

**ONYX GLACIER RIDGE LANDFILL  
NEGOTIATED AGREEMENT**

**2005**

**TOWN OF HUBBARD  
TOWN OF WILLIAMSTOWN  
CITY OF MAYVILLE  
DODGE COUNTY, WISCONSIN**

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## **TITLE AND INTRODUCTION**

This Contract ("Contract" or "Agreement") is made and entered into by and among Onyx Glacier Ridge Landfill, LLC, a Wisconsin (limited liability company) ("Corporation"), the Towns of Williamstown and Hubbard, Wisconsin Towns ("Towns"), the County of Dodge, a Wisconsin County ("County") and the City of Mayville, a Wisconsin municipal corporation ("City").

This final negotiated Contract is the product of the negotiating process pursuant to Wis. Stat. § 289.33(9). This Contract was negotiated by the Landfill Negotiating Committee ("Committee" or "Negotiating Committee") which was established pursuant to Wis. Stat. § 289.33(7) and the Corporation. This Contract shall be deemed a final agreement upon approval thereof by the Committee, the Towns, the County, the City and the Corporation. This Contract shall be known as the "Onyx Glacier Ridge Landfill Negotiated Agreement" ("Contract" or "Agreement").

## **ARTICLE I DEFINITIONS**

Active Fill Area means the total capacity approved by the Department of Natural Resources as the disposal capacity for the disposal of Solid Waste by Corporation at the Solid Waste Facility, in the footprint depicted and labeled on Exhibit A, herein incorporated by reference in this Contract. The total capacity approved area shall not include any Expansion of the Active Fill Area or any Expansion of the Solid Waste Facility for the purpose of providing additional disposal capacity area at the Solid Waste Facility or at the Active Fill Area. The Active Fill Area does not include the Land and Gas Reclamation Landfill Superfund site, or the area west of CTH V.

Affected Municipalities means the Towns of Hubbard and Williamstown, the City of Mayville and Dodge County.

Authorized Transporter means any person who is authorized in writing by Corporation at anytime to transport Solid Waste to and from the Solid Waste Facility in the Towns and/or any person who is authorized orally or in writing by Corporation at anytime to dispose Solid Waste in the Active Fill Area at the Solid Waste Facility. Authorized Transporters do not include the City, the Towns and the residents of the City of Mayville and the residents of Towns of Williamstown and Hubbard.

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

Corporation or Operator means Onyx Glacier Ridge Landfill, LLC.

County means the County of Dodge, its officers, its employees and its agents. Unless the context clearly indicates otherwise, all geographical references to the County include the Towns and the City.

Department of Natural Resources or DNR or 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 at the Solid Waste Facility.

Disposal or Dispose means the discharge, deposit, injection, dumping or placing of Solid Waste or Hazardous Waste in the Active Fill Area at the Solid Waste Facility at anytime so that such Solid Waste or Hazardous Waste or any constituent thereof may enter the land, environment or be emitted into the air or discharged into any waters in the County, including groundwater. This term does not include the Storage or the Treatment



of Solid Waste or the Storage or the Treatment of Hazardous Waste at the Solid Waste Facility.

Disposal Operations means any activities at the Solid Waste Facility related to or associated with the disposal of Solid Waste or Hazardous Waste, including, the constructing, surveying, environmental monitoring, environmental testing, repairing, maintaining and closing and Long Term Care of the Solid Waste Facility and including the waste covering at the Solid Waste Facility; Treatment of Solid Waste, such as bioremediation and liquid solidification, prior to disposal in the Active Fill Area; Storage of Solid Waste; maintenance of a collection and separation facility for recyclable material; composting operations; gas extraction; energy generation; and leachate treatment and recirculation.

Effective Date means the date that this Agreement is signed by all parties and the currently licensed six million one hundred sixty-four thousand three hundred (6,164,300) cubic yards of existing licensed airspace is consumed as certified by an independent survey. That date is anticipated to be approximately mid-2006.

Emergency means an unforeseen circumstance at the Solid Waste Facility in the Towns or at any other location in the County that jeopardizes the public health, safety and welfare of persons in the County or that jeopardizes the safety of property in the County.

Expansion means the expansion by Corporation of the design capacity of the Active Fill Area of the Solid Waste Facility beyond the Department of Natural Resources' currently approved design capacity of six million one hundred sixty four thousand three hundred (6,164,300) cubic yards of Solid Waste and daily and intermediate cover materials authorized for disposal in the Active Fill Area at the Solid



Waste Facility and the approximately nine million two hundred seventy-three thousand one hundred (9,273,100) cubic yards pending license application.

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 Corporation or by any other person which shall be one of the following:

1. The date Corporation notifies the Standing Committee in writing that Corporation no longer will dispose and no longer will allow any other person to dispose of Solid Waste in the Active Fill Area at the Solid Waste Facility.
2. The date the Department of Natural Resources orders Corporation in writing to no longer dispose and to no longer allow any other person to dispose of Solid Waste in the Active Fill Area at the Solid Waste Facility.
3. The date Corporation has disposed and has allowed the disposal in the Active Fill Area at the Solid Waste Facility of the currently licensed six million one hundred sixty four thousand three hundred (6,164,300) cubic yards plus the approximately nine million two hundred seventy-three thousand one hundred (9,273,100) cubic yards of pending licensed airspace.

Hazardous Waste or Hazardous Wastes means any Solid Waste identified as a Hazardous Waste by the Department of Natural Resources, under Wis. Stat. § 289.01(12), or identified as Hazardous Wastes by regulations adopted by the Department of Natural Resources in Chapter NR 600, Administrative Code, or its successor chapters. This shall

not include any Hazardous Waste as defined above which is authorized at anytime by the Department of Natural Resources to be disposed at the Active Fill Area or to be disposed, stored or treated at any other location at the Solid Waste Facility. This shall not apply to small quantities of household hazardous materials, as defined by the Department of Natural Resources under Chapter 291 of the Wisconsin Statutes.

Initial Term means the time period commencing with the Effective Date and extending until Final Closure.

Local Approvals means any local approval as "Local Approvals" are defined in Wis. Stat. § 289.33(3), or its successor provisions.

Long Term Care or Long Term Care Operations means any activities at the Solid Waste Facility, including routine care, maintenance and monitoring in the Active Fill Area at the Solid Waste Facility; and where all the above-noted activities occur anytime following the Final Closure of the Active Fill Area at the Solid Waste Facility.

Nature Conservancy Area means the Active Fill Area at the Solid Waste Facility where after Final Closure the Corporation will:

- (1) Maintain this area in order that it largely escapes unnatural environmental disturbances;
- (2) Provide, at the discretion of Corporation, public access into this area for outdoor recreational or open space use at the area; and
- (3) Provide the proper maintenance, monitoring, management protection, husbandry and supervision to protect the natural resources located in this area and to prevent any unnecessary or undue environmental degradation in this area.

Pre-existing Local Approvals means any Pre-existing Local Approvals as "Pre-existing Local Approvals" are defined in Wis. Stat. § 289.33 or its successor provisions.

Remedial Actions means those actions consistent with a permanent remedy which are taken instead of or in addition to Removal Actions in the event of a release or threatened release at the Solid Waste Facility of Hazardous Waste into the environment, to prevent or minimize the release of Hazardous Waste so that the Hazardous Waste does not migrate to cause substantial danger to the present or future public health or welfare of the residents of the County 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 Hazardous Waste as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released Hazardous Wastes, recycling or reuse of Hazardous Wastes, diversion of Hazardous Wastes, destruction of Hazardous Wastes, segregation of Hazardous Wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and run-off, on-site treatment or incineration, 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 relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction or secure disposition offsite of Hazardous Wastes or other actions that may be necessary to protect the public health or welfare of the residents of the County. The term does not include on site encapsulation of waste if approved by DNR, offsite treatment of



Hazardous Waste or the storage, treatment, destruction or secure disposition offsite of such waste unless the Department of Natural Resources determines in writing that such actions are 1) more cost-effective than other Remedial Actions or 2) are necessary to protect the public health or welfare of the residents of the County 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 Hazardous Waste.

Removal Action means the clean-up action or removal of released hazardous substances from the environment, such actions as may be necessarily taken in the event of release of Hazardous Wastes into the environment at the Solid Waste Facility, such actions as may be necessary to monitor, assess and evaluate the release or threat of release of Hazardous Wastes, the disposal of removed Hazardous Wastes, 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 County or to the environment in the County, which may otherwise result from a release or threat of release of Hazardous Wastes at the Solid Waste Facility. 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 residents of the County, temporary evacuation of residents of the County and housing of threatened residents of the County.

Solid Waste means garbage, ash, refuse, rubbish, contaminated soils, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid 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 material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 283, Wis. Stats., or source material, as defined in Wis. Stat. § 254.31(10), special nuclear material, as defined in Wis. Stat. § 254.31(11), or by-product material, as defined in Wis. Stat. § 254.31(1), or their successor provisions.

Solid Waste Facility means the Solid Waste disposal facility in the Towns specifically depicted and labeled in Exhibit A, herein incorporated by reference in this Contract. It includes both the Active Fill Area and the other land labeled in Exhibit A and specifically excludes the Land and Gas Reclamation Superfund Landfill. The Solid Waste Facility includes an area west of CTH V for the limited purposes of stormwater management, including construction of a sedimentation basin and biofilter, composting and earthen material removal, staging and storage as depicted and labeled in Exhibit B. The Corporation acknowledges that, except to the limited extent described in the preceding sentence, the Affected Municipalities have expressed their opposition to the siting of a Solid Waste Facility west of CTH V and, further, that the Affected Municipalities jointly and severally reserve all rights regarding the siting of a Solid Waste Facility west of CTH V.

Standing Committee means a group of representatives for the Towns, (8 members), the County (2 members) and the City (1 member) who shall have the responsibility and authority to administer the provisions of this Contract during its term.

Storage or Store means the holding of Solid Waste or Hazardous Waste at the Solid Waste Facility, at the end of which period the Solid Waste is to be then treated and/or ultimately disposed in the Active Fill Area at the Solid Waste Facility.

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

Temporary Access means a temporary highway created by the Towns for accommodation of public travel through lands in the Towns pursuant to the statutory powers provided to the Towns under Wis. Stat. § 83.19, or its successor provisions.

Towns means the Towns of Williamstown and Hubbard, and their respective officers, their respective employees and their respective agents.

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 or Hazardous Waste.

Treatment Operations means any activities at the Solid Waste Facility directly related to the treatment of Solid Waste or the treatment of Hazardous Waste at the Solid Waste Facility where all the above-noted activities occur anytime during the Initial Term of this Contract.

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

## **ARTICLE II**

### **TRANSPORTATION**

#### **1. Designated Roadways.**

##### **A. Designated Authority.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall not use and shall inform its agents and Authorized Transporters in writing, not to use any roadways located in the City or the Towns as a route for vehicle access to and from the Solid Waste Facility by Corporation, its agents and Authorized Transporters for purposes related to any Disposal Operations, Storage Operations, Treatment Operations or Long Term Care Operations in the Active Fill Area or at any other location at the Solid Waste Facility, unless those roadways located in the City and Towns are established and authorized by this Contract as either of the designated primary roadway routes for purposes of vehicle access to and from the Solid Waste Facility. Corporation agrees not to accept for Disposal any waste transported to the Solid Waste Facility on roadways other than the designated primary roadway routes.

This section establishing the designated primary roadway routes and then restricting the roadway use on other roadways shall not apply to Corporation, its agents, its Authorized Transporters, the City, the Towns and to any residents of the City or the Towns when these above-noted persons are collecting Solid Waste in the City or the Towns in vehicles and then transporting this Solid Waste in vehicles to the Solid Waste Facility for the purpose of disposal of the Solid Waste in the Active Fill Area at the Solid

Waste Facility or for the purpose of storage of the Solid Waste at the Solid Waste Facility.

This section shall not apply if the Towns, the County, the City and the Corporation, at anytime, mutually agree in writing to establish any alternative routes or any additional routes for vehicle traffic access to and from the Solid Waste Facility for any Disposal Operations, Storage Operations, Treatment Operations or for any Long Term Care Operations in the Active Fill Area or at any other location at the Solid Waste Facility.

Notwithstanding the foregoing, this section shall not apply to the Corporation, its agents or its employees when these above-noted persons are transporting to or from the Solid Waste Facility construction materials to be used in the construction or maintenance of said facility.

#### **B. Primary Roadways.**

The Towns, County and City, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall designate as the primary roadway routes and shall authorize, pursuant to Subsection A, for vehicle access to and from the Solid Waste Facility by Corporation or by its agents or its Authorized Transporters, the following roadway routes:

1. For vehicle access and traffic flow to the Solid Waste Facility: State Highway 33 to County Trunk V, then north on County Trunk V to private road (Raasch's Hill Road), then right onto private road (Raasch's Hill Road); and



2. (Raasch's Hill Road), then left onto County Trunk V, then south on County Trunk V to State Highway 33; or
3. For vehicle access to and from and through the City: Highway 28 to Clark Street to Fourth Street to Highway V, then south on Highway V to private road (Raasch's Hill Road), then left onto private road (Raasch's Hill Road); or Highway 67 to Highway 33 to Highway V; or other posted truck routes.

(It should be noted that the entrance to the Solid Waste Facility will be moved to the north in approximately 10 years and will no longer be located at the private Raasch's Hill Road.)

