be grounds for denial of eligibility for property value protection as set forth in this agreement.
- f. The Standing Committee shall only be responsible for making payments to property owners after the sale of their property has been completed and proof

of the recording of such transfer in the Waukesha County Register of Deeds Office is provided to the Standing Committee.

g. The Standing Committee shall not have an obligation to make any payment to any individual or entity who purchases any ownership interest in eligible property after the execution of the Negotiated Agreement.

h. The applicability of this property value protection plan shall be limited to that property's state of usage, zoning, development, and improvements as exist on January 14, 1992.

6. Any compensation considered under this section, or the denial of the same, shall be deemed to be in the sole discretion of the Standing Committee. This section provides the maximum limits of such compensation directly caused by the extraction of materials in the Borrow Pits to local property owners, but shall not, under any circumstances, create a private cause of action, right or entitlement to any person.

## II. NOTICE TO TRANSPORTERS AND VEHICLE REQUIREMENTS

From execution of this Agreement to Closure, the Operator will provide written notice to both Agent Transporters and Acknowledged Transporters that:

1. No vehicle will be allowed to deliver Solid Waste to the Active Fill Area unless the vehicle is designed, constructed,

loaded and maintained in such a manner as to prevent Solid Waste from Discharging onto any public or private land beyond the Landfill;

2. No Hazardous Waste will be accepted at the Landfill; and,

3. The Transporter shall advise the Operator of any Discharge which occurs in the County.

Written notice will be given to each transporter, whether an Agent Transporter, Acknowledged Transporter or otherwise, that brings Solid Waste to the Landfill for Disposal. A similar notice will be posted in a prominent location at the Landfill.

The Operator shall not accept for Disposal at the Active Fill Area any Solid Waste that does not arrive at the Landfill in transport vehicles that are designed, constructed, loaded and maintained in such a manner as to prevent or substantially eliminate any portion of any Waste in such transport vehicles from discharging, leaking, spilling, falling or blowing out of such transport vehicles onto any public or private lands in the County, excluding the Active Fill Area.

### III. REPORTS AND RESPONSIBILITY FOR REMOVAL OF DISCHARGES BEYOND THE LANDFILL

#### A. Solid Waste and Hazardous Waste Discharge Reports.

During the Initial Term, the Operator shall report to the City, the County, and the Standing Committee in writing within forty-eight (48) hours after the Operator receives any information related to any Discharge of Waste in the County if:

(1) Such Discharge occurred when the Operator or its Agent Transporter were transporting Waste to or from the Landfill, or

(2) The Discharge occurrence was caused by an Acknowledged Transporter who has given the Operator notice of such Discharge. This provision does not apply to any Solid Waste disposed by Operator, its Agent Transporters or by any other parties in the Active Fill Area.

The Operator shall, in its written notice describe the location of the Discharge, the date of the occurrence, if known, the type and amount of the Waste Discharge, if known, the suspected cause of the Discharge, if known, and the proposal for the removal of the Waste, and the extent to which the Discharge may cause a continuing environmental harm.

B. Removal of Discharges.

The Operator, upon Knowledge of any Discharge of Solid Waste by Operator or by its Agent Transporters onto any public or private lands in the County, other than any Solid Waste Disposed in the Active Fill Area, shall take, as soon as possible, all reasonable efforts to contain and then to remove the Discharge from these lands. The Operator, upon knowledge of any Hazardous Waste Discharge onto any public or private lands in the County by the operator or its Agent Transporters, shall take, as soon as practicable: (a) all reasonable and necessary actions to contain and remove the Hazardous Waste, (b) all reasonable and necessary actions to protect the public health and safety of persons in the

County and (c) all reasonable and necessary actions to protect the natural resources in the County.

#### IV. ACKNOWLEDGED TRANSPORTERS

##### A. List of Transporters.

Within thirty (30) days after beginning to accept Solid Waste for Disposal at the Active Fill Area, the Operator shall prepare a list of its Acknowledge Transporters. This list shall contain the names, addresses and telephone numbers of the Acknowledged Transporters. The initial list shall be filed with the City Clerk and the County Clerk and shall be updated quarterly beginning on the first quarterly anniversary of acceptance of Solid Waste by the Operator and such updates shall be submitted to the City Clerk and the County Clerk.

This provision, requiring names, addresses and telephone numbers of Acknowledged Transporters shall not apply to the City or to the residents of the City authorized by this Agreement to Store Solid Waste at the Landfill or Dispose of Solid Waste at the Active Fill Area.

##### B. Persons Authorized.

No party, including the Operator, shall during the Initial Term, Dispose of Solid Waste in the Active Fill Area, until a license has been issued by the Department and the Operator has complied with all applicable Solid Waste statutes and regulations related to the operation of the Active Fill Area. The Operator shall not store or treat Solid Waste or authorize any of its Agent Transporters or any other parties to store or treat Solid Waste in

the Active Fill Area, except as noted below, or at any other location in the Landfill, unless such activity has been approved by the Department and then only if the Operator has complied or will comply with any existing Federal, state and municipal Solid Waste Disposal facility laws, regulations and ordinances applicable at the time of such activity.

This restriction authorizing only the transportation to and from the Landfill and Storage and/or Disposal of Solid Waste in the Active Fill Area or at any other location at the Landfill to certain parties noted above shall neither apply to the City and its residents who may be authorized by the Operator to store residential Solid Waste collected from residences in the City or at a transfer station or at Storage Containers located at the Landfill or elsewhere in the County nor to the Storage by the Operator of inert Demolition Waste as authorized by the Department.

#### V. REPORTS TO THE CITY AND COUNTY

##### A. Reports Distributed by Operator to Environmental Agencies.

From execution of this Agreement until forty (40) years after Closure, the Operator shall provide the City Clerk, the County Clerk and the Standing Committee copies (within seven (7) days of distribution by Operator) of any report or correspondence provided by Operator to the Department or to any other state or federal environmental agency pertaining to the Landfill, including, but not limited to, technical reports, investigations, testing and monitoring data. These copies shall be provided at no cost.

B. Reports Received by Operator from Environmental Agencies.

From execution of the Agreement until forty (40) years after Closure, the Operator shall provide the City Clerk, the County Clerk and the Standing Committee copies (within seven (7) days of receipt by Operator) of all reports and correspondence received by Operator from the Department or any other state or federal environmental agency pertaining to the Landfill, including but not limited to, technical reports, investigative, testing and monitoring data. These copies shall be provided at no cost.

C. City, County and Residential Concerns.

From execution of this Agreement until forty (40) years after Final Closure, the Operator shall provide the City Clerk, the County Clerk and the Standing Committee, within seven (7) days of receipt by the Operator, copies of all written letters, written reports and other written correspondence received by the Operator from: (1) public officials of the County, (2) public officials of the City, or (3) complaints from any resident of the County where the above-noted letters, reports or correspondence are associated in any way with the Landfill. These letters, reports or correspondence may include but are not limited to, complaint letters, court documents, technical reports, testing data, recording data and monitoring data. These copies shall be provided by the Operator at no cost.

VI. DUST, DIRT AND DEBRIS CONTROL AT THE SOLID WASTE FACILITY

The Operator, during the initial term and extending until forty (40) years after final closure, shall take all appropriate

and necessary actions to control the blowing of dust and debris from the Active Fill Area at the Solid Waste Facility and shall take all appropriate and necessary actions to control the discharging of other Solid Waste, pollutants or contaminants from the solid waste facility onto any lands outside the Solid Waste Facility. The Operator shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any disposal operations, storage operations, treatment operations and long-term care operations at the Solid Waste Facility in such a manner that odors, litter, dust, dirt, debris or other materials or any substance will not be carried by wind, or other means, across the boundary of the solid waste facility onto any lands outside the Solid Waste Facility, as is possible given the utilization of all available technology, equipment and man power. The Operator shall apply all appropriate and necessary cover materials on the Solid Waste disposed in the Active Fill Area at the Solid Waste Facility to prevent the blowing of dust and debris within the Solid Waste facility and without the Solid Waste Facility.

VII. GROUNDWATER MONITORING

The Operator shall undertake the groundwater monitoring program required by the Department, imposed as a condition of its findings of feasibility, approval of plans of operation for the Active Fill Area or any subsequent requirement made by the Department to test groundwater or private wells.

## VIII. NOISE

The operator shall comply with all reasonable noise control measures as requested by the standing committee. In no event shall the noise level created by the Operator cause a noise level at property lines of the Solid Waste Facility to exceed 80 decibels, as indicated in a certified decibel meter reading.

### IX. RODENT AND INSECT CONTROL AT THE SOLID WASTE FACILITY

#### A. Prevention of Rodents and Insects.

The operator, during the Initial Term until Final Closure, shall Dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent or eliminate rodent and insect harborage at the Solid Waste Facility.

#### B. Control of Rodents and Insects.

The Operator, during the Initial Term and extending until forty (40) years after Final Closures, shall take all appropriate and necessary actions to control any rodents and any insects at the Solid Waste Facility. The Operator shall exterminate, for public health reasons, any rodents and insects at the Solid Waste Facility. The Operator shall apply at the Solid Waste Facility, the pesticides or rodent control measures at appropriate levels to prevent any damage to or injury to public property or private property in the City, to prevent damage or injury to any persons in the County and to prevent damage to the natural resources in the County.

X. FIRE DISASTER AND HAZARD CONTROL

A. Creation of Fire Hazards.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent unintended fires and unintended explosions from occurring at the Solid Waste facility and to prevent or eliminate any fire hazards or any potentially explosive hazards from occurring at the Solid Waste Facility.

B. Public Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent any public nuisance in the City or County from occurring relating to the Solid Waste Facility or its operations, including public nuisances associated with polluted groundwater, polluted air and polluted surface water.

C. Private Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any disposal operations, any storage operations, any treatment

operations, and any long-term care operations at the Solid Waste Facility, in such a manner as to prevent any private nuisance in the City or County from occurring as a result of the Solid Waste Facility or its operations, including any private nuisances associated with polluted ground water, polluted air, and polluted surface water. In the event that a private nuisance occurs, or in the event that the Operator causes any individual property owner damages or other harm which results in litigation, including related actions for trespass, negligence, or any other violation of this Agreement for which an individual is aggrieved, such individual or individuals may bring an action against the Operator for appropriate relief. In the event that such individual or individuals prevail, they shall be entitled to their reasonable attorney's fees and costs in prosecuting such action.

D. Hazardous Waste Prohibited.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not, at anytime, dispose, store or treat Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility nor shall it allow disposal, storage or treatment of Hazardous Waste by its agents, by its authorized transporters, or by any other party in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator whenever appropriate and necessary, shall separate, remove, contain, cover or isolate any particular Solid Waste or any particular Hazardous Waste that has been Disposed, Stored or Treated in the Active Fill Area or at any other location at the Solid Waste

Facility in such a manner as to prevent a public or private nuisance in the City, to prevent any liberation of hazardous or poisonous gas from the Solid Waste Facility to any other location in the County, to prevent any liberation of Hazardous Waste from the Solid Waste Facility to any other location in the County or to prevent any damage to the natural resources of the County.

E. Security Personnel.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall have the responsibility and duty to the City and County to employ or retain at the Solid Waste Facility the appropriate and necessary employee or agency personnel to provide and maintain proper security in the Active Fill Area or at any other location at the Solid Waste Facility for the purpose of preventing or substantially reducing any physical access by unauthorized parties to the Solid Waste Facility.

XI. COURT ACTION BY THE CITY, COUNTY OR STANDING COMMITTEE

The City, County or Standing Committee, may commence and maintain legal actions against the Operator under the common law of public nuisance, trespass, negligence, strict liability, breach of contract, agency or under any applicable state and federal statutory or common laws, for damages and costs suffered by the County or the City, related to or associated with any public nuisance or physical injury to the City or County or its and/or their property caused by or alleged to have been caused by the Operator or its agents, arising in any way as a result of any anticipated or unanticipated occurrences in the County or City related to or associated with the

Landfill which are caused by the Operator or its agents, including but not limited to: (1) occurrences related to or associated with disposal, storage or treatment of solid waste or hazardous waste in the active fill area or at any other location at the Solid Waste Facility, and (2) occurrences related to or associated with the transportation of Solid Waste or Hazardous Waste to and from the Solid Waste Facility by the Operator or by its agents.

#### XII. ADMINISTRATIVE ACTION

The City, County or Standing Committee, may petition the Department of Natural Resources under § 144.465, Wis. Stats. (1988), or § 144.725, Wis. Stats. (1988), or their successor provisions, to initiate action by the Department of Natural Resources against the Operator for a violation or alleged violation by the Operator of any rule promulgated or special order, plan approval, license or any term or other condition of a license established by or issued by the Department of Natural Resources. Such action shall not limit enforcement rights under Section XI nor will such actions be a prerequisite for proceeding directly under Section XI.