Corporation and its agents shall only use, and shall notify its Authorized Transporters in writing to only use, the above-noted primary roadways for their vehicle access to and from the Solid Waste Facility for their Disposal Operations, Storage Operations, Treatment Operations and Long Term Care Operations unless as provided in Subsections A, C and D noted herein.

### **C. County Reconstruction of County Road.**

County, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall have the right at any time to suspend vehicle traffic flow to and from the Solid Waste Facility and to temporarily close that portion of the primary roadway routes described above, either south or north of Raasch's Hill Road (but not both simultaneously), in order to

reconstruct, repair, resurface and to maintain the portion of County Trunk V and shall have the right at anytime to suspend vehicle traffic flow to and from the Solid Waste Facility and to temporarily close the above-noted road at anytime for Emergency purposes.

#### **D. Temporary Access Roadway.**

County, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall, if any portion of the designated primary roadways have been closed for reconstruction, repair, resurfacing or maintenance purposes by the County or closed by the County for Emergency purposes and if a written application has then been submitted to the County by the Corporation requesting that a Temporary Access County roadway to the Solid Waste Facility in the Towns be constructed and maintained by the County, then the County shall make all reasonable efforts to construct and maintain for Corporation, its agents, and its Authorized Transporters, when reasonable vehicle safety and reasonable personal safety can be assured and where road conditions will allow, an appropriate Temporary Access County roadway in the Towns. This roadway would be constructed and maintained by the County for vehicle use by Corporation, its agents and its Authorized Transporters. This Temporary Access County roadway shall be constructed and maintained by the County in an attempt to allow vehicle access to and from the Solid Waste Facility by Corporation, its agents and its Authorized Transporters.

#### **2. Vehicle Requirements.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, 1) in transporting in the County Solid Waste or Hazardous Waste to or from the Solid Waste Facility, 2) in disposing Solid Waste or Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility and 3) in allowing its agents or authorized agents to dispose Solid Waste or Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility, shall use transport vehicles and shall require use by its agents of transport vehicles that are designed, constructed, loaded and maintained in such a manner and that are equipped with proper covers in such a manner as to prevent or to substantially eliminate any portion of any Solid Waste or Hazardous Waste in those transport vehicles from discharging, leaking, spilling, falling or blowing out of those transport vehicles onto any public or private lands in the County, excluding the Active Fill Area at the Solid Waste Facility.

Corporation shall not accept for disposal at the Solid Waste Facility any Solid Waste or Hazardous Waste that does not arrive at the Solid Waste Facility in transport vehicles that are designed, constructed, loaded and maintained in such a manner and that are equipped with proper covers in such a manner as to prevent or to substantially eliminate any portion of any Solid Waste or Hazardous Waste in these transport vehicles from discharging, leaking, spilling, falling or blowing out of these transport vehicles onto any public or private lands in the County, excluding the Active Fill Area at the Solid Waste Facility.

**3. Litter and Discharge Beyond the Solid Waste Facility.**

**A. Solid Waste and Hazardous Waste Discharge Reports to the Standing Committee.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall report any Solid Waste or Hazardous Waste Discharge to the Standing Committee, Towns, County and City in writing within forty-eight (48) hours of the Corporation receiving information related to any extraordinary Solid Waste or Hazardous Waste Discharge in the County if the extraordinary Solid Waste or Hazardous Waste Discharge occurred when Corporation, its agents or Authorized Transporters were transporting authorized or unauthorized Solid Waste or Hazardous Waste to and from the Solid Waste Facility and if the extraordinary Solid Waste or Hazardous Waste Discharge occurrence was caused by Corporation or by its agents or Authorized Transporters. This provision does not apply to any Solid Waste or Hazardous Waste disposed by Corporation or by its agents or by any other persons in the Active Fill Area at the Solid Waste Facility.

Corporation, upon oral or written knowledge of any extraordinary Solid Waste Discharge by Corporation or by its agents onto any public or private lands in the County, other than any Solid Waste disposed in the Active Fill Area at the Solid Waste Facility, shall take, as soon as possible, all reasonable and lawful efforts to contain and then to remove the extraordinary Solid Waste Discharge from these lands.

Corporation, upon oral or written knowledge of any Hazardous Waste Discharge onto any public or private lands in the County by Corporation or by its agents, shall take



1) as soon as possible, all reasonable and lawful actions to contain and, if advisable, to remove the Hazardous Waste, 2) as soon as possible, shall take all reasonable and lawful actions to protect the public health and safety of any persons in the County and 3) as soon as possible, shall take all reasonable and lawful actions to protect the natural resources in the County. Corporation shall, in its written notice to the Standing Committee, Towns, County and City, describe the location of the Solid Waste or Hazardous Waste Discharge, the date of the occurrence, if known, the type and amount of the Solid Waste or Hazardous Waste Discharge, if known, and the suspected cause of the Discharge, if known.

#### **B. Discharge Removal on Primary Roadways.**

Corporation, during the Initial Term, shall police and remove any Solid or Hazardous Waste Discharge, including litter, from the designated primary roadways or from right-of-ways next to the designated primary roadways at all roadway locations within one (1) mile of the entrance to the Solid Waste Facility.

This Solid Waste or Hazardous Waste Discharge removal provision shall only apply on those days that Solid Waste is being transported to or from the Solid Waste Facility by Corporation, its agents or Authorized Transporters and then this provision shall only apply on the designated primary roadways that have been authorized as the vehicle access routes of travel for Corporation or for its agents or Authorized Transporters by this Contract or by any later mutual written agreement between the Towns, County, the City and the Corporation.

#### **C. Litter Program.**

In addition to the Discharge removal obligations described in Section 3.B., above, Corporation shall take the following additional steps for the abatement of litter:

1. During the Spring of each year, Corporation will conduct a litter pick-up program along County Trunk Highway V from the southern limits of the City to State Highway 33. The program shall include the entire right-of-way, including the road, shoulders, culverts/ditches, and adjacent fencing, if any; and
2. At least 4 times a year Corporation shall conduct a litter pick-up program along County Truck Highway V from the southern limits of the City to State Highway 33. The program shall include the entire right-of-way including the road, shoulders, culverts/ditches and adjacent fencing, if any; and
3. The Spring and quarterly abatement programs described above do not relieve Corporation of the responsibility to immediately pick up any litter caused by Corporation, or any Authorized Transporter for Corporation. Corporation shall have a continuing obligation to promptly remove any debris, waste spillage, mud tracked on roads or litter.

An Affected Municipality shall provide written notice to Corporation if it determines that an unreasonable amount of litter is escaping the landfill property. Corporation will have 48 hours from the Towns' notice to remove the litter. If

Corporation fails to remove the litter within 48 hours, the Standing Committee is authorized to contract for the removal of the litter. Corporation shall reimburse the Standing Committee for the reasonable costs of the litter removal, if any. Notwithstanding the preceding, the Standing Committee is authorized to take reasonable action to remove any debris, waste spillage, mud tracked on roads or litter in the event of Emergency and if the Corporation's authorized representatives are unavailable to respond to the Emergency conditions.

#### **4. Transporters of Solid Waste.**

##### **A. List of Transporters.**

Corporation shall maintain a list of the names, addresses and telephone numbers of its agents and its Authorized Transporters who have been authorized in writing to transport any type of Solid Waste to and from the Solid Waste Facility or who dispose any type of Solid Waste in the Active Fill Area at the Solid Waste Facility.

Corporation shall annually during the life of the Active Fill Area, file this list with the Standing Committee. Upon reasonable written request by a designated representative of the Standing Committee, Corporation shall supply to the Standing Committee the type of Solid Waste disposal and the amount of the Solid Waste Facility during the immediately preceding calendar year by a particular agent or Authorized Transporter.

This provision, requiring names, addresses and telephone numbers of agents and Authorized Transporters, shall not apply to the City or to the Towns or to the residents of the City or the Towns.

## **B. Persons Authorized.**

Corporation, its agents and its Authorized Transporters, and the employees and agents of these agents and Authorized Transporters, during the Initial Term, shall be the only persons authorized by Corporation to transport Solid Waste to and from the Solid Waste Facility, except as noted above. The above-noted persons shall, in addition, be the only persons authorized by Corporation during the Initial Term to dispose Solid Waste in the Active Fill Area. No person, including Corporation, shall, during the Initial Term, dispose Solid Waste at any other location at the Solid Waste Facility except in the Active Fill Area unless an Expansion of the Solid Waste Facility has been approved in writing by the Department of Natural Resources and Corporation has complied with all applicable Solid Waste laws related to the Expansion of the Solid Waste Facility.

This restriction authorizing only the transportation to and from the Solid Waste Facility and the disposal of Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility to certain persons noted above shall not apply to the City, to the Towns, and to the residents of the City, the Towns and other towns in Dodge County who may be authorized by Corporation to Store or may have been authorized by Corporation to store Solid Waste collected from only Solid Waste sources in the City and in the Towns at a transfer station or at "green box" storage containers located at the Solid Waste Facility or located at operations related thereto nor to the storage by the Corporation of inert demolition waste as authorized by the Department of Natural Resources.

## **C. Acceptance of Waste From Public Entities.**



Corporation hereby agrees to accept Solid Waste from counties, cities, villages, and towns, whether delivered by private or public haulers, subject to the following conditions:

1. Compliance with the Corporation's credit and landfill access policies;
2. Compliance with all relevant state and federal regulations; and
3. Storage availability at the Solid Waste Facility.

**ARTICLE III**  
**OPERATIONS AT OR NEAR THE SOLID WASTE FACILITY**

**1. Reports to the Towns, County and City.**

**A. Notice of Reports from the Corporation.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall make available to the Standing Committee at least 7 days prior to the meeting of the Standing Committee all written reports and written correspondence provided by the Corporation to the Department or to any other state or federal environmental agency or to any state or federal court provided said reports and correspondence are associated with the operation of the Solid Waste Facility, excluding any tax or corporate filings, but including any available recycling information that any Affected Municipality requests that is needed for

reporting requirements. These copies shall be made available by the Corporation at no cost to the Standing Committee.

**B. Notice of Reports from Government Agencies.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall make available to the Standing Committee at least 7 days prior to the meeting of the Standing Committee written copies of all written reports and written correspondence received by the Corporation from the Department or from any other state or federal environmental agency or from any state or federal court provided said reports and correspondence are associated with the operation of the Solid Waste Facility excluding tax and corporate filings. These copies shall be made available by the Corporation at no cost to the Standing Committee.

**C. Residential Concerns of the Affected Municipalities.**

The Corporation, during the Initial Term and extending until forty (40) years after the Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall make available to the Standing Committee at least seven (7) days prior to the meeting of the Standing Committee, copies of all written letters, written reports and other written correspondence, except general notifications or general mailings to all residents or property owners, received by the Corporation from any public official of any of the Affected Municipalities or from any resident of the Affected Municipalities where the

above-noted letters, reports or correspondence are associated with the operation of the Solid Waste Facility. These copies shall be provided by the Corporation at no cost to the Standing Committee. Oral complaints shall be logged and forwarded to the Standing Committee at least seven (7) days prior to the meeting of the Standing Committee.

#### **D. Compliance with Agreement.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall be fully responsible to the Affected Municipalities to take reasonable steps to ensure that the Corporation and Authorized Transporters conduct any Disposal Operations relating to the Solid Waste Facility, including any post-closure and Long Term Care, in full compliance with the applicable provisions of this Agreement.

#### **E. Notice of Contract.**

Corporation, during the Initial Term, shall notify, in writing, its agents and Authorized Transporters, who are or will be authorized by Corporation to transport Solid Waste to and from the Solid Waste Facility and who are or will be authorized by Corporation to dispose Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility of the provisions of this Contract which apply to them. Such written notice shall be provided to these agents prior to their commencing transportation to the Solid Waste Facility or prior to their disposing Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility.

## **F. Notice Regarding PCB Dredge Materials.**

The Corporation acknowledges that the Solid Waste Facility is not the anticipated primary disposal facility for Onyx Waste Services for Fox River Superfund PCB Dredge materials. In the event that the Corporation determines it is necessary to dispose of Fox River Superfund PCB Dredge materials at the Solid Waste Facility, the Corporation agrees to provide notice as soon as reasonably practicable to the Standing Committee prior to disposal of any Fox River Superfund PCB Dredge materials. It is anticipated that at least sixty (60) days' notice can be provided in the absence of an unforeseen event. For purposes of this subparagraph, Fox River Superfund PCB Dredge materials are materials generated from the Superfund cleanup of the Fox River. Additionally, the Corporation agrees to notify the Standing Committee as soon as reasonably practicable of any other single project where disposal of PCB Dredge materials could reasonably be expected to exceed 500 tons.

### **2. Hours and Days of Operations.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall not conduct any construction, Disposal Operations (which includes, without limitation, equipment warm up and daily cover activity), Storage Operations, recycling operations conducted outside of a closed building, Treatment Operations or Long Term Care Operations at the Solid Waste Facility nor shall it allow any Disposal Operations, Storage Operations, Treatment Operations or Long Term Care Operations by its agents, by its Authorized Transporters or by any other persons at the Solid Waste Facility before 6:00 A.M., Monday through



Saturday. Corporation shall terminate all Disposal Operations, Storage Operations, Treatment Operations and Long Term Care Operations and it shall not allow any construction, Disposal Operations (which includes, without limitation, equipment warm up and daily cover activity), Storage Operations, recycling operations conducted outside of a closed building, Treatment Operations or Long Term Care Operations by its agents, by its Authorized Transporters or by any other persons at the Solid Waste Facility after 5:30 P.M., Monday through Friday, and after 12:00 P.M. on Saturday; provided, however, Disposal Operations may continue until 6:00 p.m. on Monday through Saturday following a holiday or inclement weather. Corporation shall not conduct Disposal Operations, Storage Operations, Treatment Operations or Long Term Care Operations nor shall it allow any Disposal Operations, Storage Operations, Treatment Operations or Long Term Care Operations by its agents, by its Authorized Transporters or by any other persons at the Solid Waste Facility on Sundays or on the following holidays, namely: Christmas Day, Easter, Thanksgiving, Labor Day, New Years Day, Memorial Day and July 4<sup>th</sup>.

The Corporation may extend the hours of Disposal Operations for construction purposes if approved by the Standing Committee and such approval shall not be unreasonably withheld. In considering the Corporation's request for an extension of hours, the Standing Committee may consider, without limitation, the Corporation's compliance status with the Agreement, the nature of the project demand, the length of the requested extension, and the impact of the extension on public health welfare and safety.

For the avoidance of doubt and for purposes of this paragraph only, "Disposal Operations" and "Long Term Care Operations" shall be deemed to include the operation

of any vehicles, machinery or equipment by the Corporation, but shall exclude snow removal, security operations, monitoring, operation of stationary equipment related to mechanical bioremediation, landfill gas control and management and electrical generation resulting therefrom, leachate management including transportation to an off-site facility and recirculation, or operations inside enclosed buildings.

Notwithstanding any provisions to the contrary herein, Corporation and its agents, if any Emergency should occur at the Solid Waste Facility or at any operations related thereto, shall be allowed to enter the Solid Waste Facility at any time and shall be allowed to then take the appropriate and necessary actions at the Solid Waste Facility to protect the public health, welfare and safety of persons in the County, to protect public or private property other than the Solid Waste Facility and shall be allowed to take appropriate and necessary actions to protect the natural resources in the County.

In addition these hours and days of operation may be amended by mutual written agreement of the Towns, County, and City and of the Corporation.

The Corporation, with reasonable notice to the Standing Committee including identification of the project, may temporarily extend the hours of operation up to 2 days to accommodate natural and man-made disasters or remediation timing.

Standing Committee approval is required to temporarily extend the hours of operation for any period greater than 2 days. Such approval may be sought to accommodate a project demand including natural and man-made disasters or remediation timing. Such approval shall not be unreasonably withheld. In considering the Corporation's request for an extension of hours, the Standing Committee may consider, without limitation, the Corporation's compliance status with the Agreement, the nature of

the project demand, the length of the requested extension, and the impact of the extension on public health welfare and safety.

For purposes of this paragraph only, the term "project" means a single event from a single source or occurrence such as remediation of contaminated property, a single generator or a cleanup of a disaster such as train wrecks or tornadoes.

The above hours of operation do not apply to operations of Corporation's trucking company or special services company such as the loading and unloading of the sludge storage tank.

**3. Dust, Dirt, Debris, and Nuisance Odor Control at the Solid Waste Facility.**

The Corporation, during the Initial Term, and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall take reasonable actions to control the blowing of dust, dirt, debris and emission of nuisance odors on and from the Solid Waste Facility.

**4. Prevention and Control of Rodents, Birds and Insects at the Solid Waste Facility.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall Dispose of Solid Waste in the Active Fill Area and shall conduct any Disposal Operations at the Solid Waste Facility in such a manner as to control and minimize rodent, bird (including but not limited to gulls and pigeons) and insect harborage through a vector control program,



including but not limited to the application of pesticides, rodent and bird control measures, and agreed upon innovative or alternative control measures.

#### **5. Fire, Disaster and Hazard Control.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall conduct any Disposal Operations at the Solid Waste Facility (including the Disposal of Solid Waste as authorized by this Agreement and the DNR) in such a manner as to minimize fires and explosions at the Solid Waste Facility and minimize any fire hazards or any potentially explosive hazards from occurring at the Solid Waste Facility.

#### **6. Public or Private Nuisance.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, 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 or private nuisance in the County from occurring as a result of the above-noted operations at the Solid Waste Facility, including public or private nuisance associated with polluted groundwater, polluted air and polluted surface water. Except as specifically provided for in this paragraph, the provisions of Wis. Stats. § 823.085 or its successor provisions are not waived by the Corporation.



A person or entity that files a civil action against Corporation in order to abate a nuisance caused by the operation of the Solid Waste Facility will be entitled to its reasonable attorneys' fees and costs of prosecution should the person or entity prevail in the cause of action.

#### **A. Liquidated Damages**

In consideration of the damages and inconvenience caused by excessive litter, dust and nuisance odor, and in recognition of the difficulty of accurately ascertaining the exact amount of damages that the Towns would sustain if the Corporation failed to monitor litter, dust and nuisance odor, Corporation, during the Initial Term, shall pay to the Standing Committee, as liquidated damages, not a penalty, the sum of \$1,000 per day for noncompliance of the following litter, dust and nuisance odor abatement procedures:

1. Windblown litter that escapes from the site working face and is deposited on property not owned by the Corporation will be cleaned up by Corporation personnel or a Contractor hired by Corporation within 48 hours of notification by the Standing Committee; provided, however, that the 48 hour deadline will be extended if weather or other events beyond the control of Corporation prevent or interfere with the clean up. Litter as a result of the trucking activities of Corporation will be picked up within 24 hours of notification; provided, however, that the 24 hour deadline will be extended if weather or other

events beyond the control of Corporation prevent or interfere with the clean up; and

2. Efforts to abate excessive dust emitting from the site will commence within 3 hours of notification by the Standing Committee, or as soon as reasonably practicable during non-operating hours; provided, however, that the 3 hour deadline will be extended if weather or other events beyond the control of Corporation prevent or interfere with the abatement; and
3. Efforts to investigate alleged nuisance odors from the site will commence within 24 hours after notification by the Standing Committee; or as soon as reasonably practicable during non-operating hours.

#### **B. Hazardous Waste Nuisance.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, 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 person in the Active Fill Area or at any other location at the Solid Waste Facility that in any way would create a public health hazard or that in any way would create a safety hazard for persons in the County, or that would, in any way, create a public nuisance or create a private nuisance in

the County. Corporation, 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 to prevent a public or private nuisance in the County, to prevent any unintentional liberations of hazardous or poisonous gas from the Solid Waste Facility to any other location in the County, to prevent any unintentional 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 in the County.

## **7. Security Personnel.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall have the responsibility and duty to the Standing Committee 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 persons in the Solid Waste Facility.

## **8. Enforcement.**

### **A. Contract Enforcement.**

Subject to the stepped enforcement procedures set forth in the two following paragraphs and notwithstanding any other provisions of this Agreement, during the Initial Term, and extending until forty (40) years after Final Closure or until proof of financial

responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, an Affected Municipality may enforce any breach of Articles II and III and Section 1 of Article IV of this Agreement through a court action venued in the Circuit Court for Dodge County. Corporation shall not contest the jurisdiction of the court. Corporation will stipulate in any such action that if the court finds a breach occurred, the court may impose an order for specific performance of the applicable terms and conditions of this Agreement. Notwithstanding anything to the contrary in this paragraph, the parties reserve all applicable rights they may have to appeal any adverse decision of the Circuit Court or any appellate court.

If, in the reasonable judgment of the majority of the Standing Committee members, the Solid Waste Facility is not being constructed or operated in compliance with this Agreement, the approved Plan of Operation, or with any applicable State statute or regulation, or any other provisions of law, the Standing Committee shall serve written notice of such perceived noncompliance upon, and may make recommendations to, the Operator.

Only the Affected Municipality shall have legal standing to enforce this Agreement and only after the stepped enforcement procedure has been followed. Upon receipt of any notice of non-compliance from the Standing Committee, the Operator shall investigate any allegation of non-compliance made by the Standing Committee and the Operator shall deliver a written report concerning the investigation to the Standing Committee as soon as reasonably practicable but not to exceed thirty (30) days. In the event the Operator does not correct the condition to the satisfaction of a majority of the Standing Committee, the Affected Municipality may pursue such remedies as are



available. In the event of an Emergency or an issue regarding the provisions of Section 1 of Article IV, the Affected Municipality may commence an action immediately after providing notice to the Operator.

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.

#### **B. Reservation of Rights.**

Nothing in this Agreement shall be deemed to be a waiver or limit any rights that the Affected Municipalities may have to pursue other claims and remedies that they may have by statute or common law, or nuisance seeking damages and injunctive relief, and including the right to petition the Department to initiate action against the Corporation for a violation of any applicable Wisconsin Statute, Administrative Code, plan of operation, post-closure care or Long Term Care plan or other enforceable requirements of the Department. The Corporation retains and reserves the right to assert any defense that it may have related to such claims or petitions and to pursue claims or actions against any third party.

#### **9. Temporary Emergency Closure of Solid Waste Facility.**

Corporation, during the Initial Term, shall notify in writing within forty-eight (48) hours the Standing Committee 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 where these orders were made by the Department of Natural Resources or its successor agency, by any other state or federal agency or by any

state or federal court. Corporation shall provide in its written notice to the Standing Committee the specific reasons, if known, for the temporary closure, the Emergency closure or for the Final Closure of the Active Fill Area or of the Solid Waste Facility.

**10. Access to the Solid Waste Facility.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall allow the Towns, County or City 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 an Emergency 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) hours oral or written notice from the Towns, County or City to Corporation. Physical access to the Solid Waste Facility by the Towns, County or City shall be to allow the Towns, County or City:

1. To inspect and monitor Disposal Operations, Storage Operations, Treatment Operations or Long Term Care Operations at the Solid Waste Facility;
2. 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 in advance by the Department of Natural Resources);

3. To sample and test Solid Waste characteristics of the Solid Waste or Hazardous Waste at the Solid Waste Facility; or
4. 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 in the County.

At all such times the designated officers, employees or agents of the Towns, County or City shall be accompanied by one or more employees or agents of the Corporation. In addition, the activity of the designated Towns, County or City officers, employees or agents shall be conducted so as to not interfere with the normal business operations at the Solid Waste Facility. Copies of any documents generated by such activities shall be provided to the Corporation upon its request unless they constitute attorney work product or are otherwise privileged.

#### **11. Repair, Maintenance and Reconstruction of the Active Fill Area.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until the termination of all post-closure and Long Term Care requirements by the DNR, whichever is later, shall have the responsibility and duty to the Affected Municipalities to properly and timely maintain, repair, reconstruct and provide Long Term Care of the Active Fill Area and/or, if appropriate and necessary, to

temporarily or permanently close the Active Fill Area, if at any time the condition of the Active Fill Area 1) creates a substantial danger or poses an imminent threat to the public health or safety of any persons in the Affected Municipalities or 2) causes substantial damage or poses an imminent threat to any public or private property in the Affected Municipalities.

#### **12. Hazardous and Other Unauthorized Waste Disposal Notice.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, upon its receipt of any information that Hazardous Waste or other unauthorized waste has been Disposed in the Active Fill Area or any other location at the Solid Waste Facility, shall then give notice orally within twenty-four (24) hours (excluding weekends and holidays, in which case notice will be given on the next business day) of its receipt of the information to the Affected Municipalities and Standing Committee. The Corporation shall, in addition, notify the above-noted parties in writing within a forty-eight (48) hour period (excluding weekends and holidays observed by the Affected Municipalities) of the receipt of this information. Such notice shall describe the date of the occurrence and the type, amount and source of Hazardous Waste.

#### **13. Hazards Notice.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall orally notify the



Affected Municipalities and Standing Committee as soon as possible and no later than within twenty-four (24) hours (excluding weekends and holidays, in which case notice will be granted on the next business day) of the receipt of information by the Corporation 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 that are not immediately extinguished by the Corporation without outside assistance, explosions, contaminated or polluted surface water, contaminated or polluted groundwater, explosive or combustible gases that are not controlled through Corporation's methane gas system and hazardous gases or hazardous dust. The Corporation shall, in addition, report in writing within forty-eight (48) hours (excluding weekends and holidays, in which case notice will be granted on the next business day) of the receipt of the information by the Corporation 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 Corporation regarding the above-noted known or suspected hazards or known or suspected occurrences.

#### **14. Responsible Managers.**

Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall provide to the Standing Committee the names, titles, addresses and telephone numbers of any

responsible manager or responsible managers retained by or employed by Corporation whose responsibilities to the Corporation and whose authority from the Corporation 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. These names or titles, addresses and telephone numbers of the responsible managers shall be provided to the Standing Committee 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.

**15. Erosion, Run-off and Surface Water.**

**A. Erosion Restrictions.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, will control surface water runoff and erosion by compliance with surface water control provisions of the plan of operation and post-closure and Long Term Care plans for the Solid Waste Facility, as approved and as modified by the DNR.

**B. Abatement of Erosion.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term

Care requirements is terminated by the DNR, whichever is later, upon written notice by the Standing Committee or any of the Affected Municipalities describing to the Corporation the location of any surface water run-off or erosion discharged from the Active Fill Area and other areas used in connection with current or prior Solid Waste Disposal or other Disposal Operations onto any other lands located in the Affected Municipalities, shall take appropriate and necessary actions to abate or remove the described run-off or erosion from such other lands within three (3) days of written notice or the following business day in the case of a weekend or holiday, subject to the Corporation's right to challenge the same.