#### XIII. CERTAIN ORDINANCES AND REGULATIONS WAIVED

By adoption of resolutions authorizing the execution of this Agreement, the City, through the Common Council waives all applicable Local Approvals and Pre-Existing Local Approvals (including the conditional use permit required by City ordinance) that may be required of Operator to allow it to construct (including the extraction and transportation on site

of sub-base, daily cover and rooting zone materials from the borrow pit areas as set forth in Exhibit "H"), operate, maintain, repair, close and to provide Long-Term Care of the Active Fill Area, and the current landfill; to undertake remedial investigations and feasibility studies of the original landfill and the southeast landfill and the implementation of any removal and/or remedial actions required by USEPA. This will include waiver of the enforceable provisions of these Local Approvals, pre-existing Local Approvals, regulations, permits and licenses and the enforcement of these ordinances, regulations, permits and licenses that may be required of the Operator to allow it to construct (including the extraction and transportation on site of sub-base, daily cover and rooting zone materials from the borrow pit areas as set forth in Exhibit "H"), operate, maintain, repair, close and to provide Long-Term Care of the Active Fill Area and undertaking of the remedial investigation/feasibility study of any removal actions and remedial actions required by USEPA. This waiver shall continue until forty (40) years after Final Closure or until the Long-Term Care responsibility of the Operator ceases. However, this waiver does not extend to any Expansion and extends for only 8 years to the Borrow Pit, as provided for in Exhibit "H". The waiver shall extend to Long-Term Care Operations which the Operator must undertake pursuant to the Department's regulations.

These regulatory and enforcement waiver provisions do not apply to any persons other than the Operator, its officers, its employees, its Agents, and its Acknowledged Transporters.

These regulatory and enforcement waiver provisions do not apply for any other uses, operations or businesses at the Landfill except: (1) those uses, operations and businesses at the Landfill that are directly and specifically related to and consistent with Solid Waste Disposal Operations of the Active Fill Area and (2) those uses that are being undertaken by the Operator at the time of execution of this Agreement, and the expansion of recycling operations at the Landfill to permit on-site sorting of recyclable materials. Notwithstanding, the foregoing, these regulatory and enforcement waiver provisions do not include speed limits, issuance of Waste hauler permits with a fee not to exceed what is reasonable and customary, litter control, building permits, rules of the road, road obstruction, fire safety permits, or off-site zoning. Any recycling, composting, tire shredding or any type of recycling involving processing of materials beyond sorting shall be subject to conditional use permits as set forth by City zoning ordinances. Any other use of the property not hereinbefore referenced shall be approved by the City to the normal procedures involved with obtaining conditional use permits in I-2 zoning. This agreement specifically supersedes the City zoning to the extent such uses are consistent with those permitted in this section on the property described in Exhibit

"B" and referred to in this agreement as the Solid Waste Facility.

These regulatory and enforcement waiver provisions do not apply in any way to waive any authority of the City, the City Council, the County or the County Board may have now or may in the future have to control or regulate, by regulation, ordinance, permit, license or by order, the uses, operations and businesses at the Landfill, where these orders, permits, licenses or ordinances are deemed necessary by the City Council and/or the County Board to protect the public health and safety or prevent a public nuisance.

XIV. TEMPORARY/EMERGENCY CLOSURE OF SOLID WASTE FACILITY

The Operator, during the Initial Term, shall notify in writing within forty-eight (48) hours, the Clerk for the City, Standing Committee and County Solid Waste Management Board regarding any temporary closure, any Emergency Closure and any Final Closure of the Solid Waste Facility, including any ordered temporary closure, any ordered Emergency Closure or any ordered Final Closure of the Active Fill Area or the Solid Waste Facility wherein such order is made by the Department or its successor agency, by any other state or federal agency or by any state or federal court. The Operator shall provide in its written notice to the City, County, and Standing Committee the specific reasons, if known, for a temporary closure, an Emergency Closure or for Final Closure.

XV. ACCESS TO THE SOLID WASTE FACILITY

The Operator, during the Initial Term and extending until forty (40) years after final closure, shall allow the City, Standing Committee and the County by their respective designated officers, their respective designated employees or their respective designated agents, the right to immediately obtain access to the Solid Waste Facility and the right to enter the Solid Waste Facility, including the Active Fill Area, during any Emergencies at the Solid Waste Facility or at operations related thereto. They, in addition, shall have the right to obtain access and to enter the Solid Waste Facility and the Active Fill Area during all other times upon twenty-four (24) hour oral or written notice from the City, Standing Committee or County. Physical access to the Solid Waste Facility shall be allowed:

- a) to inspect and monitor Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility,
- b) to sample and test groundwater, leachate and air quality at the Solid Waste Facility (provided that any sampling or testing must be performed by a licensed professional engineer using methods and materials approved by the Department), provided that access to the monitoring wells shall only be undertaken by an

employee of the Operator, although the City, Standing Committee, or County may require that the same be accessed in their presence.

- c) to sample and test Solid Waste characteristics of the Solid Waste or Hazardous Waste at the Solid Waste Facility, or
- d) to take any appropriate and necessary action at the Solid Waste Facility during any emergency to protect the public health, safety and welfare of the residents of the County and/or to take any appropriate and necessary action to protect the natural resources of the County.

At all times, the designated officers, employees or agents of the City, Standing Committee or County shall be accompanied by one or more employees or agents of the Operator, if they are available. In addition, the activities of the designated officers, employees or agents shall be conducted so as to not interfere with the normal business operations at the Solid Waste Facility.

XVI. REPAIR, MAINTENANCE AND RECONSTRUCTION OF THE SOLID WASTE FACILITY

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall have the responsibility and duty to the County and the City to properly and timely maintain, repair, reconstruct and to properly and timely provide long-term care of the Active Fill Area at the Solid Waste Facility, and/or, if appropriate and necessary, to

temporarily or permanently close the Active Fill Area or the Solid Waste Facility, if at any time the failure by the Operator to properly and timely maintain, repair, reconstruct or to properly and timely provide long-term care of the Active Fill Area at the Solid Waste Facility and/or its failure to temporarily or permanently close the Active Fill Area or the Solid Waste Facility for Disposal Operations is likely to present a substantial danger of creating a public or private nuisance in the City or County or is likely to create a substantial danger to the public health, safety or welfare of any persons in the County or is likely to cause substantial damage to the natural resources in the County.

XVII. HAZARDOUS WASTE DISPOSAL NOTICE

The Operator, during the initial term and extending until forty (40) years after Final Closure, upon its receipt of any information that any Hazardous Waste has been transported to the Solid Waste Facility or that any Hazardous Waste has been Stored, Treated, Disposed or handled in any way by the Operator, by its agents, by its Acknowledged Transporters or by any other parties in the Active Fill Area or any other location at the Solid Waste Facility, shall then notice orally within twenty-four (24) hours of its receipt of the information to the City Clerk, Standing Committee and County Solid Waste Management Board. The Operator shall, in addition, notify the above-noted party in writing within forty-eight (48) hours of the receipt of this information. Such notice shall describe

the date of the occurrence and the type, amount and source of Hazardous Waste. The Operator shall, upon receipt of such information, immediately commence any appropriate and necessary action to properly remove or to properly contain the Hazardous Waste.

XVIII. HAZARDS NOTICE

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall orally notice the City, Standing Committee and County Solid Waste Management Board within twenty-four (24) hours of the receipt of information by the Operator of the following known or suspected hazards or known or suspected occurrences in the Active Fill Area or at any other location at the Solid Waste Facility: fires, explosions, contaminated or polluted surface water, contaminated or polluted groundwater, explosive or combustible gases and hazardous gases or hazardous dust. The Operator shall, in addition, report in writing within forty-eight (48) hours of the receipt of the information by the Operator regarding the above-noted known or suspected hazards and known or suspected occurrences, describing in detail the above-noted known or suspected hazards or known or suspected occurrences, the location of such hazards or occurrences, any incidents of damages to persons or property that may have occurred as a result of the above-noted known or suspected hazards or occurrences and any actions taken or actions to be taken in the

future by the Operator regarding the above-noted known or suspected hazards or known or suspected occurrences.

XIX. RESPONSIBLE MANAGERS

The Operator, during the initial term and extending until forty (40) years after final closure, shall provide to the City, Standing Committee and County Solid Waste Management Board, the names, titles, addresses and telephone numbers of any responsible manager or responsible managers retained by or employed by the Operator whose responsibilities to the Operator and whose authority from the Operator shall be to manage, control and administer the disposal of Solid Waste in the Active Fill Area at the Solid Waste Facility, and to manage, control and administer any Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations at or related to the Solid Waste Facility. The names or titles, addresses and telephone numbers of the responsible managers shall be provided within twenty (20) days after the effective date of this contract and shall be updated whenever necessary thereafter, in writing, to provide the most current names or titles, addresses and telephone numbers of the current responsible manager or responsible managers.

XX. SURFACE WATER

The Operator, during the initial term and extending until forty (40) years after final closure, shall take the appropriate and necessary actions to direct all surface water coming in contact with any Solid Waste or any Hazardous Waste

at the Solid Waste Facility into an appropriately-maintained leachate collection system. The Operator shall take all appropriate and necessary actions to direct all surface water not coming into contact with the Solid Waste into the appropriately-maintained sedimentation basin located at the Solid Waste Facility. The Operator shall not discharge water nor shall it allow the discharge of water from any sedimentation basin at the Solid Waste Facility into any surface water drainage area at the Solid Waste Facility until the surface water discharge complies with the appropriate regulations and requirements of the Department of Natural Resources.

#### XXI. SECURED OPEN SPACE

After Final Closure, the Operator shall maintain the Active Fill Area as a secured open space and covered with a vegetative cover for a minimum period of forty (40) years. Except as noticed above and after closure, the Operator must obtain the City's approval, in writing, of any use, other than open space, of the Active Fill Area.

After Closure the Operator shall conduct Long-Term Care Operations consistent with its approved Plans of Operation. After Closure, the Operator, shall be responsible to maintain, repair and reconstruct the cover on the Active Fill Area to prevent erosion. The Operator, from execution of this Agreement and until forty (40) years after Closure, shall be responsible to construct, maintain, repair and reconstruct

fences and gates surrounding the perimeter of the Landfill. The Operator shall also be responsible, during that time period, to provide appropriate security for the Landfill to prevent or to attempt to prevent unauthorized entry or vandalism.

The Operator, from execution of this Agreement and until forty (40) years after Closure, shall design, install, operate and maintain leachate and landfill gas collection systems in the Active Fill Area as required in the Department's approval of its plans of operation and shall timely remove the leachate from the Active fill Area. Operator also shall properly manage and control any methane gas generated in the Active Fill Area. After Closure, and for forty (40) years, the Operator shall make reasonable efforts to fill any surface depressions or disturbances that develop in the cover on the Active Fill Area to prevent any standing water.

XXII. PROHIBITION AGAINST HAZARDOUS WASTE DISPOSAL

The Operator, during the Initial Term and extending until forty (40) years after final closure, shall not knowingly transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, in addition, shall not knowingly allow its agents, its Acknowledged Transporters or any other parties to transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly allow the above-noted parties to dispose Hazardous

Waste in the Active Fill Area or at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to be less stringent than any regulations of the Department of Natural Resources relating to the Disposal, Storage or Treatment of Hazardous Waste at any location, including in the Active Fill Area and at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to mean that the City or County authorize or approve in any way of the Disposal, Storage or Treatment of Hazardous Waste at the Solid Waste Facility or at any operations related thereto.

XXIII. OPERATION TERMS

A. Initial Term and Extension.

The length of the Initial Term of this Agreement shall be from the date this Agreement is signed by the Operator, the Negotiating Committee and the City until Final Closure (as "Final Closure" is defined in Article I - Definitions) of the Active Fill Area, unless an extended time at the Final Closure and beyond Final Closure is so noted in any of the specific sections or subsections of this Agreement.

B. Disposal Operations, Storage Operations and Treatment Operations.

The Operator, during the Initial Term, shall be allowed to construct (including the extraction and transportation on site of sub-base, daily cover and rooting zone materials from the borrow pit areas as set forth in Exhibit "H"), repair, maintain

and to close the Active Fill Area and it shall be allowed to conduct Solid Waste Disposal Operations at the Solid Waste Facility.

The Operator, during the Initial Term, shall conduct Solid Waste Disposal Operations and it shall allow Solid Waste Disposal Operations by its agents at the Solid Waste Facility subject to the requirements and specific provisions established in this Agreement.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct Storage Operations nor shall it allow any Storage Operations at the Solid Waste Facility, except as noted below, unless with the written approval of the Department, and compliance with all applicable ordinances of the City and County.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct Treatment Operations nor shall it allow any Treatment Operations at the Solid Waste Facility, unless with the written approval of the Department, and compliance with all applicable ordinances of the City and County.

This above-noted provision restricting Storage and Storage Operations by the Operator at the Solid Waste Facility shall not apply to the Operator when the City and the residents of the City have been authorized under this Agreement to Store Solid Waste collected from only Solid Waste sources in the City at a transfer station or at any storage containers.

C. Initial Operations, Closure Operations and Post-Closure Operations.

The Operator, during the Initial Term, shall be fully responsible to the City and County to properly maintain, properly construct, properly repair and to properly close the Active Fill Area at the Solid Waste Facility and to properly conduct the Disposal Operations and authorized Storage Operations at the Solid Waste Facility.

The Operator, after the date of Final Closure and extending until forty (40) years after Final Closure, shall be responsible to the City and County to provide the proper Long-Term Care Operations at the Active Fill Area and at other locations at the Solid Waste Facility.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall be responsible to the City and County to take any appropriate and necessary Removal Actions at the Active Fill Area.