#### **16. Surface Water.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall take appropriate and necessary actions to minimize the accumulation of surface water in the Active Fill Area and other areas used in connection with current or prior Solid Waste Disposal or other Disposal Operations, and shall direct all surface water coming into contact with Solid Waste or accumulating in the Active Fill Area into an appropriately maintained leachate collection system. The Corporation shall take the reasonable and necessary actions to direct all surface water from the Active Fill Area and other areas used in connection with current or prior Solid Waste Disposal or other Disposal Operations not coming into contact with the Solid Waste into the appropriately maintained sedimentation basin located at the Solid Waste Facility. The Corporation 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.

**17. Conservancy Area.**

Corporation, from the date of Final Closure and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, shall close the Active Fill Area as a Nature Conservancy Area. Additionally, Corporation shall make the improvements to wetlands which will ultimately be provided for in the wetland mitigation bank project upon its final approval.

Nothing in this Contract shall preclude Corporation from utilizing the Nature Conservancy Area for wildlife habitat, recreation, education, agriculture or forestry.

**18. Prohibition on Hazardous Waste Disposal.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure, shall not knowingly transport for Disposal at the Solid Waste Facility, accept for Disposal, Dispose or allow the Disposal of Hazardous Waste in the Active Fill Area at the Solid Waste Facility. Additionally, Corporation shall not seek authorization from the DNR to operate as a Hazardous Waste Treatment, Storage or Disposal Facility at the Solid Waste Facility.

**19. Waiver of Local Approvals and Pre-existing Local Approvals.**

By adoption of a resolution authorizing the execution of this Agreement, the Towns through the Town Boards, and the County through the County Board and the City



through the City Council hereby waive and/or deem inapplicable, pursuant to Wis. Stat. § 289.33(5), or its successor provisions, its applicable Local Approvals, as defined at Wis. Stat. § 289.33(3)(d), or its successor provisions, Pre-existing Local Approvals, as defined at Wis. Stat. § 289.33(3)(fm), or its successor provisions, and any and all regulations, resolutions and ordinances that may apply to the Disposal Operations at the Solid Waste Facility, except as provided herein, in order to allow the Corporation to site, construct, conduct Disposal Operations, use, transport waste to, maintain, repair, close and provide Long Term Care of the Solid Waste Facility.

The Waiver shall be applicable and effective only as to the Corporation, its officers, its employees, and its agents, including but not limited to construction and capping contractors; provided however, that in the event of a transfer of any interest in all or any part of the Solid Waste Disposal Facility, the Waiver shall apply and be effective as to the transferee.

This Waiver shall not be applicable to Local Approvals, including Pre-existing Local Approvals, that relate to traffic laws associated with the collection and transportation of Solid Waste within or through the Affected Municipalities; provided that the Affected Municipalities shall not adopt or enforce Local Approvals in a manner that substantially impairs access to the Active Fill Area.

#### **ARTICLE IV**

#### **FINANCIAL OPERATIONS RELATED TO THE SOLID WASTE FACILITY**

##### **1. Indemnification to the Affected Municipalities.**

Corporation agrees to indemnify, defend and hold harmless the Affected Municipalities, their officers, agents, employees and duly-appointed committees, including the Negotiating Committee established under Wis. Stat. § 289.33 or its successor provisions and the Standing Committee and other committees as may be established (together, Indemnified Parties), for and from any request, demand, order or any other form of obligation to pay cleanup or remediation costs, under any local, state or federal law, rule, order, ordinance, statute, regulation or decision, and for or from any and all liability, loss, claims or damages that they might suffer as a result of any claim, demand, cost or judgment by any person or entity at any time against any Affected Municipality, its officers, agents, employees or committees arising in any way or as the result of the design, construction, operation, maintenance, control, repair, administration, monitoring, closure, and Long Term Care of the Solid Waste Facility and any obligations, duties or responsibilities of the Corporation under this Agreement.

The terms and conditions of the above paragraph shall apply from the Effective Date until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later.

Notwithstanding the foregoing, the above indemnification and hold harmless provisions shall not apply to the following situations or circumstances:

**A. Environmental Cleanup Claims.**

If an Indemnified Party disposes or causes to dispose of Hazardous Waste or other waste at the Solid Waste Facility that the Solid Waste Facility is not authorized to accept,

the indemnity and hold harmless shall not apply to any environmental cleanup cost to the extent that it is caused by the disposal of such wastes.

**B. Vehicular Accidents.**

The indemnity and hold harmless shall not apply to any on-site accident to the extent that it is caused by any vehicle that is owned or operated by one of the Indemnified Parties.

**C. Contributory Negligence (Other Than Environmental Cleanup or Vehicular Accidents).**

The indemnity and hold harmless shall not apply to the extent that an Indemnified Party is contributorily negligent for the liability, loss, claims or damages.

**D. Intentional Acts or Omissions.**

The indemnity and hold harmless shall not apply to the extent that the liability, loss, claim or damage is due to the intentional act or omission of any of an Indemnified Party.

In any legal proceedings which the Corporation is required to indemnify, defend and hold harmless an Indemnified Party, the Corporation has the right to assert any defense on behalf of a particular Indemnified Party, individual or entity which that Indemnified Party, individual or entity is entitled to, including the provisions of Wis. Stat. § 893.80 or its successor provisions. Each Indemnified Party, individual or entity indemnified under this section subrogates all counterclaims directly related to the indemnified claims (excepting separate damage claims not subject to the indemnification

and hold harmless provisions) and assigns all applicable rights and defenses to the Corporation which each may have.

## **2. Environmental Impairment Liability Insurance.**

The Corporation shall name and maintain the Affected Municipalities as additional insureds on pollution legal liability insurance policy in a face amount of not less than Ten Million Dollars (\$10,000,000), per claim and in the aggregate. Such policy shall provide coverage for releases from the Solid Waste Facility to other property in the Affected Municipalities, including but not limited to groundwater. The Corporation shall maintain such insurance coverage from the Effective Date of this Agreement until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later. In the event that Corporation agrees in any future negotiated agreement to increase the face amount of insurance coverage for any other landfill that it owns or operates to exceed the amount required by this paragraph, it shall provide the insurance required by this paragraph in the same amount.

## **3. Additional Insurance.**

During the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post closure and Long Term requirements is terminated by the DNR, whichever is later, the Corporation shall name and maintain the Affected Municipalities as additional insureds on the following policies and amounts:



- A. Commercial General Liability including contractual liability covering the indemnification obligation set forth in this contract with the following limits:
  - 1. \$1 million Combined Single Limit, general aggregate.
  - 2. \$1 million Combined Single Limit, each occurrence, products and completed operations.
  - 3. \$1 million per offense, personal injury.
  - 4. \$1 million Combined Single Limit, each occurrence, bodily injury and property damage.
- B. Worker's Compensation, as required by law.
- C. Business automobile liability of \$1 million Combined Single Limit for bodily injury and property damage.
- D. Umbrella/excess liability insurance of \$5 million per occurrence and annual aggregate, over the Commercial General Liability and Business Automobile Liability limits identified above.

**4. County Road Reconstruction, Repair and Maintenance Costs.**

**A. Maintenance.**

County, during the Initial Term, shall be responsible for maintenance of the portion of County Trunk V north of S.T.H. 33 to the City. The County shall be responsible to Corporation to maintain the above-noted portion of County Trunk V based on its normal maintenance schedule and based on its normal maintenance methods.

Maintenance, for this subsection, does not include resurfacing or reconstruction of the described roadway.

The Corporation and the County stipulate that the 2003 per mile reimbursement rates are \$4,776.00 per mile/per year for general maintenance and repair, and an additional \$1,585.00 per mile/per year for winter maintenance. The County shall provide Corporation with documentation verifying increases in the per mile/per year costs of maintenance.

On or before January 30 of each year during the Initial Term, the County shall deliver an itemized statement of the maintenance expense for the described portion of roadway during the preceding calendar year. Corporation will pay to the County Treasurer, within forty-five (45) days after receipt of such statement.

#### **B. Resurfacing.**

The Corporation, during the Initial Term, agrees to reimburse the County for 60% of the actual reasonable resurfacing costs incurred by the County for that portion of CTH V from STH 33 to the then existing Solid Waste Facility entrance. (It is recognized that the currently existing entrance will at some point during the Initial Term be moved northward.) Furthermore, the Corporation agrees to reimburse the County for 30% of the actual reasonable resurfacing costs incurred by the County for that remaining portion of CTH V from the then existing Solid Waste Facility entrance north to the City limits. For the purpose of this subparagraph, resurfacing means the milling/crushing of existing pavement, relaying of the crushed pavement, resurfacing and reshoulder. (It is recognized that the estimated average cost for such activities in 2004 is approximately \$150,000 per mile.)

### **C. CTH V Crossing.**

The Corporation, during the Initial Term, agrees to reimburse the County for 100% of the actual reasonable resurfacing costs incurred by the County for that portion of CTH V which is used by the Corporation for directly crossing from the landfill entrance to that portion of the Solid Waste Facility operations west of CTH V.

### **5. Dodge County Clean Sweep.**

Corporation shall continue to make an annual payment to the County for the County's "Clean Sweep" Program. On or before February 28 of each year during the Initial Term the County shall deliver a statement of the "Clean Sweep" Program. Corporation shall pay the County statement to the County Treasurer within 45 days after receipt of the statement. Until the County discontinues its "Clean Sweep" Program, or Final Closure, whichever occurs first, the payment shall increase to an amount that is determined by multiplying the preceding year's payment amount by the 12-month percentage change of the Consumer Price Index as of December 31 of each calendar year. (Note that the 2004 amount was \$11,342.29.) For purposes of this rate escalator clause, the Consumer Price Index means the U.S. Department of Labor, Bureau of Statistics, Consumer Price Index for the United States, All Urban Consumers, U.S. city average, all items, unadjusted index, percent change December to December.

### **6. Property Value Protection Plan.**

This Property Value Protection Plan ("Plan") potentially provides protection to the properties identified on the Property Value Protection Plan Map, Exhibit C attached hereto and incorporated by reference for diminution in the value of real property pursuant

to the terms and conditions of this Agreement. The properties identified on Figure 1 as potentially eligible properties must satisfy the criteria listed herein to actually be eligible for coverage under the Plan.

A Summary of the Plan process entitled Summary of Property Value Protection Plan Conceptual Steps is attached hereto as Exhibit D. In the event of a conflict between Exhibit D and the terms and conditions of this section, the terms and conditions of this section control. The Plan provides protection for current owners that owned fee simple title to a potentially eligible property on August 4, 2002. Potentially eligible properties are habitable residential lands (whether currently occupied); agricultural lands; and eight vacant lots in the City of Mayville (Parcel No.'s 2614-004, 005, 006, 007, 6-014, and 015, 016, and 017) that are located within approximately one mile from the Active Fill Area. The Plan provides such owners with certain assurance that they will receive Fair Market Value (as defined herein) for their eligible properties upon sale in accordance with the terms and conditions of the Agreement.

**A. Notice of Plan.**

Corporation shall notify and shall inform by certified mail the property owner or owners noted in Exhibit C at the addresses provided by the Affected Municipalities within one hundred twenty (120) days of the signing of this Agreement by all parties. Said notice shall be mutually agreed upon and shall include at minimum the Summary of the Plan which is Exhibit D to this Agreement. If there is any discrepancy between the mailing provided for in this paragraph and Exhibit C, then Exhibit C shall control.

**B. Utilization of Plan.**



If a potentially eligible property owner desires to utilize the Plan, he or she shall notify Corporation of same in writing by certified mail. The Corporation shall then make a determination of eligibility. (Hereinafter, an eligible property owner is referred to as "Property Owner" or "Property Owners").

### **C. Fair Market Value.**

The parties shall attempt to mutually agree on the Fair Market Value of the property which has been determined to be eligible under the Plan. If the parties are unable to agree on the Fair Market Value, then the Corporation shall hire a home inspector and Property Owner shall hire, at Corporation's expense (said expense to be the customary and reasonable charge for an appraisal to meet HUD standards in the Dodge County area), a qualified professional appraiser who shall be instructed to determine the Fair Market Value of the Property as follows:

1. Assume that no landfilling activities are or will be undertaken at the Active Fill Area.
2. Any comparables selected by the appraiser shall be located a sufficient distance away from the Active Fill Area so that the selling price was not, in the opinion of the appraiser, influenced by the presence of the Active Fill Area. Comparables shall exclude any property previously sold under this Plan.
3. A complete appraisal as required for use for HUD financing shall be satisfactory for residential property. For vacant land, farm property with residences and other

outbuildings, or other types of real estate, a full narrative appraisal shall be prepared. The appraisal shall be prepared in full compliance with any and all State and HUD standards that pertain to the preparation of an appraisal of the Property, except those standards that are specifically pre-empted by these instructions. The appraisal shall consider the real estate only and shall not consider the value of any business, commercial, industrial or institutional operations that may be occurring on the Property.

4. The appraiser shall note and consider the condition of the Property, both interior and exterior, at the time of the appraisal, as well as the condition and quality of the land and water supply, and incorporating the findings of the home inspection report paid for by the Corporation and a Property Condition Statement provided by the Property Owner. The appraiser shall determine that the Property is suitable for occupancy.
5. The appraisal shall be completed within 45 days of the date of notice of intent to sell is received by the Corporation.
6. The appraiser shall account for both the location of the Property in relation to the nearest highway and the nature of the highway in making the appraisal.

7. The condition and location of the Property as referenced herein (without regard to the landfill), zoning classification, the current use, the Master Plan designation and the land division status as of August 4, 2002 shall be the factors to be used by the appraiser in determining the Fair Market Value of the Property.

If Corporation accepts the appraised value, then the Property Owners shall attempt to sell their Property at the appraised value or at such higher amount as the Property Owners and Corporation agree in writing. Prior to acceptance of the appraisal, Property Owners shall allow Corporation to conduct a general review of the Property. (If Corporation accepts appraised value, that value then becomes the Fair Market Value).

If the Corporation does not accept the appraised value it may retain, at its own expense, a qualified professional appraiser who shall be similarly instructed as above to determine the Fair Market Value of the Property, based upon the same paragraph C.1-7 criteria as above. In such event, the Property Owners may then elect and shall attempt to sell their Property at an asking price equal to the arithmetic average of the two (2) appraised values or at such higher amount as the Property Owners and Corporation agree in writing.

Notwithstanding the foregoing, if the Property Owners do not accept the arithmetic average of the appraised values, then the parties shall instruct the two (2) previously-selected appraisers to choose a third qualified professional appraiser to appraise the Property using the same paragraph C.1-7 criteria as previously given to the other appraisers, and that appraisal shall be binding. The appraisal fee for the third

appraiser shall be split between the parties. For the purpose of this section, "qualified professional appraiser" shall mean a person who is unrelated to the Property Owners, is authorized/ certified to conduct HUD appraisals and licensed as may be required by the State of Wisconsin and who is a member of at least one (1) national appraisal association.

If the Property Owners do not accept the final appraisal as determined under this Plan, coverage under the Plan is terminated and neither party will have any further obligations under the Plan.

After the Fair Market Value is established by agreement of the parties or determined through the appraisal process, if Corporation offers to buy the Property for that price, then the Property Owners must either sell the Property to the Corporation or forego the right to be covered on this Plan. The Property Owners shall have thirty (30) days from the date of Corporation's written election to purchase in which to advise Corporation of its decision in writing.

#### **D. Asking Price.**

The parties shall mutually agree to an asking price ("Asking Price"). The Asking Price will be the price utilized by the broker in the property listing. As such it is anticipated that the Asking Price will typically be greater than the Fair Market Value. Prior to entering into a listing contract with a licensed real estate broker, Property Owners shall give the Corporation written notice identifying the broker with whom they wish to list their Property. The broker shall be licensed in Wisconsin, not related to Property Owners and shall be a member of the Board of Realtors Multiple Listing Exchange, unless such MLS membership is waived in writing by the Corporation. Both the



Corporation and the Property Owners shall act in good faith concerning any attempt to obtain the Fair Market Value of said Property.

Said listing contract shall specifically provide that the broker shall list the Property in the MLS and shall agree to keep said Property so listed until the occurrence of either the sale of the Property or the expiration of the listing contract. The Property Owners shall cooperate with the broker in obtaining a purchaser pursuant to the terms as set out in said listing agreement and shall make, in good faith, all reasonable efforts necessary to conclude a sale pursuant to said terms. No provision hereunder shall be construed to grant the Corporation any option to purchase rights or rights of first refusal as against any potential third party purchaser during the term of the listing contract.

The Property Owner shall list the Property for the entire 270 day period but is not bound to one broker for that entire period.

#### **E. Offers to Purchase.**

The Property Owners shall provide the Corporation with a copy of every Offer to Purchase which they receive for their Property and agree not to accept the same until the Corporation has given its approval. Such approval must be within five (5) business days of Corporation's receipt of the offer or it is deemed approved. The Corporation may approve an Offer to Purchase at a price below the Asking Price. In such event, the Corporation agrees to pay to the Property Owners at the closing, the difference in cash between the selling price set out in the Offer to Purchase and the Fair Market Value. (The amount shall be calculated by subtracting the Offer to Purchase from the Fair Market Value. If the difference is negative, no money is owed.)

Alternatively, the Corporation may not approve the Offer to Purchase at which time the Property Owners may:

1. Counter the offer until such time as they receive an Offer to Purchase that is acceptable to the Corporation;
2. Reject the Offer to Purchase and continue to sell the Property; or
3. Accept the Offer to Purchase. If the Property Owners accept an Offer to Purchase that has been rejected by the Corporation, the Property Owners thereby waive for all time, any and all rights and protections afforded under this Plan.

**F. Guaranteed Purchase after Two Hundred Seventy (270) Days.**

If the Property Owners have had their Property under listing agreement and advertised for sale as aforesaid, and attempted in good faith to sell their Property for a period of at least two hundred seventy (270) days, then Property Owners may request, in writing, that the Corporation purchase their Property at the Fair Market Value.

The Property Owners shall provide a copy of the listing contract and an affidavit of good faith attempt to sell said Property. Provided the Property Owners have complied with the foregoing, the Corporation shall purchase the Property at the Fair Market Value, subject to the conditions set out below.

1. Evidence of Title. Within fifteen (15) days after making such written request for the Corporation to purchase their

Property, the Property Owners shall provide to the Corporation a commitment for a title insurance policy to be issued in the name of the Corporation in the amount of the purchase price as provided above. After receipt of such commitment, the Corporation shall have thirty (30) days to notify the Property Owners of any defects in title by way of a mortgage, judgment lien, repair order, delinquent real estate taxes or the like, which make the same unmerchantable. Any such defects shall be cured at the expense of the Property Owners. If any defect cannot be cured and the Corporation is unwilling to waive the same, then the Corporation shall have no obligation to purchase the Property and the Property Owners shall have no obligation to convey said Property.

2. Property Condition Report and Inspections. Within thirty (30) business days after making such written request for the Corporation to purchase their Property, the Property Owners shall provide the Corporation with a completed Property Condition Report and after receipt thereof, the Corporation shall, if it elects to do so, conduct or have conducted a home inspection within fifteen (15) days. If Corporation elects to have a home inspection conducted, it shall provide a copy to the Property Owner within fifteen

(15) days. Corporation shall have fifteen (15) days to review the Property Condition Report and provide the Property Owners:

- (a) Notice of acceptance, or
- (b) Notice that a material change has occurred in the Property between the date that Fair Market Value was established and the date of the anticipated closing. Corporation will provide the Property Owners copies of any evaluations documenting the material change. Corporation will notify Property Owners of the material change and Property Owners shall have the right to cure. If Property Owners choose to cure, they may satisfy this contingency by delivering a written notice within ten (10) days of receipt of the Corporation's notice of Property Owners' election to cure the material change, curing the material change in a good and workmanlike manner and delivering to Corporation a written report detailing the work done no later than ten (10) days prior to closing. If Property Owners choose not to cure the material change, then the following two options exist: 150% of the amount necessary to cure the material change shall



be escrowed from the sale proceeds with a non-party, pending determination of any dispute regarding liability therefore or cost thereof; or the Property Owners can withdraw from the Plan and the Corporation shall have no obligation to purchase or guaranty the Fair Market Value and the Property Owners thereby waive any and all rights to be covered under the terms of this Plan.

3. Documents Required for Closing, Prorations and Closing Costs.

In the event that the Property Owners have merchantable title, the closing shall occur within sixty (60) days after the Property Owners give written notice to the Corporation, or within sixty (60) days after the Property Owners cure any defects in the title to make it merchantable. The Property Owners shall convey said real estate to the Corporation by good and sufficient Warranty Deed, free and clear of all liens and encumbrances, excepting municipal and zoning ordinances, recorded easements, recorded building and use restrictions and covenants and general taxes levied in the year of closing. Property Owners shall warrant and represent that they have neither notice nor knowledge of any:

- (a) Government agency or court order requiring repair, alteration or correction of any existing condition.

- (b) Planned or commenced public improvements, which may result in special assessments or otherwise materially affect the Property.
- (c) Underground storage tanks or any structural, mechanical or other defects of material significance affecting the Property, including but not limited to inadequacy for normal residential use of mechanical systems, waste disposal systems and well, unsafe well water according to State standards and the presence of any dangerous or toxic materials or conditions affecting the Property.
- (d) Wetland and shoreland regulations affecting the property. Further, the Property Owners shall pay at closing all conveyancing costs that are normally and customarily paid by a seller, including but not limited to: broker commissions, title insurance, well inspection and water test, septic inspection, property survey, real estate transfer tax and recording fees. The Property Owners shall also execute at closing a standard affidavit as to liens and possession and shall provide lien waivers from all contractors, subcontractors and materialmen who have provided services or materials for said Property within six (6)

months prior to closing. Real estate taxes for the year of closing shall be prorated based upon the real estate taxes assessed and levied for the prior year. The Property Owners shall be responsible for and shall pay all utilities through the date of closing. Possession and physical occupancy of the premises shall be given to the Corporation at closing.

**G. Assignment or Transfer.**

The protections of this Plan given by the Corporation pursuant to its terms and conditions are personal to the Property Owners and terminate in accordance with the terms hereof or when the Property is sold, conveyed or otherwise transferred.

**H. Termination.**

This Plan is effective during the Initial Term.

**7. Compensation to the Affected Municipalities.**

**A. Affected Municipality Reimbursement.**

The Corporation, during the Initial Term and extending until forty (40) years after Final Closure, or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, agrees to reimburse Affected Municipalities and/or the responding fire department for any and all actual costs incurred as a result of responding with equipment to a fire, disaster or hazard

at the Active Fill Area. Said costs include any costs incurred as a result of a mutual aid request.

**B. Reimbursement for Negotiation Expenses.**

The Corporation shall pay all reasonable expenses incurred by the Negotiating Committee; not to exceed \$60,000. Reimbursement in excess of \$60,000 is subject to Corporation's prior written approval.

**C. Budget for Standing Committee.**

The parties acknowledge the value of a Standing Committee, consisting of representatives from the Towns, County and City with the same representation formula as the Local Committee under Wis. Stat. § 289.33(7) or its successor provisions. The purpose of the Standing Committee is to review the administration and performance of this Contract and to communicate with the Corporation on matters of mutual interest or concern. During the Initial Term, Corporation shall pay \$2,500 per year to the Standing Committee to offset the costs associated with the administration and service of the Standing Committee. The payment shall be made on or before January 15 of each year, during the Initial Term. The parties stipulate that said sum is reasonable and that the Standing Committee has no obligation to account to the Corporation for the disbursement of the \$2,500 annual payment. This payment is not subject to any adjustment during the term of this Contract.

**D. Payment of Monitoring Expenses.**

In addition to the above \$2,500 payment and during the Initial Term, the Corporation shall reimburse the direct costs incurred by the Standing Committee and the



Affected Municipalities to monitor the Corporation's responsibilities under this Agreement, including but not limited to the costs incurred for sampling and testing at and in the vicinity of the Solid Waste Facility, monitoring the receipt of Solid Waste and performing any task that is the responsibility of the Corporation; provided that such payments shall not exceed \$2,500 per calendar year. The Standing Committee and/or the Affected Municipalities shall provide invoices for the direct costs to the Corporation.

**E. City of Mayville Storm Water Detention Pond.**

Corporation agrees to cooperate with the City, including the leasing of land, relating to the City's potential establishment of a stormwater detention pond on the Corporation's property as depicted in the attached Exhibit E.

**F. Wellhead Protection Study.**

Corporation prepared a wellhead protection study pursuant to the 1998 Superior Glacier Ridge Landfill Expansion Negotiated Agreement. It updated that study by the preparation of an evaluation by consulting engineer BT<sup>2</sup> Inc. on June 16, 2004 and provided copies of the evaluation to the Negotiating Committee. That updated evaluation concluded "...that the location and engineering design of the OGRL does not pose a threat to the quality of ground water supplying the City of Mayville municipal wells." Corporation shall, during the Initial Term and extending until forty (40) years after Final Closure or until proof of financial responsibility for all post-closure and Long Term Care requirements is terminated by the DNR, whichever is later, inform the Committee of any changes in the design or operation of the Solid Waste Facility that could alter the above conclusion.

#### **G. Private Well Testing.**

Corporation shall, at its expense, perform private well tests for all private wells identified in Exhibit F if desired by the property owner. A list of the properties eligible for private well tests and the parameters to be tested for is set forth in Exhibit F, attached. Thereafter, during the Initial Term and extending 40 years after Final Closure, the Corporation shall, upon annual written request from a property owner whose well is located within one-half mile of the perimeter of the Solid Waste Facility, perform an annual private well test of the indicator parameters of the subject well. The Corporation shall bear the costs of the requested private well tests.

#### **H. Free Disposal Privileges.**

During the Initial Term, the Corporation shall provide the following free disposal privileges:

##### **1. Dodge County Highway Department**

The Corporation shall accept for Disposal at the Solid Waste Facility without a fee or charge for Disposal (except any increase in state or federal fees or taxes imposed on the generation of solid waste that occurs after the Effective Date) solid waste generated and delivered by the Dodge County Highway Department through its roadside trash collection efforts. The amount accepted for free Disposal shall not exceed 300 tons per year. (Note that the County Highway Department generated an average of 220 tons for years 2001- 2003.) For amounts in excess of 300 tons per year, the County shall pay 75% of the then existing gate rate.