The Operator, after the date of Final Closure, shall cease transportation of Solid Waste to the Active Fill Area and shall prevent any further transportation of Solid Waste to the Active Fill Area at the Solid Waste Facility, by other transporters, and shall not conduct any Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area or at any other location at the Solid Waste Facility and shall not allow any Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area or at any other location at the Solid Waste Facility, unless an expansion has been approved

by the Department of Natural Resources and if, in addition, the operator has complied with or will comply with any existing federal, state and municipal Solid Waste Facility law, regulations and ordinances applicable at the time of the approved expansion.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, may conduct Solid Waste Disposal Operations, Solid Waste Storage Operations or Solid Waste Treatment Operations at any locations, excluding at the Active Fill Area at the Solid Waste Facility, if such Disposal Operations, Storage Operations or Treatment Operations at the Solid Waste Facility are an expansion of the Solid Waste Facility and such expansion has been approved by the Department of Natural Resources and if, in addition, the Operator has complied with or will comply with any existing federal, state and municipal Solid Waste Disposal Facility laws, regulations and ordinances applicable at the time of the approved expansion.

D. Landfill Site Expansion.

The existing site for active landfilling as proposed in the Operator's feasibility study for Stone Ridge I, and the expansion contemplated in Stone Ridge II, shall not be expanded unless approved by the Department. If the Operator proposes to expand the Active Fill Area or apply for an expansion elsewhere within the Solid Waste Facility, the Operator shall prepare and submit an Initial Site Report (hereinafter referred to as

"I.S.R.") to the City, the County, and the Department. The Operator shall submit the I.S.R. to the City and the County by certified mail with a separate written notice stating that it desires an expansion and that the City and the County have one hundred-twenty (120) days to either renew this Agreement as hereinafter provided or reject the same. Upon receipt of the notice and I.S.R., the City and the County shall have one-hundred-twenty (120) days to renew and continue this Agreement. If not renewed, this Agreement will expire at such time that the Active Fill Area reaches final design capacity as approved by the Department. This shall be deemed to have occurred when the Operator has exhausted the space or volume of the Active Fill Area as approved by the Department.

If the City and County choose to renew this Agreement and continue its applicability to the expansion proposed in the I.S.R., they shall formally do so by motion or resolution within the 120-day period and notify the Operator by certified mail or personal delivery of such action.

The parties agree that if this Agreement is renewed by the City and the County all terms and conditions stated in this Agreement shall be binding on both parties and applicable to the proposed expansion, except as follows: The parties agree that the direct payment to the City and the County shall continue at the applicable annual rates as set forth herein, including the provisions pertaining to free dumping, quarterly

and annual payments, and increases as set forth in Exhibit C, to apply to such expansion through the term of such expansion.

If this Agreement is not renewed, the Operator may seek expansion under the then existing law, if the Operator desires to do so. The parties may extend the 120-day option period by mutual agreement.

If the I.S.R. is not required or permitted by law at the time the Applicant seeks expansion, the Landfill Operator shall submit similar information to the City and the County with its notice in lieu of the I.S.R.; however, such information shall include but not be limited to: location, site parameters, elevations, capacity, projected site life, site access, and groundwater monitoring program.

#### XXIV. STANDING COMMITTEE

The Operator and the Local Committee agree to the formation of a Standing Committee which will consist of: three (3) residents appointed by the City, one (1) member appointed by the County, and one (1) representative appointed by the Operator, all as set forth in Exhibit "D".

#### XXV. INDEMNIFICATION TO THE CITY AND COUNTY

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall indemnify, hold harmless, support and defend the County and the City, their respective officers, their respective employees, their respective agents and the Local Committee members appointed

under § 144.445, Wis. Stats., and Standing Committee Members from any and all liability, loss, cost, expenses (including costs of defense, reasonable attorneys fees, removal action costs and remedial action costs), interest and damages that it or they might suffer or pay out to another as a result of any claim, demand, suit, action or right of action (in law or equity) as a result of any injury (including death) or damage to any person or property, against the County, the City, their respective officers, their respective employees, their respective agents, the Local Committee members appointed under § 144.445, Wis. Stats., or the Standing Committee members, brought by any party wherein such injury or damage arises in any way as a result of any anticipated or unanticipated occurrences, excepting any negligent or intentional act of the parties indemnified hereunder, that result from the actions or omissions, negligent or otherwise, of the Operator or its agents in connection with the Active Fill Area, with the Solid Waste Facility and with this Agreement (specifically excepting any actions or claims pertaining to the property value protection plan which shall be the City's sole responsibility), including but not limited to, occurrences related to or associated with the negotiation/arbitration process that occurred pursuant to Chapter 144, Wis. Stats., occurrences which result from the actions or negligence of the Operator or its agents in connection with the Disposal, Storage or Treatment of Solid Waste or Hazardous Waste in the Active Fill

Area or at any other location at the Solid Waste Facility or at Operations related thereto and occurrences which result from the actions or negligence of the Operator or its agents in connection with any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility or at any operations related thereto.

Except as provided below, the above-noted provision shall include assumption of the defense thereof on behalf of the County, the City, their respective officers, their respective employees, their respective agents, the Local Committee and Standing Committee (hereinafter collectively referred to as "Indemnatee") and the payment by the Operator of the legal fees and the legal costs of any legal defense asserted on behalf of the Indemnatee. The Indemnatee shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be the expense of the Indemnatee unless the named parties to any such action or proceeding (including any impleaded parties) include both the Indemnatee and the Operator and the Indemnatee shall have been advised by counsel that there may be one or more legal defenses available to the Indemnatee which are different from or additional to those available to the Operator (in which case, if the Indemnatee notifies the Operator in writing that the Indemnatee elects to employ separate counsel at the expense of the Operator, then the Operator shall not have the right to assume the defense of such

action or proceeding on behalf of the Indemnitee, it being understood, however, that the Operator shall not, in connection with any one such action or proceeding or separate but substantially similar or related actions or proceedings in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any time for the Indemnitee, which firm shall be designated in writing by the Indemnitee). The Operator shall not be liable for any settlement of any such action or proceeding effected without its written consent, but if settled with its written consent, or if there be a final judgment for the Plaintiff in any such action or proceeding, the Operator agrees to indemnify and hold harmless the Indemnitee from and against any loss or liability by reason of such settlement or judgment.

Notwithstanding the language above, the Operator need not indemnify the County, the City, their respective officers, their respective employees, their respective agents, the Local Committee members appointed under § 144.445, Wis. Stats., or the Standing Committee members wherein it is found by a court of competent jurisdiction that the injury or damage was the result of the negligent or intentional acts or omissions of the County, the City, their respective officers, their respective employees, their respective agents, the Local Committee members appointed under § 144.445, Wis. Stats., or the Standing Committee members.

All claims for indemnification by the City, County or other parties listed under this section shall be asserted and resolved as follows:

- a) In the event that any claim or demand for which the Operator would be liable to the Indemnitee hereunder is asserted against or sought to be collected from Indemnitee by a third party, Indemnitee shall promptly notify, in writing, the Operator of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim and demand). This written notification shall be referred to as the "Claim Notice". The Operator shall have fifteen (15) days from the time the Claim Notice is given or such shorter time as may be reasonably required under the circumstances (the "Notice Period") to notify the Indemnitee(s) 1) whether or not the liability of the Operator to such party hereunder with respect to such claim or demand is disputed, and 2) whether or not the Operator intends at its sole cost and expense to defend the Indemnitee against such claim or demand.

b) The Operator shall notify Indemnatee within the Notice Period of its intent to defend the Indemnatee against such claim or demand, and the Operator shall have the right to defend by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by it to a final conclusion. To the extent that a defense against any such claim or demand or any portion thereof is finally unsuccessful, it shall conclusively be deemed an indemnification obligation of the Operator. If the Indemnatee desires to monitor any such defense or settlement it may do so at its sole cost and expense.

This indemnification is in addition to the Indemnification Agreement attached hereto and incorporated herein as an integral part of this Agreement as Exhibit "E". In the event of a conflict between this article and Exhibit "E", the latter shall control.

XXVI. GENERAL REIMBURSEMENT OF COSTS, EXPENSES AND DAMAGES

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall fully reimburse the County, the City, the appropriate municipal fire service units and the appropriate municipal ambulance service units in the City and County within twenty (20) days after the County, the City the appropriate municipal fire service units or the

appropriate municipal ambulance service units submit to the Operator a written invoice documenting for the Operator the total dollar amount due from the Operator for the reasonable and necessary costs, for the reasonable and necessary expenses and for the actual damages incurred by the County, the City, the appropriate municipal fire service units or the appropriate municipal ambulance service units in their responding to certain occurrences individually or jointly and then acting individually or jointly upon certain occurrences, namely:

- a) Fires, explosions, accidents or any other emergencies occurring at the Active Fill Area, or any fires, explosions, accidents or any other emergencies which occurred as a result of the transportation to and from the Active Fill Area, of Waste by the Operator or by its Agents, which occurred as a result of the Disposal, Storage or Treatment of Solid Waste or other Waste in the Active Fill Area or which occurred as a direct result of the Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Active Fill Area.
- b) Solid Waste or Hazardous Waste discharges occurring in the Active Fill Area which occurred as a direct result of the transportation to and from the Solid Waste

Facility of Solid Waste or other Waste by the Operator or by its agents, which occurred as a result of the Disposal, Storage or Treatment of Solid Waste or other Waste in the Active Fill Area or which occurred as a result of any Disposal, Storage, Treatment or Long-Term Care Operations at the Active Fill Area. These costs and expenses incurred by the above-noted municipalities and by the appropriate municipal service units may specifically include any Remedial Action costs and any Removal Action costs.

- c) Any other occurrences at the Active Fill Area which occurred as a direct result of Disposal, Storage or Treatment of Solid Waste or other Waste in the Active Fill Area or which occurred as a direct result of Disposal, Storage, or Treatment Operations or Long-Term Care Operations at the Active Fill Area wherein the County, the City, the appropriate municipal fire service units or the appropriate municipal ambulance service units determined jointly or individually that it was appropriate and necessary for the individual municipality and/or the appropriate municipal service unit to incur reasonable and necessary costs and

reasonable and necessary expenses in providing specific services and specific benefits in order: 1) to prevent a public nuisance in the County or City, 2) to protect the public health, safety and welfare of persons in the County or City, or 3) to protect the natural resources in the County or City, and, in addition, that the above-noted individual municipalities and/or the appropriate municipal service units then determined it was appropriate and necessary that the Operator reimburse the municipalities and/or the appropriate municipal service units for providing the specific services and for providing the specific benefits. These services and benefits provided by the appropriate municipalities and/or by the appropriate municipal service units to the Operator may include any remedial action costs or any removal action taken by such municipalities or municipal service units.

The County, the City, the appropriate municipal fire service units or the appropriate municipal ambulance service units shall be entitled under this subsection for reimbursement or payment from the Operator for their specific costs, their

specific expenses and their specific damages incurred in their providing specific services and specific benefits if:

- a) the total amount of the costs, expenses and damages that were incurred by the individual municipality or by the individual municipal service unit when submitted by written invoice by the individual municipality or by the individual municipal service unit to the Operator was more than Twenty and No/100 (\$20.00) Dollars in amount,
- b) the specific costs, expenses and damages submitted for payment to the Operator were incurred by the individual municipality or by the appropriate municipal service unit and such costs, expenses and damages were, at the time the specific services and the specific benefits were provided, the type and amount of costs, expenses and damages that would be normally assessed directly to or normally charged directly to any party or parties by such municipality or by such appropriate municipal service unit for the specific services or specific benefits provided, and
- c) such public services are over and above those normally provided to residents of the County or City.

Notwithstanding the foregoing, the Operator retains the right to retain the services of private fire service units or private ambulance service units, as it deems appropriate, to respond to any of the above-noted occurrences.

Any controversy or claim by the City or County or the Operator arising out of or relating to the amount due the City or County from the Operator or paid from the Operator to the City or County pursuant to this subsection shall be settled by arbitration in accordance with the rules of the American Arbitration Association and in accordance with Chapter 788, Wis. Stats., or its successor chapter. Judgment upon the award rendered by the arbitrators may be entered in any court in the state of Wisconsin having competent jurisdiction.

XXVII. REIMBURSEMENT FOR NEGOTIATION EXPENSES

The Operator shall, no later than fifteen (15) days after receipt of invoices showing the actual costs and expenses, pay the City the amounts shown therein to reimburse the City and County for their actual costs and expenses incurred as a result of the negotiating process through the Negotiating Committee; however not to exceed the sum of Fifty Thousand Dollars (\$50,000.00). Negotiating expenses, Committee member per diems and authorized costs of the City and County shall be paid directly to the parties submitting such costs and expenses. Additional costs for the Stone Ridge II expansion and the negotiation of the borrow pits shall also be reimbursed, all such fees to be paid within fifteen (15) days of their

submission to the operator, and paid directly to the parties submitting such costs and expenses.

XXVIII. CITY WASTE DISPOSAL

The Operator will provide free disposal of all residential waste of the residents of the City of Muskego delivered by the residents of the City of Muskego to the Active Fill Area. It is understood that the residential waste herein referred to is waste generated by the residents of the City of Muskego and residential waste generated on agricultural properties in the city. The Operator also agrees to accept 4,000 cubic yards of non-residential waste per year generated by the Muskego School District brought to the site by district or city vehicles. Any unused volume may be credited toward the disposal of non-residential agricultural waste. Weeds or similar waste from any of the Muskego Lake Rehabilitation and Protection Districts or Associations up to 6,000 cubic yards per year brought to the Solid Waste Facility by District or city vehicles. The operator also agrees to review and adjust the limits of waste by the Muskego School District in the event that any additional schools are added in the school district prior to the closure of the site. Waste Management agrees to dispose of up to eight (8) residential tires per residence per year, and white goods brought to the site by residents of the City of Muskego at no cost.