2. Town of Hubbard.

The Corporation shall accept for Disposal at the Solid Waste Facility without fee or charge for Disposal or transportation, except any new or additional local, state or federal fees or taxes imposed on the generation of solid waste that occurs after the Effective Date, solid waste generated within the Town, by Town residents, and collected at the Town's existing drop off location. Except as provided below, the amount accepted for free Disposal shall not exceed 200 tons per year. This allowance is intended as a calendar year allowance and any unused portions thereof may not be carried over into the subsequent year. For the purposes of this allowance, weight shall be determined by weighing the waste on a scale at the Solid Waste Facility and utilizing a conversion factor of 100 pounds per cubic yard of container emptied/serviced at the drop off site and not weighed during the normal course of collecting the waste. It is estimated that the Town of Hubbard generated 136 tons of waste from October 2003 thru September 2004 based upon waste which was weighed at the Solid Waste Facility and waste which was emptied/serviced at the drop off to which the aforementioned conversion factor was applied. For amounts in excess of the 200 tons per year, the Town shall pay 75% of the then existing gate rate. Further, the Corporation shall also accept without fee or charge for recycling or transportation

(except any increase in local, state or federal fees or taxes imposed on the recycling of solid waste that occurs after the Effective Date) up to 100 tons of uncontaminated recyclables (i.e., old news print; corrugated cardboard; and aluminum, glass, PET plastic, HDPE plastic, and bi-metal containers) collected at the existing Town drop off location. Recyclables does not include items such as, but not limited to, lead acid batteries, white goods, freon-containing appliances, waste oil and scrap steel. Additionally the Corporation shall also accept without fee or charge up to 100 passenger car tires or the weight equivalent (based upon 20 pounds per passenger tire) delivered to the Solid Waste Facility by an authorized representative of the Town.

The 200 ton annual allowance is subject to an adjustment every three years based upon the following formula: number of households in the Town during the year preceding the adjustment divided by the 2005 baseline (i.e., the number of households in the Town in 2005) multiplied by the 200 ton allowance. As an example, if there existed 2000 households in Town in the year preceding an adjustment and there existed 1500 households during the 2005 baseline year the adjusted tonnage allowance would be 267 tons (i.e.,  $[2000 \text{ households} / 1500 \text{ households}] \times 200 \text{ tons}$ ). The adjustment shall occur only at the Town's request. The Town



shall provide supporting documentation of the number of existing households in the 2005 baseline year as well as the year preceding the adjustment. This privilege shall exist only during the Initial Term.

3. Town of Williamstown.

The Corporation shall accept for Disposal at the Solid Waste Facility without fee or charge for Disposal or transportation, except any new or additional local, state or federal fees or taxes imposed on the generation of solid waste that occurs after the Effective Date, solid waste generated within the Town, by Town residents, and collected at the Town's drop off location. Except as provided below, the amount accepted for free Disposal shall not exceed 100 tons per year. This allowance is intended as a calendar year allowance and any unused portions thereof may not be carried over into the subsequent year. For the purposes of this allowance, weight shall be determined by weighing the waste on a scale at the Solid Waste Facility and utilizing a conversion factor of 100 pounds per cubic yard of container emptied/serviced at the drop off site and not weighed during the normal course of collecting the waste. For amounts in excess of the 100 tons per year, the Town shall pay 75% of the then existing gate rate. Further, the Corporation shall also accept without fee or charge for recycling or transportation (except any increase in local, state or federal fees or

taxes imposed on the recycling of solid waste that occurs after the Effective Date) up to 50 tons of uncontaminated recyclables (i.e., old news print; corrugated cardboard; and aluminum, glass, PET plastic, HDPE plastic, and bi-metal containers) collected at the Town drop off location. Recyclables does not include items such as, but not limited to, lead acid batteries, white goods, freon-containing appliances, waste oil and scrap steel. Additionally the Corporation shall also accept without fee or charge up to 50 passenger car tires or the weight equivalent (based upon 20 pounds per passenger tire) delivered to the Solid Waste Facility by an authorized representative of the Town.

The 100 ton annual allowance is subject to an adjustment every three years based upon the following formula: number of households in the Town during the year preceding the adjustment divided by the 2005 baseline (i.e., the number of households in the Town in 2005) multiplied by the 100 ton allowance. As an example, if there existed 2000 households in Town in the year preceding an adjustment and there existed 1500 households during the 2005 baseline year the adjusted tonnage allowance would be 133 tons (i.e.,  $[2000 \text{ households} / 1500 \text{ households}] \times 100 \text{ tons}$ ). The adjustment shall occur only at the Town's request. The Town shall provide supporting documentation of the number of existing

households in the 2005 baseline year as well as the year preceding the adjustment. This privilege shall exist only during the Initial Term.

Corporation agrees to lease the Town all or a portion of the 6.6 acre parcel, PIN #048-1216-2631-001, necessary to construct and operate a Town drop off site during the Initial Term for a nominal fee (\$1.00). The Corporation and Town will work together to develop a mutually acceptable drop off site design. The Corporation shall obtain at least two bids for the construction of the agreed upon site design. The Corporation and the Town shall mutually review the bids received and award the site construction contract. Corporation will then provide construction oversight during the site construction phase. Corporation agrees to contribute a maximum of \$15,000 towards the construction of the drop off. Further, the Town agrees to reimburse the Corporation for 50% of all necessary and normal construction costs that are incurred above and beyond the aforementioned \$15,000 limitation. Corporation will provide the Town notice in the event that the estimated construction costs are anticipated to exceed \$15,000. After construction of the site, during the operating life of the drop off, the Town shall be responsible for the maintenance, operation and compliance of the drop off. Further, to the extent authorized

by law, the Town shall indemnify and save Corporation harmless from and against all liabilities, losses and damages (including but not limited to attorneys' fees, costs and expenses) incurred by Corporation with respect to injury, loss of life or damage to any person or property on or about the drop off site resulting from the negligent act or omission of the Town, its employees, agents, representatives, contractors or licenses, occurring during the term of the lease, or resulting from the failure of the Town to perform or observe any of the terms, covenants and conditions of this Agreement and the lease to be performed or observed by the Town.

**I. Provision of County Waste Disposal Services.**

Commencing on the date that the Agreement has been signed by all parties and extending until Final Closure, Corporation and its subsidiaries and affiliates shall have the opportunity to match any qualified bid for the transportation and disposal for all Solid Waste and Hazardous Waste generated by the County's Clean Sweep program and County owned and/or operated institutions and facilities including, but not limited to the justice facility, administrative buildings, health facilities, and highway department.

**J. City of Mayville.**

1. Residential Compost. The Corporation shall accept residential compost materials consisting of vegetative



material such as grass, leaves, vines and/or chipped brush at the Solid Waste Facility without a fee or charge (except any increase in local, state or federal fees or taxes imposed on the generation of compost materials that occurs after the Effective Date), generated within the City of Mayville and delivered by City vehicles to the Solid Waste Facility. The amount accepted shall not exceed 550 tons per year. (Note that the City of Mayville generated approximately 455 and 475 tons of compost materials in 2003 and 2004 respectively.) For amounts in excess of 550 tons per year, the terms of the Service Agreement attached hereto as Exhibit G shall apply. This 550 ton threshold is subject to an adjustment every three years based upon the following formula: number of households in City during the year preceding the adjustment divided by the 2005 baseline households multiplied by the 550 ton allowance. The adjustment shall only occur at the City's request and shall be accompanied by all relevant information. This privilege shall exist during the Initial Term, so long as the Corporation is accepting compost at the Solid Waste Facility.

2. Bulk Waste. During the Initial Term, the Corporation and the City agree to continue the Service Agreement attached

hereto as Exhibit G, with regard to the handling of bulk waste materials.

3. Mayville Street Impact Fee. In recognition of the alleged impacts to City of Mayville streets, which are a direct result of the Solid Waste Facility, the Corporation shall pay the amount of 5¢ per ton of Solid Waste disposed within the Active Fill Area to the City. The payments shall be subject to the same terms and conditions as the direct payment contained in Article V.

#### **8. Compensation to Affected Property Owners.**

The Corporation agrees to annually pay \$1,000 to the owners of land identified in Exhibit H and annually pay \$1,500 to the owners of land identified in Exhibit I. The payment shall be made no later than January 5 for the year preceding. For the year in which the Initial Term commences, the Corporation shall pay its pro rata share of the amount with the Town of Williamstown paying the remainder for any properties receiving such payments under the current Agreement. For example, if the Initial Term commences on October 1, 2006, then Corporation is responsible for \$250 of the \$1,000 payment. For the year that Final Closure occurs, Corporation shall likewise pay a pro rata amount for that period prior to Final Closure. For example, if Final Closure occurs on June 30, 2020, then the Corporation shall pay \$500 of the \$1,000 payment for year 2020.

The above described benefits run with the land; however, the benefit shall in no way be increased as a result of a land subdivision.

**ARTICLE V**  
**DIRECT PAYMENT TO AFFECTED MUNICIPALITIES**

During the Initial Term, the Corporation shall pay the amount of \$1.20 per ton for Solid Waste disposed of within the Active Fill Area. Solid Waste that is generated from the exhumation of the existing demolition landfill; liquid Solid Waste; and Solid Waste that is accepted pursuant to the free disposal privileges are not subject to the direct payment. The \$1.20 includes the 5¢ per ton payment to the City described in Article IV paragraph 7.J.3. For purposes of this Article, liquid Solid Waste is any Solid Waste that does not pass the paint filter liquids test as defined in NR 500.03(164) and any successor provision.

The Direct Payments under this Article shall be adjusted annually by 2.2% commencing on the fourth January 1 after the Initial Term commences. For example, if the Initial Term commences June 1, 2006, then the first 2.2% increase occurs on January 1, 2010. A 2.2% increase occurs annually thereafter on January 1 during the Initial Term.

The Corporation shall compute the amount of direct payments monthly. Direct payments shall be made within forty-five (45) days of the last day of the preceding month for waste disposed of during such month. The Corporation shall submit statements pertaining to the waste received each month and any other relevant information. The Corporation shall also provide any documents submitted to the DNR pertaining to quantities of Solid Waste which has been disposed.

The Corporation shall be required to install, maintain and calibrate (bi-annually) a certified scale for measuring and recording Solid Waste disposed at the Active Fill Area. In the event the scale is not working, a different scale may be used, if certified by the state; or estimates may be used for no longer than 10 business days. Where possible,

estimates shall be based upon a customer's recent history. The scale shall be equipped with sufficient computer software and hardware capabilities to record, generate and summarize all information set forth below pertaining to Solid Waste documentation requirements. The Affected Municipalities and the Standing Committee shall have access to computer-generated data or written reports pertaining to waste received at the Solid Waste Facility. The Corporation shall keep records and logs of all trucks coming to the site to include the following data:

- (1) Name of Authorized Transporter;
- (2) Time and date of disposal;
- (3) Truck weight (gross weight, truck weight and net Solid Waste weight);  
and
- (4) Type of Waste.

Weight shall be declared per truck in order of their receipt on a daily basis with the truck ownership and any information which is relevant and kept by the Corporation on a regular basis to assist the Standing Committee in reviewing declared Solid Waste weights at the Solid Waste Facility. The Affected Municipalities and Standing Committee may, at their risk and expense, have videotape equipment installed and have the option of placing personnel on-site in the proximity of the weigh scale, at such times as they choose, to monitor the reporting of Solid Waste received at the Active Fill Area for disposal.

If, at any time, the Affected Municipalities or Standing Committee so desire, they may retain an independent consulting firm to perform computations in order to verify the Corporation's reported tonnages. Such firms may independently test the scale,



computer-generated information from said scale or may use field or aerial surveys to verify reported tonnages. The Affected Municipalities or Standing Committee retaining the independent consulting firm shall pay all costs unless such independent consulting firm's computations accurately demonstrate that the Corporation's reported tonnage used has been understated by 1% or greater. If so understated, the costs of such consulting firm shall be borne by the Corporation and the Corporation shall pay the costs of such independent consulting firm within thirty (30) days after presentation of such invoice related thereto. The Corporation shall also prepare a written report and any documentation necessary explaining the cause of such error. The independent consulting firm's computation shall not be determinative of the amounts of waste deposited during the period studied if contested by Corporation. All such underpaid amounts shall be paid at the then current rate plus one and one-half percent (1-1/2%) per month from the dates the original payment should have been paid.

Any payment that is received late shall accrue interest at the rate of one and one-half (1-1/2%) percent per month. Such late payment interest charges shall be calculated on a daily basis and shall be compounded on a monthly basis until fully paid.

## **ARTICLE VI**

### **CONTRACT PROVISIONS**

#### **1. Notice to Parties.**

Under this Contract any notices required by the terms and conditions of this Contract are, at minimum, to contain the address and names of the parties as noted below, are to be sent by first class mail to these parties and are to be considered by each party as

written notice when received. It is further understood that the Towns, the County, the City, the Corporation and the Standing Committee each be responsible to provide to the other parties any appropriate change of address or any appropriate change of name by providing the other parties with a written notice of "address change" or "name change." The notices shall be sent by certified mail to the addresses noted below. The current names and addresses are:

Onyx Glacier Ridge Landfill, in care of General Manager, John King, at N7296 Hwy. V, Horicon, Wisconsin 53032.

Onyx Waste Services, Inc., Attention: General Counsel, 125 South 84<sup>th</sup> Street, Suite 200, Milwaukee, WI 53214

Town of Williamstown, in care of Town Clerk, Don Roll, N9260 Hwy. V, Mayville, Wisconsin 53050.

Town of Hubbard, in care of Town Clerk, Naomi Kriewald, 5959 East Neda Road, Iron Ridge, WI 53035.

Glacier Ridge Standing Committee, in care of the business secretary of the Standing Committee.

County of Dodge, in care of Dodge County Corporation Counsel, John Corey, Dodge County Courthouse, Juneau, Wisconsin 53039.

City of Mayville, in care of the Director of Public Works, Vern Hilker, of Mayville at 15 S. South Street, Mayville, Wisconsin 53050.

## **2. Headings.**

Under this Contract, the titles to paragraphs of this Contract as provided by the Waste Facility Siting Board are for informational purposes only, except where it may be necessary to an understanding of the content of the paragraph.

## **3. Governing Law.**

This Contract and the provisions contained therein will be construed, enforced and governed, in all respects, in accordance with the laws and the statutes of the State of Wisconsin.

**4. Waiver.**

Under this Contract any waiver by any party to a breach of any term or condition of this Contract shall not be considered a waiver of any subsequent breach by the party of the same term or any other term or condition of this Contract.

**5. Complete Agreement.**

This Agreement supersedes any prior contract or agreement, whether oral or written that was or may have been negotiated pursuant to Wis. Stat. § 289.33(9), between the Towns, County, City, Corporation and the Committee. This Agreement is specifically not applicable to the potential reclamation and development of the Land and Gas Reclamation Landfill Superfund site identified as the fourth element of the holistic project referenced in Appendix G to the July 2004 Addendum to the Feasibility Report. Notwithstanding any other provision or interpretation of law, Corporation agrees that any future landfill development beyond the Active Fill Area is subject to future negotiation.

**6. Amendment.**

This Contract may be amended only by a mutually stipulated written agreement between the Towns, the County, the City, and the Corporation.

**7. Binding Effect.**

This Contract will bind the Towns, the County, the City, the Corporation, the Committee established under Wis. Stat. § 289.33(7), their respective legal heirs, their respective legal representatives, their respective legal successors and their respective legal assigns.

#### **8. Force Majeure.**

The performance of this Contract by Corporation may be suspended and the obligations hereunder excused or extended in the event, and during the period, that such performance is prevented, hindered or delayed by a cause or causes beyond the reasonable control of Corporation including, without limitation, default of another party; labor disputes, strike or lockout; acts of God; war; fire; explosion; national defense requirements; acts of terrorism; accidents; riot; flood; inclement weather; sabotage; lack of adequate fuel, power, materials, labor, or transportation facilities beyond the control of Corporation; damage or destruction of the Solid Waste Facility; injunctions or restraining orders; and judicial or governmental laws, regulations, requirements, orders, actions or inaction, including the revocation or suspension of or failure to obtain, for reasons beyond Corporation's reasonable control, any licenses and permits required for operation of the Solid Waste Facility. In the event of disruption of services under any such circumstances, Corporation will make every reasonable effort to reopen the Solid Waste Facility to accept waste as soon as practicable after the cessation of the cause of suspension of services, and it will take all reasonable steps to overcome the cause of cessation of service.

#### **9. Dispute Resolution.**



If a dispute arises out of or relates to Sections 2 – 6 of Article IV and any part of Article V (including applicable definitions) of this Contract, or the performance or breach of Sections 2 – 6 of Article IV and any part of Article V of this Contract, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, any remaining unresolved controversy or claim arising out of or relating to Sections 2 – 6 of Article IV and any part of Article V of this Contract, or the performance or breach of Sections 2 – 6 of Article IV and any part of Article V of this Contract, will be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, conducted in Mayville, Wisconsin. The arbitration will be conducted promptly and expeditiously so as to enable the arbitrator to render an award within 90 days of the commencement of the arbitration proceedings. Judgment upon the award rendered by the arbitrator may be entered in Dodge County Circuit Court. The parties will jointly and equally share with the other the expenses of the arbitrator and the preparation of a record, if any.

NEGOTIATING COMMITTEE

Approved this 29 day of Sept, 2005.

By: Kenneth Schulz

By: Donald H. Hilgendorf

TOWN OF WILLIAMSTOWN

Approved this 8 day of August, 2005.

By: Donald R. Hilgenlof

By: Donald Rell

**TOWN OF HUBBARD**

Approved this 9<sup>th</sup> day of August, 2005.

By: Henrietta Schulz

By: Daniel E. Gwenterberg



**DODGE COUNTY**

Approved this 16th day of August, 2005.

By: Russell Kottke  
Russell Kottke, Chairman, Dodge County Board of Supervisors

By: Karen J. Gibson  
Karen J. Gibson, Dodge County Clerk

**CITY OF MAYVILLE**


Approved this 16 day of August, 2005.

By: Ronald K. Steenat, MAYOR

By: Arrin Oberdas, Deputy Clerk

**ONYX GLACIER RIDGE LANDFILL, LLC**

Approved this 18<sup>th</sup> day of August, 2005.

By: 

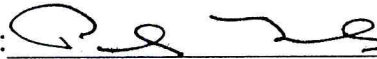
## GUARANTEE


Onyx Waste Services, Inc., for valuable consideration, including the mutual covenants and benefits stated in the Final Negotiated Agreement by and between the Affected Municipalities (as defined therein) and Onyx Glacier Ridge Landfill, LLC, such consideration and receipt of which is hereby acknowledged, does hereby guarantee the performance of Onyx Glacier Ridge Landfill, LLC in the event that the latter fails to so perform. Those obligations shall extend to any obligations provided for in said Agreement, including the operation, closure, post-closure responsibilities, and indemnification responsibilities of Onyx Glacier Ridge Landfill, LLC.

Onyx Waste Services, Inc. acknowledges receipt of said Agreement and certifies that, by signing below, said officer has the authority to act on behalf of Onyx Waste Services, Inc.

DATED: 8/18/05

ONYX WASTE SERVICES, INC.

By: 

ATTEST: 

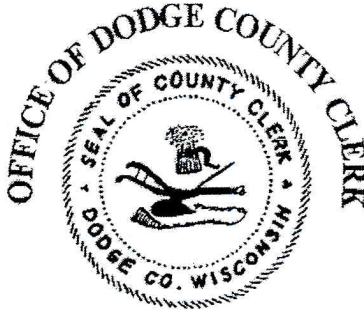


## EXHIBIT LIST

Exhibit A	Solid Waste Facility and Active Fill Area Location Map
Exhibit B	Solid Waste Facility West of County Highway V Map
Exhibit C	Property Value Protection Plan Map
Exhibit D	Summary of Property Value Protection Plan Conceptual Steps
Exhibit E	Location of Potential City of Mayville Detention Pond
Exhibit F	Onyx Glacier Ridge Landfill Properties Eligible for Private Well Testing & Analytical Parameters
Exhibit G	City of Mayville Superior Services Service Agreement
Exhibit H	Beneficiaries of \$1,000 Socio-Economic Annual Payment
Exhibit I	Beneficiaries of \$1,500 Socio-Economic Annual Payment

AREN J. GIBSON  
Dodge County Clerk

Administration Building  
127 East Oak Street, Juneau WI 53039



JEAN M. HELLER  
Chief Deputy

EDITH R. BOLSTAD  
Deputy

920-386-3602/Fax: 920-386-3928

TO WHOM IT MAY CONCERN

I, Jean M. Heller, Deputy County Clerk in and for the County of Dodge,  
State of Wisconsin, do hereby certify that the attached is a true and  
correct copy of Resolution No. 05-31 adopted by the Dodge County  
Board of Supervisors on August 16, 2005.

Dated this 17th day of August, 2005.

Jean M. Heller  
Dodge County Deputy County Clerk

(County Seal)

RESOLUTION NO. 05-31

TO THE HONORABLE BOARD OF SUPERVISORS OF DODGE COUNTY, WISCONSIN  
MEMBERS,

WHEREAS, Onyx Glacier Ridge Landfill, LLC, has proposed to expand its mixed municipal solid waste landfill facility located in the Town of Williamstown, to include the Town of Hubbard, Dodge County, Wisconsin; and,

WHEREAS, the local committee and Onyx Glacier Ridge Landfill, LLC, have negotiated with respect to the proposed expansion of the landfill facility; and,

WHEREAS, the results of these negotiations have been set forth in a written agreement entitled "Onyx Glacier Ridge Landfill Negotiated Agreement," a photocopy of which written agreement has been filed in the Office of Dodge County Clerk, and may be reviewed there during normal business hours; and,

WHEREAS, the local committee recommends that the Dodge County Board of Supervisors approve the written agreement entitled "Onyx Glacier Ridge Landfill Negotiated Agreement;"

SO, NOW, THEREFORE, BE IT RESOLVED:

That the Dodge County Board of Supervisors hereby approves the written agreement entitled "Onyx Glacier Ridge Landfill Negotiated Agreement," a photocopy of which written agreement has been filed in the Office of the Dodge County Clerk; and,

BE IT FINALLY RESOLVED:

That the Dodge County Board of Supervisors hereby authorizes and directs the Chairman of the Dodge County Board of Supervisors and the Dodge County Clerk to sign the written agreement entitled "Onyx Glacier Ridge Landfill Negotiated Agreement."

All of which is respectfully submitted this 19 day of July, 2005.

**ADOPTED**  
By DODGE COUNTY BOARD

AUG 16 2005

AYES 35 NOES 0  
ABSENT 0  
ABSTAIN 0

*Karen J. Gibson*  
County Clerk

*David F. ...*  
*Russell Lathe*  
*Ray Seaborn*  
*David Fohlwig*  
*Ernest Borchardt*  
*Eugene D. ...*  
*Robert Rouger*  
DODGE COUNTY EXECUTIVE COMMITTEE



Exhibit A - Oversized Map of Solid Waste Facility  
and Active Fill Area Location

Exhibit B - Oversized Map of Solid Waste Facility  
West of County Highway V

Exhibit C - Oversized Map of Property Value Protection Plan



## **EXHIBIT D**

### **SUMMARY OF PROPERTY VALUE PROTECTION PLAN CONCEPTUAL STEPS**

1. Notification by certified mail by Property Owner ("PO") of desire to utilize Plan.

↓

2. Determination of eligibility pursuant to the Plan.

- (a) Property must be identified as potentially eligible on map.
- (b) PO must have owned fee simple on 8/4/02.
- (c) Property must be occupied residential, agricultural land or 8 lots in Mayville.

↓

3. Discussion between Corporation and PO regarding Asking Price ("AP") and Fair Market Value ("FMV"). If mutual agreement, then proceed to Step 8. If no mutual agreement then

↓

4. PO obtains appraisal at Corporation's expense to establish FMV. Corporation can also obtain a Home Inspection Report. If Corporation accepts appraised FMV, then proceed to Step 7, or Corporation can acquire property for FMV and the Plan terminates. If Corporation does not accept appraised FMV then

↓

5. Corporation obtains appraisal at Corporation's expense and FMV is established as the arithmetic average between two appraisals. If PO accepts arithmetic average as FMV, then proceed to Step 7. If PO does not accept arithmetic average then

↓



6. Two previously selected appraisers shall select a third appraiser whose appraised FMV is final. If PO does not accept appraised FMV of third appraiser, then PO's participation in the Plan is terminated.

↓

7. Corporation and PO mutually agree to an AP for property.

↓

8. PO must list for 270 days.

↓

9. PO must provide Corporation with all Offers to Purchase. Corporation may approve an Offer to Purchase below Asking Price but if below FMV then Corporation must pay difference.

↓

10. If an offer is not accepted within 270 days, then PO may request that Corporation purchase property at the FMV.

↓

11. Within 30 days of request, PO shall provide Property Condition Report.

↓

12. Within 15 days of receipt of Property Condition Report, Corporation shall either accept Property Condition Report or identify material change and provide PO with a copy of any Home Inspection Report that was prepared.

↓

13. PO can either cure material change or escrow 150% of amount necessary to cure from the proceeds of the sale pending resolution or withdraw from Plan.