Free residential disposal and disposal of other wastes under this Section shall begin as of the date that waste is

first received into the Active Fill Area and shall continue at least until the fourth (4th) anniversary date of the opening of the landfill expansion negotiated in this Agreement and shall continue so long as the Active Fill Area of Stone Ridge I and Stone Ridge II are accepting waste. The Operator shall provide access to the Metro Landfill Site, if this landfill and related expansions are filled prior to such date. The operator shall give the city at least 90 days prior notice that the landfill will reach design capacity so that the City may notify it's residents of the change in sites. The parties hereto agree to implement such rules and regulations as are required to ensure that the free disposal provisions contained herein are carried out in an orderly fashion. Free dumping shall continue for City residents until the Active Fill Area begins receiving waste or until December 31, 1993, whichever is earlier; such dumping to be permitted in 1992 under the schedule for City of Franklin residents beginning February 1, 1992. If the Active Fill Area is not receiving Solid Waste on January 1, 1993, the Operator shall be given credit for free dumping after said date until the Active Fill Area begins receiving Waste. That credit shall be equal to the number of days between such dates and reduce the four (4) year minimum guarantee for free Waste by an equal number of days. Free dumping five days per week and on Saturdays shall resume on January 1, 1993.

In no event will the terms of this Agreement require the Operator to receive waste at the Active Fill Area which is prohibited for disposal by state or federal law.

In the alternative, if the City waives free residential disposal, or chooses or is required to dispose of their residential Waste other than at the Active Fill Area, the City will then be compensated at the rate of One Hundred Fifty

Thousand (\$150,000.00) Dollars per year, payable on or before the tenth (10th) day after notice of its waiver of free residential disposal and each anniversary date thereafter. If the City is entitled to compensation for a period less than a full calendar year, the City shall receive a pro-rated amount equal to that portion of the year that this provision was not operative or in effect. Such annual payment shall increase quarterly at the rate equivalent to any increases in the Consumer Price Index as set forth in Exhibit "C" attached hereto, but not less than five percent (5%) per annum, adjusted on a quarterly basis.

XXIX. FEES AND COMPENSATION: CITY

In consideration for the waiver of local approvals, and in consideration of the mutual covenants set forth in this Agreement, and in consideration of the responsibilities accepted by the City of Muskego in being a host community for the expansion of the Stone Ridge Landfill, Waste Management shall pay to the City of Muskego an annual non-refundable payment of Fifty Thousand (\$50,000) Dollars every year until Final Closure of the Active Fill Area. The first annual payment will be paid within ten (10) days after the Operator begins receiving Waste at the Active Fill Area. The annual payment will increase as provided in Exhibit "C" in subsequent fiscal years and will be paid on or before the anniversary date every year through final closure.

In addition, the Operator will pay into the Stone Ridge Landfill Fund, through the City Treasurer's Office, a sum equal to One and 15/100 (\$1.15) Dollars per ton of waste received or deposited at the Active Fill Area, excluding the Waste received under Section XXVI. The rate per ton to be paid into the landfill fund shall be increased at the rate set forth in Exhibit "C". The annual fee referred to above shall be a credit against the per tonnage fees referenced herein.

These fees shall be paid quarterly beginning the tenth (10th) day after the first fiscal quarter that waste is received or deposited at the Active Fill Area. Such payments shall continue and be payable on or before each 10th day following each quarterly anniversary date. Any payment that is received late shall accrue interest at the rate of one and one-half (1-1/2%) percent per month (calculated on a daily basis) until fully paid.

The Operator shall submit detailed statements pertaining to the Waste received during such calendar quarter, breaking down such Waste as to the types of Waste, the gate yards received as reflected by the Operator's daily records, and shall also summarize such Waste by way of tons per type of Waste per quarter.

The Operator shall provide to the City, County and Standing Committee all documents submitted to the State of Wisconsin Department of Natural Resources pertaining to the recording and documentation of the Waste received. In

addition, the City, County or Standing Committee may inspect the originals of such documentation, the daily records or daily videotapes (which shall be kept for at least six (6) months) upon which such summaries are based upon reasonable prior notice.

If, at any time the City so desires, the City may hire an independent consulting firm to perform computations in order to verify the tonnage reported by the Operator. Such consulting firm may use field or aerial surveys to verify such tonnage. For the purpose of computing air space into tons, the parties stipulate that one cubic yard of air space shall equal one thousand three hundred and fifty (1,350) pounds of Waste. If such independent computations reveal that the Operator's reported tonnage to the Department of Natural Resources or to the City has been understated by five (5%) or greater, the costs of such computations shall be borne by the Operator. The Operator shall pay the costs of such independent consulting firm within thirty (30) days after presentation of such bill and the report of such error. No reduction in the air space/tonnage formula will be made for daily or intermediate cover.

The independent consulting firm's computations shall be determinative of the amounts of waste deposited during the period studied. If the Operator has misstated the amount deposited, the difference shall be paid within ten (10) days of receipt of the consultant's results at the rate applicable at

the time of the study, or credited to the Operator against the Operator's next payment to the City.

The parties agree that the direct payments to be paid into the Landfill Fund through the City Treasurer's Office shall be used and controlled solely by the City as set forth in Exhibit "F".

The sum of Ninety-Five Thousand Dollars (\$95,000.00) shall be paid within fifteen (15) days of approval by the City directly into the Landfill Fund through the City Treasurer's Office for recycling or related programs. Alternatively, if the City desires, the Operator shall install and place at the site, facilities for an improved recycling area.

XXX. FEES AND COMPENSATION: COUNTY

In consideration for the waiver of local approvals and in consideration of the mutual covenants set forth in the Agreement, and in consideration of the responsibilities accepted by the County of Waukesha in being a host community for the expansion of the Stone Ridge Landfill, the County Treasurer shall be paid compensation in an amount equivalent to two and one-half cents (2-1/2¢) per ton of waste received at the Active Fill Area plus quarterly increases as otherwise provided for in this Agreement. Such payment shall be made by the City Treasurer out of the direct payment paid to the City Treasurer by the Operator, the same being processed through the Landfill Fund. Such payment to the County shall occur within five (5) business days of the City receiving such direct

payments. The County agrees to set aside all money received into a revenue account, specifically number 010-535-5350-9670 "Municipal Landfill Fees" to be credited to the Solid Waste Management budget to be used by the County at the direction of the County Solid Waste Management Board.

XXXI. COVENANTS OF THE OPERATOR REGARDING OPERATION

(a) The Operator will not accept Hazardous Waste, as defined by NR 600, et seq. or as defined by the Resource Conservation and Recovery Act (P.L. 94-580), whichever is more stringent, for disposal at the landfill site. The foregoing statutory references shall include all future amendments to such laws, assuming the same are at least as stringent as current law.

(b) The Operator shall only operate the landfill site between 7:00 A.M. and 5:00 P.M., Monday through Friday, and 7:00 A.M. and 12:00 NOON on Saturdays; where operation of the landfill site is defined to mean the operation of any equipment or trucks. The landfill site may be operated from 7:00 A.M. to 4:30 P.M. on Saturdays following either: (i) a week within which New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas Day occurs; or, (ii) a week within which adverse weather conditions (such as high winds, rain, ice or heavy snow) have either prevented the Operator from operating the site for an aggregate period of more than five (5) hours in any one day. The landfill site may

also be operated from 7:00 A.M. to 4:30 P.M. on other Saturdays with the prior consent of the Standing Committee.

(c) The Operator agrees to limit access to the site during construction and operation to one point off of Crow Bar Road north of State Highway 24/County Trunk Highway L. The access road into the site shall be paved up to, and past, the Operator's trailer and turn-around area.

(d) The Operator shall provide the berming specified in the Feasibility Report and shall, in addition, provide all additional berming and screening required by the Department imposed as a condition of its finding of feasibility.

(e) The Operator will comply, at all times, with this agreement and the provisions of all applicable Federal and State statutes, and the Administrative Codes, regulations and requirements of the Department.

(f) The Operator shall undertake the groundwater monitoring program (including private wells) required by the Department, imposed as a condition of its finding of feasibility, or any subsequent requirement or recommendation made by the Department to test groundwater or private wells.

(g) All Waste transported into the City for disposal at the Active Fill Area by the Operator or any Agent Transporter shall be hauled only over county and state highways and Wauer and Crowbar Road, and shall be loaded and transported in such a manner that the contents will not fall, leak or spill

and shall be covered when necessary to prevent blowing of material.

(h) The Operator agrees that it shall enter into and execute the indemnification agreement attached hereto as Exhibit "E". The parties hereto agree that this indemnification agreement covers potential liability of the City in an estimated amount of \$14,000,000, although both parties herein understand that this representation is made solely for the purposes of this agreement and is not to be construed as any admission of liability, the same being contested.

(i) The Operator acknowledges that the fees and compensation paid to the City represent a sum substantially equal to the responsibilities, costs and potential liabilities which the City has assumed in agreeing to be a host community for this landfill expansion.

(j) The Operator agrees to take no position with respect to the specific use of any sums paid to the City or County and waives standing to contest the same.

(k) The Operator agrees to comply with all terms, conditions or provisions required by the Department, as well as those set forth in its Plan of Operation and feasibility study. The City shall have the right to enforce such provisions as well as other terms and conditions of this Agreement either as a violation of this contract or as if such violations were an ordinance violation.

This Agreement shall also be considered a conditional use permit, issued pursuant to Section 6.03 of the City Zoning

Code, and violation of any provision of this Agreement shall be considered a violation of said conditional use permit, subjecting the Operator to prosecution in the City of Muskego's Municipal Court, with imposition of daily forfeitures in the event the Operator is found guilty of a violation of this Agreement/permit. If the City chooses to prosecute such violations as ordinance violations, all applicable sections of the Muskego City ordinances which relate to ordinance violations shall apply. Any finding against the Operator shall not be considered an ordinance violation, but a violation of this contract for purposes of reporting requirements of the Operator to governmental agencies if the Operator so determines. If the City chooses to prosecute such violations as ordinance violations, all procedural and penalty provisions of the Muskego City Ordinances which relate to ordinance violations shall apply, as well as the provisions of Chapter 800, Wisconsin Statutes, pertaining to municipal court, including the parties rights to appeal as set forth in § 800.14, Wis. Stats.

XXXII. COVENANTS OF THE CITY AND THE COUNTY

A. City's Covenants.

The City does hereby agree to the following:

Upon approval of this Agreement by the City Council and the execution of this Agreement by the Operator, the City will undertake whatever actions and execute whatever documents required to waive all Local Approvals under Ch. 144, and as otherwise provided in this Agreement.

B. County's Covenants.

The County does hereby agree to the following:

Upon approval of this Agreement by the County Board and the execution of this Agreement by the Operator, the County will undertake whatever actions and execute whatever documents required to effectively waive all Local Approvals under Ch. 144, and as otherwise provided in this Agreement.

C. Contested Case/Judicial Review.

Both the City and the County agree to dismiss any pending contested case actions or from petitioning for judicial review of the same. Both shall refrain from further action unless either has a good faith belief that a future design or operational feature of the landfill not yet presented presents an unreasonable risk of environmental harm, in which case such contested case action will be limited to such design or operational defect.

D. Covenant Not To Sue.

In consideration of the indemnification of the City of Muskego by Waste Management of Wisconsin, Inc., the City covenants not to sue Waste Management of Wisconsin, Inc. for any claims, demands, damages, losses, costs, liabilities, interest, attorneys fees or expenses which the City may otherwise be entitled to, arising out of or in any way connected with the operation of the Solid Waste Facility during any time that the City was previously involved in the operation of the Landfill. This covenant is intended to release only

Waste Management of Wisconsin, Inc. as stated above; the City reserves the balance of the whole of any cause of action, claim or demand of whatever kind or nature which it may have against any other person, corporation or entity arising from, or in any way connected with, the environmental conditions at any and all solid waste facilities within the City. It is the parties' intent to preclude the City from obtaining a "double recovery" for any benefit or financial compensation received by the City relating to such claims. However, this Covenant Not to Sue shall specifically exclude any action by the City of whatever type or nature pertaining to enforcement of any of the terms of this Agreement including, but not limited to, causes of action to enforce the indemnification provisions of this Agreement, including those which extend to holding the City and all of its employees and officials harmless and defending them from all claims. In addition, this clause shall not be deemed to limit the City's obligations to protect the public health, welfare and safety of its citizens and property, including, but not limited to, all such provisions and benefits set forth in this agreement. Each section of this contract which places upon the Operator separate obligations shall be deemed independent obligations, and their enforcement shall be presumed not to constitute a "double recovery" or "double payment" under this section.

E. Subrogation Rights.

To the extent permitted by law and in consideration of the indemnification of the City by the Operator, the City agrees to cooperate with the Operator in subrogating to the Operator any rights the City may have in obtaining funding from the state and federal governments with respect to any removal and remedial actions required by USEPA or the Department. It is the parties' intent that, if the City had been required to undertake removal or remedial actions itself and, in the process of such actions, would have qualified for state or federal funding, such benefits be transferred to the Operator to assist the Operator in completing such actions. Such subrogation rights shall place upon the City and its employees no affirmative obligations, except to assist in the processing of requests by the Operator for such funds. The Operator shall have the primary duty to prepare all necessary forms and paperwork for the City to approve and submit to the state, excepting that the City shall not be obligated to misrepresent any matter, or take any action exceeding its lawful authority.

The Operator agrees that its indemnification of the City, its predecessors or successors and/or its representatives referred to in the indemnification set forth in Exhibit "E" and paragraph XXV shall extend to any and all claims arising out of or in any way related to the City's subrogation of its rights, claims, remedies and privileges to the Operator under this Agreement.

F. Borrow Sources.

The parties hereto agree to incorporate certain provisions pertaining to the Borrow Sources for this landfill, the same being known as the Smalley Farm. Such obligations and agreements are found in Exhibit "H" attached hereto and incorporated herein by reference.

XXXIII. SEVERABILITY

In the event that any portion, section, provision, or any other part of this Agreement is found to be invalid, unconstitutional, or unenforceable, the remainder of this Agreement shall remain in full force and effect.

XXXIV. EXECUTION

Notwithstanding any delay in the signing of this Agreement due to the parties being required to obtain and append corporate resolutions or municipal resolutions or ordinances authorizing the execution of this Agreement, this Agreement shall be deemed to be effective January 14, 1992, once the Agreement is signed.

Dated: 4/28/92

STONE RIDGE NEGOTIATING  
COMMITTEE

BY: David Sanders  
DAVID SANDERS, -President

ATTEST: Stella Dunahee  
STELLA DUNAHEE, Secretary

Dated: 2/24/92

WASTE MANAGEMENT OF  
WISCONSIN, INC.

BY: Donald R. Price  
DONALD R. PRICE,  
Vice President

ATTEST: Carl J. Frank  
CARL J. FRANK,  
Secretary

Waste Management has attached a certified copy of its corporate resolution permitting the foregoing officer to sign on behalf of Waste Management, said resolution being attached hereto as Exhibit "G".

Dated: 4/28/92  
CITY OF MUSKEGO

BY: Wayne Salentine  
MAYOR WAYNE SALENTINE

ATTEST: Jean K. Marenda  
CITY CLERK

The City of Muskego shall attach a certified copy of the resolution approving this Agreement as Exhibit "J".

Any approval by Waukesha County shall be in written form and a copy of such resolution or ordinance shall be attached as an additional exhibit.

Drafted by Attorney Patrick J. Hudec  
Hudec Law Offices, S.C.  
2100 Church Street  
P.O. Box 167  
East Troy, Wisconsin 53120  
(414) 642-5823

LANDFILL COMMITTEE MEMBERS

Mr. Frank DeAngelis  
S87 W19543 Woods Road  
Muskego, Wisconsin 53150

Mrs. Stella Dunahee, Secretary  
S82 W13431 HiView Drive  
Muskego, WI 53150

Mr. Donald J. Desmonie  
W250 S10015 Center Drive  
Big Bend, WI 53150

Mr. Pete Burgeson  
S74 W17502 Lake Drive  
Muskego, WI 53150

Mr. Joseph A. Campbell  
S73 W19379 Lochcrest Blvd.  
Muskego, WI 53150

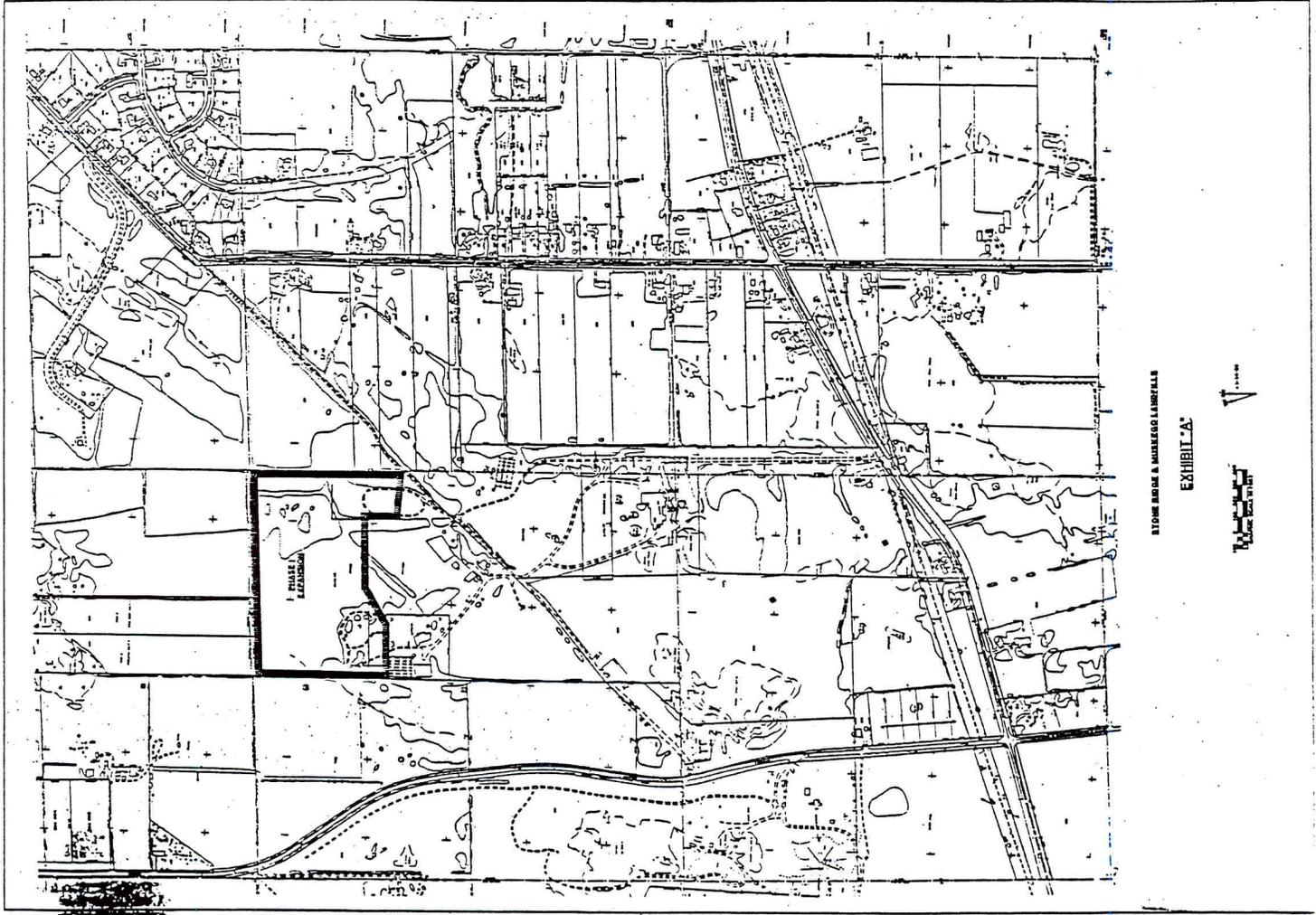
Ald. David Sanders  
S103 W20703 Heather Lane  
Muskego, WI 53150

Ald. David Taube  
S75 W18687 Kingston  
Muskego, WI 53150

EXHIBIT A  
(STONE RIDGE I)  
PARCEL DESCRIPTION

Stone Ridge Recycling and Disposal Facility

A parcel of land in the City of Muskego, T5N, R20E commencing at the N 1/4 corner of Section 18, said point also being the point of beginning of this description; thence S87°20'04"W, 1325.95 feet; thence S01°11'25"E, 840.29 feet; thence S90°00'00"E, 330.00 feet; thence N60°00'00"E, 259.94 feet; thence S90°00'00"E, 452.82 feet; thence S01°32'30"E, 200.00 feet; thence S86°55'02"E, 313.45 feet; thence N01°06'54"W, 988.77 feet to the point of beginning.



STONE MOUNTAIN & MARSHFIELD

EXHIBIT 'A'





**STONE RIDGE LANDFILL - NORTHERN EXPANSION**



**SURFACE WATER DRAINAGE WITHIN  
GENERAL FILL BORROW AREA  
AFTER EXCAVATION**



**STONE RIDGE LANDFILL - NORTHERN EXPANSION**



**SURFACE WATER DRAINAGE WITHIN  
GENERAL P&L BORROW AREA  
BEFORE EXCAVATION  
(EXISTING CONDITION)**

EXHIBIT "B"

LANDFILL

LEGAL DESCRIPTION - CSM PARCEL

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 18, T5N, R20E, TOWN OF MUSKEGO, WAUKESHA COUNTY, WISCONSIN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 1 CSM # \_\_\_\_\_.

COMMENCING AT THE N 1/4 CORNER OF SECTION 18, THENCE S01°06'54"E, 516.17 FEET TO THE POINT OF BEGINNING; THENCE N86°55'02"W, 316.97 FEET; THENCE S01°32'30"E, 530.36 FEET; THENCE 98.40 FEET SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.04 FEET AND A LONG CHORD BEARING S44°13'46"E, 89.55 FEET; THENCE S86°55'02"E, 251.65 FEET; THENCE N01°06'54"W, 590.93 FEET TO THE POINT OF BEGINNING, CONTAINING 184,731 SQUARE FEET OR 4.241 ACRES MORE OR LESS.

LEGAL DESCRIPTION - PRESENT FILLING AREA

A PARCEL OF LAND LOCATED IN THE NORTH 1/2 OF SECTION 18, T5N, R20E, TOWN OF MUSKEGO, WAUKESHA COUNTY, WISCONSIN; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 18, THENCE S87°20'04"W, 1325.95 FEET; THENCE S01°11'25"E, 710.29 FEET TO THE POINT OF BEGINNING, THENCE S01°11'25"E, 1535.00 FEET; THENCE N47°48'35"E, 1360.00 FEET; THENCE S35°11'25"E, 320.00 FEET; THENCE S21°18'35"W, 260.00 FEET; THENCE S23°30'24"E, 190.80 FEET; THENCE N87°29'36"E, 305.66 FEET; THENCE N00°05'54"W, 741.76 FEET; THENCE S87°29'06"W, 174.28 FEET; THENCE N01°06'54"W, 217.48 FEET; THENCE N86°55'02"W, 251.65 FEET; THENCE 98.40 FEET NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 66.04 FEET AND A LONG CHORD BEARING N44°13'46"W, 89.55 FEET; THENCE N01°32'30"W, 257.48 FEET; THENCE N90°00'00"W, 1010.64 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINS 20,631 ACRES MORE OR LESS.

33 072

LEGAL DESCRIPTION - SOUTHEAST PARCEL

A PARCEL OF LAND LOCATED IN SECTION 18, T5N, R20E, TOWN OF MUSKEGO, WAUKESHA COUNTY, WISCONSIN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N 1/4 CORNER OF SECTION 18, THENCE S01°06'54"E, 1324.58 FEET; THENCE N87°29'06"E, 174.28 FEET; THENCE S00°05'54"E, 1332.00 FEET; THENCE S02°03'54"E, 140.00 FEET TO THE POINT OF BEGINNING, THENCE S87°29'36"W, 850.00 FEET; THENCE S13°21'15"W, 450.34 FEET; THENCE S20°26'54"E, 520.00 FEET; THENCE S00°26'54"E, 413.39 FEET; THENCE N71°13'37"E, 549.75 FEET; THENCE N02°52'25"W, 217.11 FEET; THENCE N71°13'37"E, 208.55 FEET; THENCE S02°52'25"E, 217.11 FEET; THENCE N71°13'37"E, 39.97 FEET; THENCE S01°06'54"E, 29.20 FEET; THENCE N56°47'06"E, 62.43 FEET; THENCE N02°03'54"W, 1115.26 FEET TO THE POINT OF BEGINNING, CONTAINING 23.623 ACRES MORE OR LESS.

EXHIBIT "B"

LANDFILL

LEGAL DESCRIPTION - SUPERFUND PARCEL

A PARCEL OF LAND LOCATED IN SECTION 18, T5N, R20E, TOWN OF MUSKEGO, WAUKESHA COUNTY, WISCONSIN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N 1/4 CORNER OF SECTION 18, THENCE S87°20'04"W, 1325.95 FEET; THENCE S01°11'25"E, 2245.29 FEET TO THE POINT OF BEGINNING; THENCE N47°48'35"E, 1360.00 FEET; THENCE S35°11'25"E, 320.00 FEET; THENCE S21°18'35"W, 260.00 FEET; THENCE S23°30'24"E, 190.80 FEET; THENCE S87°29'36"W, 546.04 FEET; THENCE S00°36'30"E, 730.12 FEET; THENCE S13°21'15"W, 450.84 FEET; THENCE S20°26'54"E, 520.00 FEET; THENCE S87°26'05"W, 898.50 FEET; THENCE N04°07'54"W, 1000.55 FEET; THENCE N40°33'05"E, 400.00 FEET; THENCE N01°11'25"W, 183.55 FEET TO THE POINT OF BEGINNING, CONTAINING 37.058 ACRES MORE OR LESS.

EXHIBIT "B"

LANDFILL

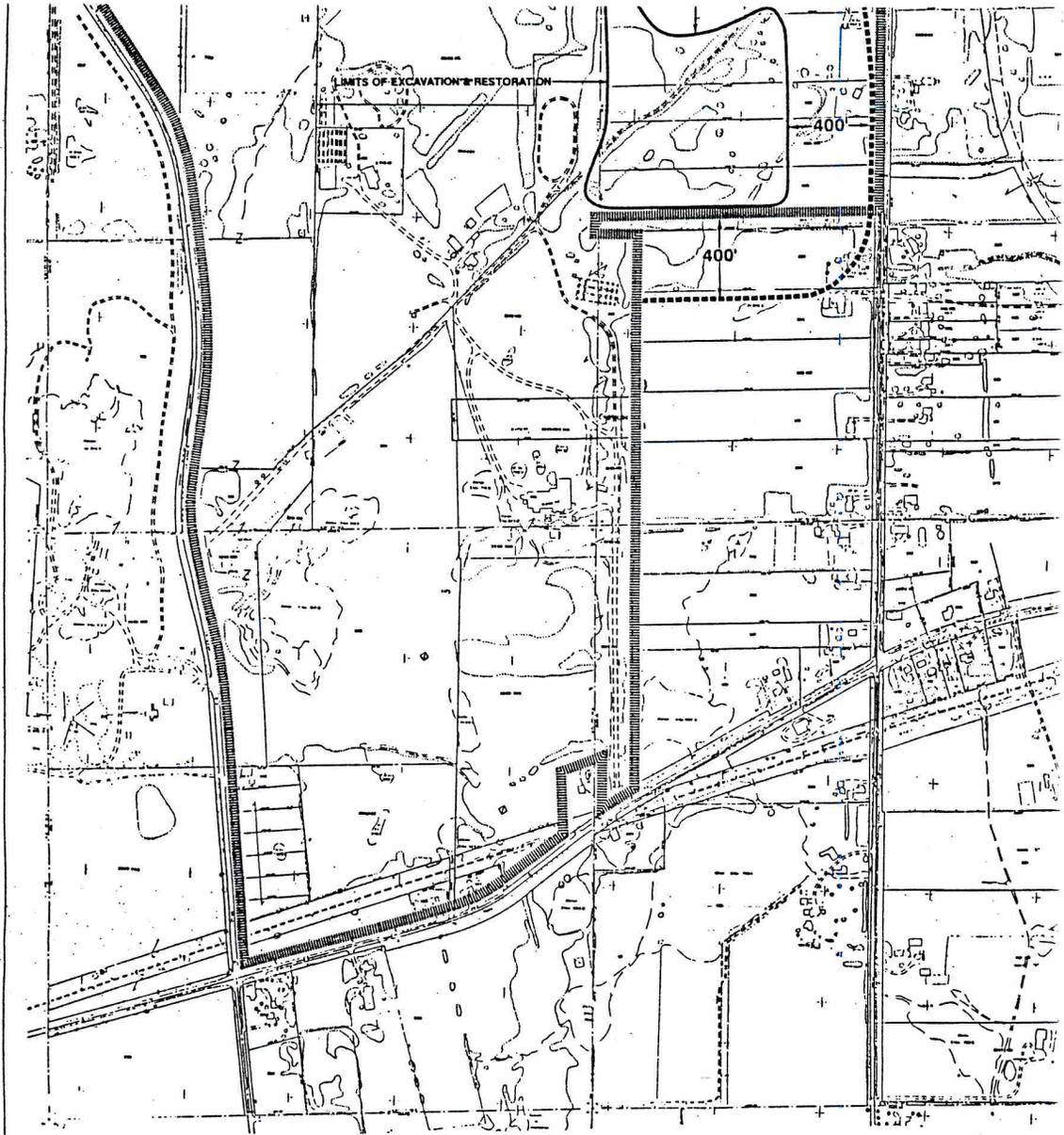
A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 18, T5N, R20E, TOWN OF MUSKEGO, WAUKESHA COUNTY, WISCONSIN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N 1/4 CORNER OF SECTION 18, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S87°20'04"W, 1325.95 FEET; THENCE S01°11'25"E, 710.29 FEET; THENCE S90°00'00"E, 1010.64 FEET; THENCE N01°32'30"W, 272.88 FEET; THENCE S86°55'02"E, 316.97 FEET; THENCE N01°06'54"W, 516.17 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINS 20.631 ACRES MORE OR LESS.

AND

That part of the Northwest 1/4 and the Southwest 1/4 of Section 18, Town 5 North, Range 20 East, in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at a point in the North line of said Northwest 1/4 Section, 110.76 feet N 87°20'04"E of the Northwest corner of said Northwest 1/4 Section, said point being in the easterly line of Crowbar Road, a curved line; thence southeasterly along said easterly line, being a curved line (having a radius of 896.90 feet with its center to the northeast and a chord 257.52 feet in length which bears S28°49'17"E), an arc distance of 258.41 feet to a point of tangency; thence S37°04'31"E, along said easterly line, 414.13 feet to a point of curve; thence southeasterly along said easterly line, being a curved line (having a radius of 1207.35 feet with its center to the southwest and a chord 596.24 feet in length which bears S22°46'48"E), an arc distance of 602.47 feet to a point of tangency; thence S8°29'05"E, along said easterly line, 411.58 feet to a point of curve; thence southerly along said easterly line, being a curved line (having a radius of 1906.60 feet with its center to the west and a chord 503.54 feet in length which bears S0°53'47.5"E), an arc distance of 505.02 feet to a point of tangency; thence S6°41'30"W, along said easterly line, 350.00 feet to a point of curve; thence southerly along said easterly line, being a curved line (having a radius of 958.39 feet with its center to the east and a chord 380.14 feet in length which bears S4°44'50.5"E), an arc distance of 382.68 feet to a point of tangency; thence S16°11'11"E, along said easterly line, 245.00 feet to a point of curve; thence southerly along said easterly line being a curved line (having a radius of 2172.00 feet with its center to the west and a chord 403.85 feet in length which bears S10°51'07.5"E), an arc distance of 404.43 feet to a point; thence N84°28'56"E, along said easterly line, 3.00 feet to a point; thence S5°31'04"E, along said easterly line, 311.35 feet to a point in the North line of lands conveyed to John Knutowski and Clementine Knutowski his wife by deed recorded in volume 275 of deeds, page 50; thence N87°26'05"E, along said North line, 194.93 feet to a point; thence N4°07'54"W, 1000.55 feet to a point; thence N40°33'05"E, along the northerly side of lands described in deeds recorded in the office of the Register of Deeds for Waukesha County, Wisconsin in Volume 552 of Deeds, on Page 76, 400.00 feet to a point in the east line of the West 1/2 of said Northwest 1/4 Section; thence N1°11'25"W, along said East line, 2428.84 feet to a point in the North line of said Northwest 1/4 Section; thence S87°20'04"W, along said North line, 1174.72 feet to the point of commencement. Containing therein 46.8728 acres of land more or less, excepting therefrom those lands dedicated to the public for



STONE RIDGE & MUSKEGO LANDFILLS

EXHIBIT "B"

Exhibit "C"

FORMULA FOR ADJUSTING PAYMENTS TO THE CITY

All payments provided for in this agreement which refer to annual increases or rates of increases shall be governed by this section.

All payments made to the City shall be annually adjusted based upon the Consumer Price Index (All Urban Consumers). The base rate for such index shall be the date that this agreement is formally approved by the negotiating committee and the Operator by way of formal motion at the final negotiating session between the Operator and the negotiating committee.

Any increases in the index shall be reflected in pro rata increases in the payments to be provided to the City, beginning with the increases between the Effective Date of this Agreement and the first payment to be made to the City, the same being the annual fee. Thereafter, such increases shall apply each quarter to the quarterly tipping fees. The first annual fee increase shall be equivalent to the fourth quarterly tipping fee increase as provided hereinafter.

This increase shall include, but not be limited to, the following payments:

1. Annual fees.
2. Tipping fees.
3. Standing committee contributions.
4. Annual payments to the City in lieu of free dumping.

The parties agree that there will be quarterly rate increases of no less than one and one-quarter percent (1-1/4%) above the previous quarter, such minimum increase to apply if the Consumer Price Index has increased less than that amount.

For example, if the Consumer Price Index increases one percent (1%) in the first calendar quarter and two percent (2%) in the second calendar quarter, the first calendar quarter will increase at the rate of one and one-quarter percent (1-1/4%). The second calendar quarter shall be increased at the rate of two percent (2%) above the previous rate. Increases for all subsequent quarters shall be based upon the Consumer Price Index and the rate applicable on the date of the previous quarterly payment.

Exhibit "D"

STANDING COMMITTEE

1. Purpose. The City of Muskego (hereinafter referred to as the "City") and Waste Management (hereinafter referred to as the "Operator"), agree to establish and participate in a committee to monitor the construction and operation of the Stone Ridge I and II landfill sites; and to implement the property value protection plan.

2. Membership. Membership on the committee shall consist of two (2) City residents appointed by the City Council, one (1) City Council Member, one (1) member or appointee of the Waukesha County Solid Waste Management Board, and one (1) representative appointed by the Operator. The committee shall elect, from amongst its members, an individual to function in the capacity of chairperson. For any action taken by the committee, unless otherwise expressly provided, a majority vote of the committee is required.

3. Replacement and Removal. A committee member appointed by the City may voluntarily resign at any time. Any committee member may be removed from the committee effective from the date that member no longer resides in the area, as above stated. Upon the occurrence of either, the City shall promptly appoint a replacement.

Any committee member may be removed by the committee for good cause and upon a four-fifths (4/5) vote of the committee

4. Quorum. Three (3) members shall constitute a quorum.

5. Documents. The Operator shall provide copies of all technical reports and monitoring data supplied to the State of Wisconsin/Department of Natural Resources by the Operator pertaining to the landfill, including the Plan of Operation, any proposed amendments to the feasibility study or any proposed changes to any special conditions imposed by the State of Wisconsin/Department of Natural Resources, and shall provide such copies free of charge to the committee membership and the City Council and County Solid Waste Management Board. The Operator shall also forward to such parties all notices, investigations or claims of violations of this agreement that the Operator receives either by way of the DNR, EPA, or any other person.

6. Meetings. The committee shall establish a minimum schedule of two meeting per year for the purposes of review, explanation and discussion of said technical data, monitoring data, violations, and the status of the landfill site construction, operation and closure. Special meetings of the committee may be called by any member of the committee upon five (5) days written notice for the purpose of addressing any issue of concern involving the landfill site construction, operation or closure. Upon the occurrence of an event deemed by any committee member to constitute an emergency condition, a special meeting may be called with less than five (5) days notice, provided each committee member is personally notified.

The public may attend any committee meeting. Any written notice called for in this agreement shall be deemed effectively provided when either personally delivered or sent by mail to all members at the addresses listed by them with the committee.

7. Committee Responsibility. Individual committee members with proper identification, or agents or designees from the City or County Solid Waste Management Board, shall have the right to conduct on-site inspections of the landfill site. Said inspections shall be conducted during operating hours, but only after giving notice to the Operator's employee in charge at the landfill site, if immediately available. If such individual is not immediately available, then notice to any of the Operator's employees on the site shall constitute notice under this provision.

8. Violations. If, in the judgment of the majority of the committee members, the landfill site is not being constructed or operated in compliance with the Operator's approved plan of operation, feasibility study, or with any applicable State statute or regulation, or any other provision of law, whether it be in law or equity, the committee may serve written notice of such perceived non-compliance upon, and may make recommendations to, the Operator. Similarly, if any aspect of the construction, operation or closure of the landfill site causes or is likely to cause, in the judgment of the majority of the committee, a problem due to noise, dust, debris, odor, maintenance of access road, litter, traffic flow,

traffic patterns or inadequate screening or fencing or any other problem, the committee may serve upon the Operator written notice of the committee's concern and make recommendations to remedy or address such concern.

The Standing Committee, City or County may seek \$500 per diem forfeitures for any violation of this agreement. The parties stipulate that original jurisdiction of such violations shall be in the City of Muskego municipal court. Any violation shall be considered a separate violation and each day of a violation shall be deemed a separate offense. Violations of the same provisions of this agreement or similar provisions of DNR regulations within a 12 month period shall expose the applicant to damages of up to \$1,000 per day for each violation.

Nothing herein shall be construed to limit the right or duty of the City or County officials to make such on-site inspections as deemed necessary under their duties to protect the public health and safety and to take action pursuant to law. Similarly, nothing herein shall be construed to limit any legal or equitable right of any neighboring property owner with respect to individual legal rights pursuant to law. Furthermore, the existence of the Standing Committee shall not constitute a waiver of any County, City, or local property owners' public duties, rights or privileges pursuant to law.

9. Enforcement. The City and Operator hereby stipulate that the Standing Committee shall have legal standing in its

own name to enforce any provision of law or any provision of the negotiated settlement if the Operator fails to remedy the concern of the Standing Committee as hereinbefore stated. Upon receipt of any notice of non-compliance or notice of an issue of concern to the committee, the Operator shall immediately investigate any allegation of non-compliance or issue of concern made by the committee and shall take action as is necessary to alleviate and/or correct the situation within twenty-four (24) hours. The Operator shall deliver a written report concerning the investigation and any resulting remedial action to the committee within seventy-two (72) hours of receipt of the original notice. The Operator may petition the committee for an extension of the above time limits and, upon showing sufficient cause, the committee shall so extend the limits. In the event the Operator does not correct the condition to the satisfaction of a majority of the committee within the time frames hereinbefore stated, the Standing Committee may pursue such remedies as are available at law or in equity as if it had full standing at law to bring such action. If injunctive relief, temporary or permanent, is sought by the Standing Committee, City, or County, the parties agree that any requirement for posting of a bond or surety shall be waived. The Operator waives the right to seek damages against such parties if injunctive relief is granted, whether it be temporary or permanent.

10. Annual Budget. The Standing Committee shall begin with the initial sum of \$5,000 payable by the Operator within fifteen (15) days of the effective date of this Agreement and shall be paid an annual sum of Five Thousand Dollars (\$5,000) to be paid into a separate interest-bearing account on or before January 5 every year thereafter by the Operator. Said account shall be established and administered by the City Treasurer. Said annual budget shall increase as set forth in Exhibit "C", until the Standing Committee terminates its activities. The Standing Committee shall exist through the closure of said site and for a minimum of five (5) years thereafter and a maximum of fifteen (15) years, unless just cause is shown to continue the activities of the committee. The termination of the committee's activities will occur on a four-fifths (4/5) vote or, after the fifth year after closure, with unanimous consent of the Operator, City counsel, and the County Solid Waste Management Board.

11. Upon termination of Standing Committee's activities, all remaining funds under the Standing Committee's control will be paid into the Landfill Fund.

Exhibit "E"

INDEMNIFICATION AGREEMENT

THIS AGREEMENT, entered into by and between WASTE MANAGEMENT OF NORTH AMERICA, INC. and WASTE MANAGEMENT OF WISCONSIN, INC. on their behalf and on behalf of any of their past, present or future subsidiaries, or its successors or assigns, (hereinafter called "Waste Management"), and the CITY OF MUSKEGO (hereinafter called "City");

PREAMBLE

WHEREAS, Waste Management has operated the Muskego Sanitary Landfill on two sites, one being a 76 acre landfill facility (operated by various parties between 1954 and 1981), said closed facility located north of State Highway 24 and east of Crowbar Road in the City, and the second being a landfill facility immediately north of the closed 76 acre facility; and

WHEREAS, on or about April 10, 1987, the United States Environmental Protection Agency, (hereinafter "EPA"), forwarded to Waste Management and the City a notice of potential liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, which notice named both Waste Management and the City as within the owner/operator group of potentially responsible parties; and

WHEREAS, Waste Management has negotiated with EPA, and has agreed to conduct the remedial investigation and feasibility study at the Muskego Sanitary Landfill Site; and

WHEREAS, the results of said remedial investigation and feasibility study are not yet known; and

WHEREAS, Waste Management has a proposal before the Wisconsin Department of Natural Resources, (hereinafter "DNR"), for establishing and operating a non-hazardous municipal, commercial and industrial solid waste disposal facility; and

WHEREAS, the DNR, on June 26, 1989, issued its notice of Feasibility Report and preliminary environmental impact decisions; and

WHEREAS, the City on or about July 12, 1989, filed a Request for Contested Case Hearing pursuant to §§ 144.44(2)(m) and 227.42, Wis. Stats.; and the same having been withdrawn and dismissed; and

WHEREAS, Waste Management and the City have resolved the issues existing with respect to their respective involvement in the administrative actions before the United States EPA and the State of Wisconsin DNR.

NOW, THEREFORE, in consideration of the mutual covenants stated herein, as well as other good and valuable consideration,

IT IS AGREED AS FOLLOWS:

1. Waste Management agrees to release, indemnify, hold harmless and defend City and the County of Waukesha from any

and all liability in any way related to the former, present and proposed Muskego Sanitary Landfill sites, that is, the 76 acre facility located north of State Highway 24 and east of Crowbar Road operated between 1954 and 1981, the facility located immediately to the north of said facility, and the proposed expansions. Waste Management also agrees to release, indemnify, hold harmless and defend City and the County of Waukesha from any and all liability in any way related to any other future expansions or landfill operations undertaken by Waste Management, its successors, and assigns and located in the City of Muskego. All of the above-noted sites and/or facilities, past, present or future, for purposes of this Indemnification Agreement, shall be collectively known as the 'Facilities' and shall be subject to the following terms and conditions:

A. Release. Waste Management, its directors, officers, shareholders, successors and assigns hereby releases, waives, remises, acquits and forever discharges City, its predecessor Town of Muskego, and County of Waukesha, and their former, present and future elected officials, employees, servants, agents and their respective heirs, successors, personal representatives and assigns of and from any and all suits, causes of action, legal or administrative proceedings, claims, demands, actual or punitive or any other damages, losses, costs, liabilities, interests, attorneys fees and expenses of whatever kind or nature, in law or equity, known or unknown which Waste Management ever had, now has, hereafter can, shall or may have or acquire or possess arising out of or in any way connected with, based upon, arising out of City's or County's use, maintenance, ownership, operation, regulation or any other association whatsoever with the aforementioned Facilities including, but not limited to, that of an owner/operator and/or generator and/or transporter, or the

condition, status, quality, nature, contamination or environmental status of the said Facilities.

B Indemnity. Waste Management agrees to indemnify and hold harmless City, its predecessor Town of Muskego, and Waukesha County, and their former, present and future elected officials, employees, servants, agents and their respective heirs, successors, personal representatives, against and in respect of, any and all damages, claims, losses, liability and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, asserted or incurred by City and County of Waukesha, and their former, present and future elected officials, employees, servants, agents and their respective heirs, successors, personal representatives, by any other party or parties (including, without limitation, a governmental entity), arising out of or in connection with any environmental condition existing at or related to the one or more of the Facilities as of, prior to, or subsequent to the date of execution of the agreement, including the exposure of any person to any such environmental condition, regardless of whether such environmental condition or exposure resulted from activities of City or City's predecessors or successors in interest, and/or its representative as referred to above (specifically excepting any actions or claims pertaining to the property value protection plan, which shall be the City's sole responsibility).

As further consideration, Waste Management agrees to accept tender of defense and to defend and pay any and all reasonable legal, accounting, consulting, engineering and other expenses related to the defense of any claim asserted

or imposed upon City and County of Waukesha, its predecessor or successors, and/or its representatives referred to above or by any other party or parties (including, without limitation, a governmental entity) in any way related to the environmental condition referred to in the preceding paragraph.

This indemnification agreement specifically applies to, but is in no way limited to, the present United States EPA investigation of documented release or threatened release of hazardous substances pollutants and contaminants at the Muskego Sanitary Landfill indicated in the Notice of Potential Liability issued by EPA on or about April 10, 1987.

C. Resolutions. This Agreement is made pursuant to the resolutions of the Boards of Directors of Waste Management of North America, Inc., Waste Management of Wisconsin, Inc., and the resolution of the common council of the City of Muskego, said resolutions being attached hereto and incorporated herein as though fully set forth and marked Exhibits "1", "2", and "3", respectively.

Dated this 28 day of APRIL, 1992.

WASTE MANAGEMENT OF NORTH AMERICA, INC.

By: William P. Kelly  
President

Attest: [Signature]  
Secretary

WASTE MANAGEMENT OF WISCONSIN,  
INC.

By: *Price*  
DONALD R. PRICE, President  
vice

Attest: *Frank*  
CARL J. FRANK, Secretary

Waste Management has attached a certified copy of its corporate resolution permitting the foregoing officer to sign on behalf of Waste Management, said resolution being attached hereto.

CITY OF MUSKEGO,

BY: *Wayne Salentine*  
MAYOR WAYNE SALENTINE

ATTEST: *Jean K. Maranda*  
CITY CLERK

COUNTY OF WAUKESHA,

BY: \_\_\_\_\_  
COUNTY CHAIRMAN

ATTEST: \_\_\_\_\_  
COUNTY CLERK

Exhibit "F"

STONE RIDGE LANDFILL FUND

WHEREAS the parties hereto desire to provide direct payments to a Stone Ridge Landfill Fund, to ensure that monies are available to deal with local solid waste issues and protect against environmental perils presented by the proposed landfill expansion; and

WHEREAS the parties desire that the Fund be controlled, administered and used by the City of Muskego and the City of Muskego alone, the Operator expressly taking no position in the specific use of such funds and desiring no involvement in the City Landfill Fund; and

WHEREAS the parties desire to bind all of their successors and assigns in order to create a fund which will provide for long-term care and concerns of the site;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. All payments received and provided for in the Negotiated Agreement, excluding the annual fee payable directly into the City of Muskego General Fund, payable under this agreement be set aside and placed in a separate, interest-bearing account or fund, hereinafter referred to as the "Stone Ridge Landfill Fund".

2. That all sums placed into the Landfill Fund shall be used solely for expenses related to the City's involvement with the landfill site, waste disposal of the City of Muskego, recycling, source separation, including:

- a. pick-up and disposal of City waste;
- b. resource recovery or recycling programs within the City of Muskego;
- c. preventing, controlling or minimizing the impact of any environmental peril threatened by, caused by or related to the landfill;
- d. administering the Landfill Fund;
- e. Standing Committee expenses above the operator's annual contribution;
- f. property value protection plan payments.

3. That the Operator shall take no position and shall have no involvement with the City's use of the City Landfill Fund, expressly waiving any standing to contest the same.

4. That the City Council of the City of Muskego shall authorize disbursements and payments from the Landfill Fund, reserving the right to assign for review and recommendation such payments to either the Standing Committee (excluding the Operator's representatives on such committee), or similar advisory body.

5. In the event of any payment made from the City Landfill Fund, the City of Muskego shall be subrogated to all of the payee's rights of recovery, if such payee is a person or corporate entity suffering loss due to landfill-related causes, to the extent of the payment so made. Such subrogation rights

shall allow the City of Muskego to replenish the City Landfill Fund for any sums so expended.

6. The City shall, in no event, spend more than fifteen percent (15%) of the balance of the fund in any calendar year. However, if the Ninety-Five Thousand Dollars (\$95,000) referenced in Section XXIX is to be paid into the Landfill Fund, the City may use and withdraw all of such funds at any time for recycling or resource recovery, or Waste pick-up and disposal purposes.

7. The City Council shall determine the duration of the City Landfill Fund after which any remaining sums in the City Landfill Fund may be released into the City of Muskego General Fund, reinvested or used in any fashion allowed by law. The City Council shall be allowed to stagger or partially release such funds over intervals. However, in no event will the City Council allow the release of any part of the Landfill Fund, except as authorized under paragraphs 2 and 6, until at least fifteen (15) years after the DNR approves final closure of the site. Such methods and duration of final disbursement of the City Landfill Fund shall be determined by the City Council by resolution or ordinance prior to the receipt of any direct payments. Subsequent City Councils may extend the term of such disbursements so funds are released at later dates, but may not provide for early release, except as may be required as hereinbefore provided.

WASTE MANAGEMENT OF NORTH AMERICA, INC.

CERTIFICATE OF ASSISTANT SECRETARY

I, Gregory T. Sangalis, the duly elected Assistant Secretary of Waste Management of North America, Inc., an Illinois corporation (the "Corporation"), hereby certify that the following is a true and complete copy of a resolution of the Board of Directors of the Corporation duly adopted by unanimous written consent, which resolution has not been modified, amended or rescinded and is in full force and effect.

RESOLVED, by the Board of Directors of the Corporation, that the Corporation be and is hereby authorized and directed to enter into negotiations, execute such instruments and take such action as may be necessary regarding the expansions of the Stone Ridge Recycling and Disposal Facility, known as Stone Ridge I and II.

FURTHER RESOLVED, that any Vice President of the Corporation be and is hereby authorized, directed and empowered to execute and deliver for and on behalf of the Corporation, any and all agreements, contracts, documents, certifications, deeds and memoranda deemed by that Vice President to be necessary and appropriate to effect the herein authorized resolution, including the Indemnification Agreement attached hereto as Exhibit E to the Final Negotiated Agreements for Stone Ridge I and II.

Dated: 4/3/72

  
\_\_\_\_\_  
Gregory T. Sangalis, Assistant Secretary

WASTE MANAGEMENT OF NORTH AMERICA, INC.

ACTION BY UNANIMOUS WRITTEN  
CONSENT OF THE BOARD OF DIRECTORS

The undersigned, being all of the Directors of Waste Management of North America, Inc., an Illinois corporation, (the "Corporation"), hereby consent to the taking of the following action in lieu of a meeting of the Board of Directors of the Corporation and hereby waive any notice whatsoever required to be given in connection therewith.

RESOLVED, by the Board of Directors of the Corporation, that the Corporation be and is hereby authorized and directed to enter into negotiations, execute such instruments and take such action as may be necessary regarding the expansions of the Stone Ridge Recycling and Disposal Facility, known as Stone Ridge I and II.

FURTHER RESOLVED, that any Vice President of the Corporation be and is hereby authorized, directed and empowered to execute and deliver for and on behalf of the Corporation, any and all agreements, contracts, documents, certifications, deeds and memoranda deemed by that Vice President to be necessary and appropriate to effect the herein authorized resolution, including the Indemnification Agreement attached hereto as Exhibit E to the Final Negotiated Agreements for Stone Ridge I and II.

The Secretary or Assistant Secretary of the Corporation is directed to file a copy of this written consent with the minutes of the proceedings of the Board of Directors of the Corporation.

Dated: 7/24/12

15/  
Herbert A. Getz

15/  
Jerome D. Girsch

15/  
William P. Hulligan

WASTE MANAGEMENT OF WISCONSIN, INC.

CERTIFICATE OF SECRETARY

I, Carl J. Frank, the duly elected Secretary of Waste Management of Wisconsin, Inc., a Wisconsin corporation (the "Corporation"), hereby certify that the following is a true and complete copy of a resolution of the Board of Directors of the Corporation duly adopted by unanimous written consent, which resolution has not been modified, amended or rescinded and is in full force and effect.

RESOLVED, by the Board of Directors of the Corporation, that the Corporation be and is hereby authorized and directed to enter into negotiations, execute such instruments and take such action as may be necessary regarding the expansions of the Stone Ridge Recycling and Disposal Facility, known as Stone Ridge I and II.

FURTHER RESOLVED, that any <sup>vice</sup> President and Secretary of the Corporation be and are hereby authorized, directed and empowered to execute and deliver for and on behalf of the Corporation, any and all agreements, contracts, documents, certifications, deeds, including the Stone Ridge I Landfill Final Negotiated Agreement, the Stone Ridge II Landfill Final Negotiated Agreement and the Indemnification Agreement attached thereto as Exhibit E, and memoranda deemed by them to be necessary and appropriate to effect the herein authorized resolution.

Dated: FEBRUARY 24, 1992

  
\_\_\_\_\_  
Carl J. Frank, Secretary

WASTE MANAGEMENT OF WISCONSIN, INC.

ACTION BY UNANIMOUS WRITTEN  
CONSENT OF THE BOARD OF DIRECTORS

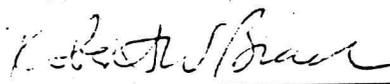
The undersigned, being all of the Directors of Waste Management of Wisconsin, Inc., a Wisconsin corporation, (the "Corporation"), hereby consent to the taking of the following action in lieu of a meeting of the Board of Directors of the Corporation and hereby waive any notice whatsoever required to be given in connection therewith.

RESOLVED, by the Board of Directors of the Corporation, that the Corporation be and is hereby authorized and directed to enter into negotiations, execute such instruments and take such action as may be necessary regarding the expansions of the Stone Ridge Recycling and Disposal Facility, known as Stone Ridge I and II.

FURTHER RESOLVED, that any <sup>vice</sup> President and Secretary of the Corporation be and are hereby authorized, directed and empowered to execute and deliver for and on behalf of the Corporation, any and all agreements, contracts, documents, certifications, deeds, including the Stone Ridge I Landfill Final Negotiated Agreement, the Stone Ridge II Landfill Final Negotiated Agreement and the Indemnification Agreement attached thereto as Exhibit E, and memoranda deemed by them to be necessary and appropriate to effect the herein authorized resolution.

The Secretary or Assistant Secretary of the Corporation is directed to file a copy of this written consent with the minutes of the proceedings of the Board of Directors of the Corporation.

Dated: FEBRUARY 24, 1992

  
\_\_\_\_\_  
Robert W. Brach

  
\_\_\_\_\_  
Carl J. Frank

  
\_\_\_\_\_  
Donald R. Price

Exhibit "H"

GENERAL FILL BORROW PIT

WHEREAS, Waste Management of Wisconsin, Inc., the Operator of Stone Ridge Landfill, is desirous of using the property known as the "Smalley Farm," as General Fill Borrow Pits, the legal description of the same being attached hereto as Addendum to Exhibit "H", as an area to obtain soil for purposes of operating the Stone Ridge Landfills, both I and II; and

WHEREAS, the parties hereto have negotiated the same in conjunction with the Stone Ridge I and Stone Ridge II landfill agreements under Chapter 144, Wis. Stats.;

NOW, THEREFORE, be it hereby agreed as follows:

1. That the waiver of local approvals set forth in Section XIII of this Agreement constitutes an override of any requirement which may otherwise exist with respect to obtaining rezoning or conditional use permits for the borrow pit property. If the Operator is precluded, for any reason, except for its own actions or inactions, or its own financial situation for which it is reasonably responsible, from extracting any material needed for construction or operation of the Active Fill Area of Stone Ridge I and II from the Borrow Pit identified in this Exhibit at any time from January 14, 1992 to July 14, 1993; then the parties shall have no further obligations under the Stone Ridge I and II Final Negotiated Agreements; however, in the event of such a preclusion, the parties shall attempt to renegotiate these Agreements.

2. That the proposed excavation shall take place in accordance with the plans approved by the Department. The excavation shall maintain a minimum 200 foot setback from the north and east property lines (excluding the property owned by Waste Management known as the Active Fill Area), a 350 foot street yard setback, and a minimum 100 foot setback from the ordinary high water mark of all existing and intermittent bodies of water and drainage areas.

3. That topsoil shall be retained on site for future restoration. Stockpiles of topsoil shall be temporarily seeded within thirty (30) days of their formation. Stockpile side slopes shall be 3:1 or flatter.

4. That the hours of operation for this activity shall be 7:00 a.m. to 4:30 p.m., Monday through Friday, and 7:00 a.m. to 12:00 noon on Saturday. No Sunday or holiday operations are permitted. Operation shall be defined to include the operation of any vehicles or equipment.

5. That all moving of earth, topsoil and clay shall be done such that no public road shall be used. That is, such materials shall be directly transmitted from the Smalley Farm Borrow Pit to the Active Fill Area and adjacent areas on the Waste Management property as needed. Any trucks requiring access through any public roads shall be done using adequate warning and safety signs or devices. Any road or shoulder damage caused by earth moving equipment shall be promptly

repaired by the Operator. All materials tracked onto public roads shall be immediately removed by the Operator.

6. That all areas not quarried, farmed or used for driveways shall be maintained to control or eliminate noxious weeds in conformance with the City of Muskego weed ordinance.

7. That this borrow activity shall be conducted in conformance with the State of Wisconsin Air Pollution Control regulations.

8. That all noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness except vehicle noises to most OSHA or other statutory safety devices' noise. All noise from the site at the lot lines shall not exceed 80 decibels as established by a certified decibel meter.

9. That this operation shall not locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash or be harmful to human, animal, plant or aquatic life.

10. That dust control shall be established on all internal haul roads. Dust palliatives must be DNR approved. Airborne particulate matter shall not exceed Wisconsin State Administrative Code regulations.

11. That the Operator shall provide to the City of Muskego a set of elevations, including the bottom of pit grades of all excavations taking place on this site. Elevations must be taken by a registered land surveyor or a professional engineer. All stated base grades, the same being provided to the City Engineer or Zoning Department, shall not be amended without further approval of the City of Muskego. All documents that are submitted to the City Engineer, Zoning Department, or City Park and Planning Commission pertaining to elevations and/or base rates shall be incorporated into this agreement by reference.

12. That Waste Management of Wisconsin, Inc. shall provide the City of Muskego with an "as built" survey, when restoration is completed.

13. That the applicant shall allow full and unlimited access to the project site at any reasonable time to any Planning and Zoning office employee or Standing Committee member who is investigating the project's construction, operation or maintenance.

14. That all excavation and phase boundaries shall be staked or otherwise marked and may be inspected by the Planning and Development office and Standing Committee prior to the commencement of operations under this approval. Stakes shall be made of steel, fiberglass or other suitable material as determined by Planning and Development office. Signs warning

of the borrow operation shall be placed around the boundary. Such signs shall be metal or metal posts.

15. That the City of Muskego and/or Standing Committee shall have the right to require the submission of additional detailed drawings. Such drawings may include a plan view drawing and a description of the sequential stages of borrowing and storm water drainage plans. Additionally, it may require additional drawings be submitted to show the location of the phase boundary stakes and the location and extent of the mining site to include, but not be limited to, mining refuse, sediment ponds, sediment basins, stockpiles, structures, roads, utilities and other permanent or temporary facilities used in the mining. The City may require the submission of a timetable for commencement, duration and succession of the mining operations and the identification of the phasing of operations, if applicable. The mining shall be scheduled in such a manner to excavate the materials as quickly as practicable.

16. That the applicant is responsible for obtaining all necessary federal, state and local permits, approvals and licenses.

17. That no additions, deletions or changes may be made to these conditions without the prior approval of the City. Minor changes can be approved utilizing the site plan approval process, without the need for a public hearing, if such changes are necessitated or required by any Federal or State agency having authority over the mining.

18. That the perimeter of the Smalley Farm Borrow Pit shall be properly secured and posted "No trespassing" to insure that children or other interlopers shall not be subjected to an unreasonable risk of harm at the site.

19. That the borrow pit shall be opened, excavated, and restored no later than the eighth (8th) anniversary date of the opening of the Stone Ridge I landfill expansion. The site shall be restricted to three (3) acre phases which will be the limit of any active mining or extraction area at any one point in time. When a new phase or three acre section is opened for extractions, the prior phase shall be deemed to be "closed", and the same shall be fully restored within six (6) months. The Zoning Office shall approve the restoration plans, but they shall include restoration of top soil and appropriate seeding or plantings.

20. That the City and the Standing Committee shall have authority to enforce this borrow pit agreement and all of the obligations and requirements found herein. The City and Standing Committee shall be permitted to seek injunctive relief, damages, and such other remedies as may exist under city, county, state, or federal law, including any common law remedy applicable. In addition, the City and Standing Committee may enforce any of the violations of this borrow pit agreement as if the same were a municipal ordinance violation and may assess per diem fines as if the same were ordinance violations. Waste Management of Wisconsin, Inc. retains all

rights of appeal as are provided for under § 800.14, Wis. Stats. if this method of enforcement is selected.

21. That this Smalley Farm Borrow Pit addendum is intended to be, and is made, a part of the Agreement as a negotiated landfill settlement as the same is defined under § 144.445, Wis. Stats. The parties to such negotiated settlement have negotiated this agreement in exchange for a waiver of local approvals, as that term is defined under Chapter 144, Wis. Stats.

ADDENDUM  
TO  
EXHIBIT H

Legal Description of the  
General Fill Borrow Area  
(a/k/a "Smalley Farm")

A parcel of land in the City of Muskego, T5N, R20E commencing at a point on the East line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 18, distant North 60.0 feet from the Southeast corner of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of said Section, said point being the point of beginning; thence Westerly and parallel with the South line of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  1333.85 feet to a point on the North/South  $\frac{1}{4}$  line of the said  $\frac{1}{4}$  Section; thence North on the  $\frac{1}{4}$  line to the N  $\frac{1}{4}$  corner of Section 18; thence Easterly along the North line of said Section to the 1/8th line of said Section; thence South on the 1/8th line to the point of beginning.

EXHIBIT "I"

QUALIFIED OWNERS: PROPERTY VALUE PROTECTION PLAN

The following property owners shall qualify for property value protection as provided for in Section I, paragraph L.

<u>OWNER</u>	<u>TAX KEY NUMBERS</u>
Tim Kebbekus	2188.994
Fred Graves	2188.985 2188.995
Frank Petelensik	2229.994
Merle and Rufus Lowe, Jr.	2229.992
Erwin Rupp	2229.993
Irwin and Wilmetta Martin	2187.999
Mike Bruce	2187.998 2187.998-003
Technicom Corporation	2187.996-001
Christopher Balciunas	2187.995

The above-referenced property owners own property located within four hundred (400) feet of the Active Area of the proposed Borrow Pit or within four hundred (400) feet of the north property line of the Active Fill Area constituting the expansions of Stone Ridge I and Stone Ridge II. This property value protection plan is specifically extended to the Final Closure date for Stone Ridge II or the completion of the restoration plan for the Borrow Pit.

The plan shall specifically exclude any property owned by Waste Management of Wisconsin, Inc. or any of its subsidiaries.

AMENDED

COMMON COUNCIL - CITY OF MUSKEGO  
RESOLUTION #321-91

APPROVAL OF CONTRACT BETWEEN  
THE CITY OF MUSKEGO AND WASTE MANAGEMENT  
Stone Ridge Landfill Expansion

WHEREAS, Waste Management of Wisconsin seeks to expand the Stone Ridge Landfill in the City of Muskego; and

WHEREAS, the City has appointed members to a local negotiating committee to negotiate with Waste Management concerning the proposed expansion; and

WHEREAS, Waste Management and the local negotiating committee have negotiated a landfill agreement.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Muskego does hereby accept and approve the attached landfill agreement and that the Mayor and Clerk are authorized to sign the landfill agreement in the name of the City.

BE IT FURTHER RESOLVED that the Mayor and Clerk are only authorized to execute said landfill agreement if the Mayor is satisfied that the two contracts as to Stone Ridge I and Stone Ridge II have been properly dated and signed by all necessary parties including, but not limited to, Waste Management of Wisconsin, Inc. and that the City has received a certified copy of a corporate resolution permitting the appropriate officer of Waste Management of Wisconsin, Inc. to execute said contracts.

BE IT FURTHER RESOLVED that the Mayor and Clerk are not authorized to execute said contracts until the City has received an executed original of the Indemnification Agreement which is attached to the contracts and marked Exhibit E, fully executed and dated by the appropriate representatives of Waste Management of North America, Inc. and Waste Management of Wisconsin, Inc. and after receipt of the appropriate resolutions of the Board of Directors of Waste Management of North America, Inc. and Waste Management of Wisconsin, Inc. authorizing the execution of said agreement and a certified copy of a corporate resolution of Waste Management of North America, Inc. and Waste Management of Wisconsin, Inc. permitting the officers of said corporations who execute said Indemnification Agreement to execute the same, all to the satisfaction of the Mayor in consultation with the City Attorney.