↓

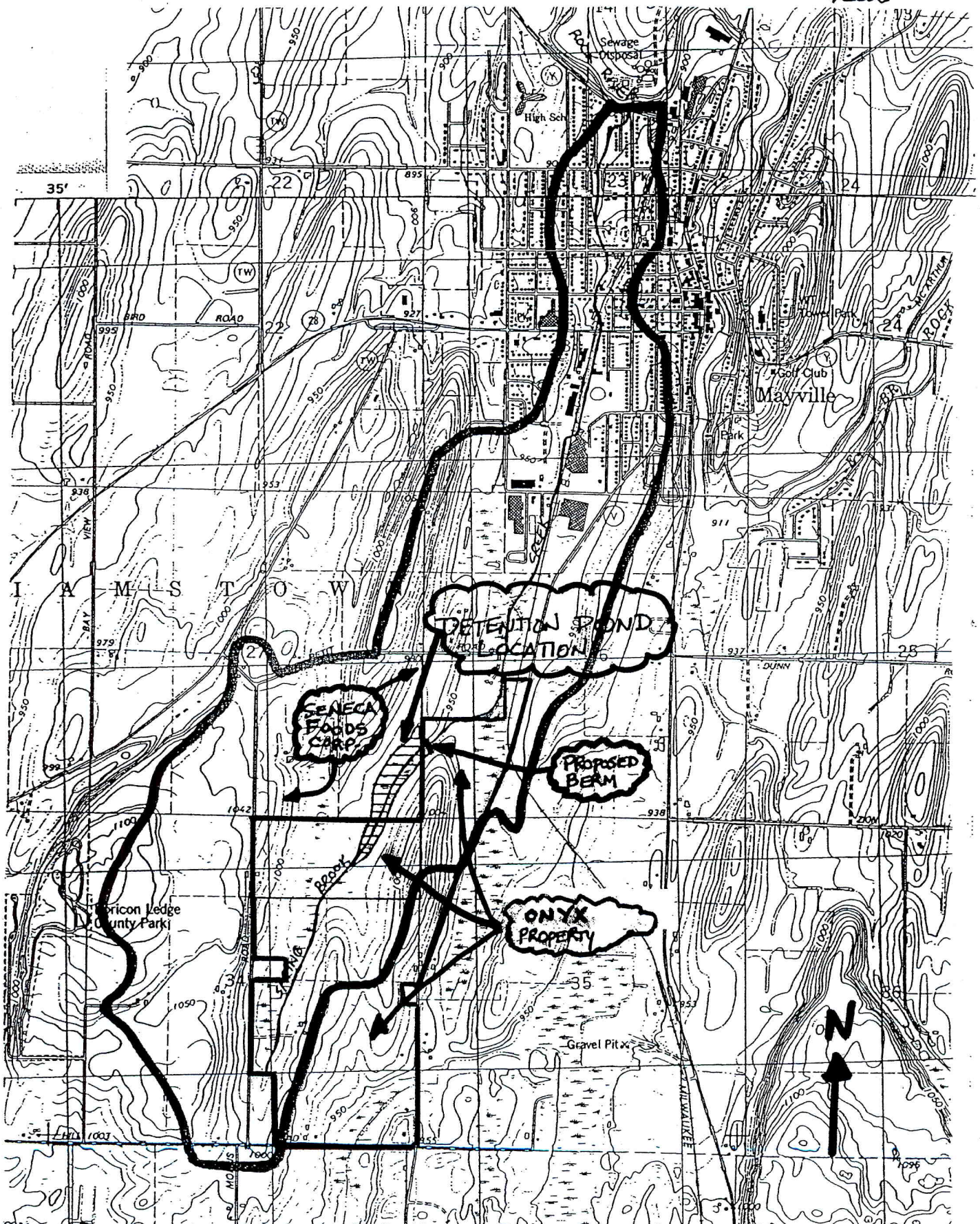
14. Closing.

O:\37\880\008\PROPERTY VALUE PROTECTION PLAN FLOW CHART 02.doc



# EXHIBIT E

LOCATION OF POTENTIAL CITY OF MAYVILLE DETENTION POND  
1/2005





## EXHIBIT F

### PROPERTIES ELIGIBLE FOR PRIVATE WELL TESTING & ANALYTICAL PARAMETERS

<u>Current Property Owner</u>	<u>Address of Eligible Well</u>
Gerald & Aimee Streblow	W3209 Petit Road, Mayville
Raymond & Jeanne Streblow	N7997 Hwy V, Mayville
Keith & Linda Schnepf	N7936 Hwy V, Mayville
Darwin & Janet Backhaus	N7910 Hwy V, Mayville
Jerome & Shelly Perrault	N7981 Hwy 67, Mayville
Leonard & Joyce Schnabl	W3185 Petit Road, Mayville
Michael & Julie Halsne	N7817 Hwy 67, Mayville
Nancy Machmueller & Janice Roemer	N7785 Hwy 67, Mayville
Brain & Mindy Riesen	N7796 Hwy V, Mayville
Quentin & Sally Bednarek	N7794 Hwy V, Mayville
Gordon Weiss	N7726 Hwy 67, Mayville
Daniel & Heidi Antonioni	W2831 Zion Church Road, Mayville
Anthony & Nancy Sellnow	N7627 Hwy 67, Mayville
Andrew & Melissa Oechsner	N7548 Hwy 67, Mayville
All Line Construction	N7477 Hwy 67, Mayville
Steve Persha	N7241 Hwy 67, Mayville
George & Audrey Hechimovich	N7499 Hwy V, Mayville
Francis & Margarette Eckerstorfer	N7473 Morris Road, Mayville
Roger & Delores Rosin	W3365 Raasch Hill Road, Horicon
Duwayne & Mari Lynn Griepentrog	N7233 Morris Road, Horicon
Scott Firari	N7207 Hwy V, Horicon
Church View Farms	N7110 Hwy V, Horicon
St. Johns Evangelical Luthern Church	N7074 Hwy V, Horicon
Horicon Marsh Bowmans Club	N7240 Hwy V, Horicon
Al & Pat Wondra	N7877 Hwy 67, Mayville
Donn & Carolyn Wendorff	N7306 Hwy 67, Mayville
John Jensen & Barbara Harvey	N7599 Morris Road, Mayville

#### Private Well Testing Analytical Parameters

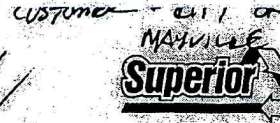
Field pH  
Field Conductivity  
Field Temperature  
Field Observations  
Total Coliform Bacteria  
Alkalinity  
Chloride  
Hardness  
Lead  
Nitrate  
Volatile Organic Compounds (Method 524.2)



# EXHIBIT G

Superior Services - Horicon  
N7296 Highway V  
Horicon, WI 53032  
(920) 387-0987

## SERVICE AGREEMENT



Customer Name: City of Mayville

Customer Billing Address: P.O. Box 273 Mayville WI 53050

Customer Service Address: Water Treatment Plant (30 yds)

Customer Contact: Dean Hilker Contact Telephone #: (920) 387-7900 Main Telephone #: \_\_\_\_\_

Additional Telephone #: \_\_\_\_\_ Industry Type: \_\_\_\_\_

Multiple Service Locations? ☐ Yes ☐ No If yes, ☐ Separate Invoice ☐ One Invoice Purchase Order Number: \_\_\_\_\_

Billing Cycle: \_\_\_\_\_ Credit Limit: \_\_\_\_\_ Fin. Charge: yes 1 no

New Service Description

Qty	Size	Type	Freq	Cust. Owned	Trash	DOC	Mix Ppr	Comm	LL	WH	Bin Notes
1	30 yd	RL	on call	No	X						→ 60/pull 2800/ton
2	City of Mayville	(they haul)			X						→ 1875/cu. yd
3	Leaf Disposal	(they haul)									→ 1100/ton
4											

Effective Date: 3-2-2000 Reg. Mo. Svc. \$ \_\_\_\_\_

Old Service Description

Qty	Size	Type	Freq	Cust. Owned	Trash	DOC	Mix Ppr	Comm	LL	WH	Bin Notes
1											
2											
3											
4											

Prev. Reg. Mo. Svc. \$ \_\_\_\_\_

Other Charges: Est. last Saturday of Month May - Sept Extra Yardage Charges: \$ \_\_\_\_\_

Route Notes: for bulk plu

Comments: See attached quote sheet

TERMS AND CONDITIONS are on the reverse side

The undersigned individual signing this Agreement on behalf of Customer acknowledges that he or she has read and understands the terms and conditions as set forth on the reverse side of this agreement. In addition, he or she has the authority to sign the agreement on behalf of customer.

Customer: Dean Hilker Contractor: Superior Services - Horicon  
a div. of Superior Glacier Ridge, Inc.

Authorized Signature: Dean Hilker Representative: John A. Hilker

Title: \_\_\_\_\_ Representative Title: Sales

Date: 3/3/00 Date: 3-2-00

OFFICE USE ONLY

MUNCD \_\_\_\_\_ CALLB \_\_\_\_\_ SSTRT \_\_\_\_\_ INERTS \_\_\_\_\_

VEHIC \_\_\_\_\_ DATE \_\_\_\_\_



**CONTRACTOR'S DUTIES.** Contractor agrees to furnish the solid waste collection, disposal, and/or recycling services and equipment specified.

**EQUIPMENT USE AND OPERATION.**

- A. All equipment furnished by Contractor for use by Customer which Customer has not purchased shall be in the possession and control of Customer but shall remain the property of Contractor and Customer shall have no ownership rights to such equipment.
- B. Customer shall be responsible for the cleanliness and safekeeping of the equipment. Customer shall use the equipment only for the proper purposes for which it is intended and shall not overload the equipment or make any alterations or improvements to the equipment. Customer shall be liable to Contractor for loss or damage to the equipment in excess of reasonable wear and tear.
- C. Customer agrees to indemnify, defend and hold harmless Contractor against all claims, damages, suits, penalties, fines and any other liability for injury or death to persons or loss or damage to property or the environment arising out of Customer's use, operation or possession of the equipment.

**COLLECTIONS.**

- A. On collection day(s) Customer shall provide unobstructed access to the equipment. If the equipment is inaccessible, Contractor will attempt to notify Customer. Contractor shall be excused from completing said collection and any additional collection service or attempts to provide such service shall be charged as an "extra pickup" subject to a surcharge of double the otherwise applicable rate. For the purposes of this provision, inaccessibility shall include (without limitation) Contractor's inability to make a collection because of wrongfully parked vehicles or snow/ice accumulations.
- B. If Contractor fails to make a scheduled collection for any reason other than inaccessibility or causes beyond Contractor's control, Customer, in lieu of any other remedy, shall notify Contractor in writing by Certified Mail that a collection has not been made. Unless otherwise excused, Contractor shall perform said collection within twenty-four (24) hours of receipt of written notification.

**TERM.** Customer agrees that Contractor shall have the exclusive right to collection and disposal of Customer's solid waste materials and recyclable materials pursuant to this Service Agreement for an initial term of five (5) years from the Effective Date and for any renewal term. This Agreement shall be automatically renewed for like five (5) year terms unless either party gives written notice of termination by Certified Mail to the other at least sixty (60) days but not more than one hundred twenty (120) days prior to the termination of the initial term or any renewal term then in effect. In the event the Customer has existing agreement with a different service provider, the effective date of this Agreement shall be the first renewal date of the existing agreement. At the completion of the initial term or a renewal term, Customer agrees to give Contractor written notice of any offer received from other service providers for the services and grants Contractor the right to match other offers.

**EARLY TERMINATION BY CUSTOMER.** In the event Customer terminates this Agreement other than as provided above, Customer shall pay to Contractor, as liquidated damages, an amount equal to fifty percent (50%) of the Average Monthly Charge multiplied by the number of months remaining in the term. The Average Monthly Charge is: (a) the average of charges, including equipment charges, for the six (6) months preceding termination; or (b) if terminated less than six (6) months into the term, the average of charges since the Effective Date; or (c) if terminated before any charges, the billing rate.

**WASTE MATERIAL.**

- A. Customer represents and warrants that the waste material to be collected and transported by Contractor pursuant to this Agreement is solid waste generated by Customer, and will not contain lead acid batteries, fluorescent and incandescent lamps and/or ballasts, appliances, yard waste, radioactive waste, medical waste or flammable, explosive or hazardous material.
- B. The term "hazardous material" as used in this Agreement shall include any waste listed or characterized as hazardous or toxic by federal, state or local laws and regulations.
- C. At Contractor's request Customer shall provide, at Customer's expense, a chemical characterization of the waste to be collected and transported by Contractor. Customer covenants that it will notify Contractor, in advance, of any change in the waste collected by Contractor.
- D. Contractor may reject and return to Customer at Customer's expense any waste material which Contractor has not agreed to collect under this Agreement.

**CHARGES AND PAYMENT.**

- A. Customer shall pay Contractor on a monthly basis for the services provided by Contractor (including all charges for collection and disposal and for equipment use and maintenance) in accordance with the Schedule of Charges shown. Customer agrees to pay Contractor for any extra waste collected in the immediate area of equipment, at the extra yardage rate then in effect. Further, recyclables contaminated with other items will be disposed of at the extra yardage rate. Payments shall be made by Customer within ten (10) days after receipt of an invoice from Contractor. A service charge of 1.5% per month will be applied on past due balances.
- B. Customer shall be liable for all taxes, fees or other charges imposed upon the collection and/or disposal of Customer's waste materials by federal, state or local laws and regulations. Payment shall be made by Customer within ten (10) days after receipt of an invoice from Contractor.
- C. Customer shall pay all reasonable fees and costs (including reasonable attorney's fees) incurred by Contractor in enforcing provisions of this Agreement.
- D. Contractor may suspend service or remove the equipment if payment is late, without prejudice to any of Contractor's other rights. Suspension of service or removal of equipment due to non-payment shall not constitute termination of this Agreement by Contractor.

**RATE CHANGES.**

- A. Contractor may pass on actual increases in landfill rates and/or increased costs of transportation to an alternate landfill site immediately upon such cost being incurred by Contractor.
- B. Contractor may adjust the rate to be charged hereunder annually to reflect the percentage increase in the U.S. city average Consumer Price Index for All Urban Consumers (CPI-U), published by the U.S. Department of Labor, Bureau of Labor Statistics.
- C. Contractor may also adjust the rates hereunder in any amount in excess of such percentage increase with Customer's approval upon thirty (30) days notice from the Contractor prior to the effective date of the adjustment. Rate acceptance shall be evidenced by the practices and actions of the parties.
- D. Changes in the rates, the size and amounts of equipment, and the frequency of service may be agreed to orally or in writing by the parties without affecting the validity of this Agreement. This Agreement shall continue in effect for the term provided herein and shall apply to changes in service address location(s) or additional service location(s) of Customer within the area in which Contractor provides collection service.

**DRIVEWAYS AND PARKING AREAS.** Customer warrants that any right of way provided by Customer from Customer's equipment location to the most convenient public way is sufficient to bear the weight of all of Contractor's equipment and vehicles reasonably required to perform the service herein contracted. Contractor shall not be responsible for damage to any private pavement or accompanying subsurface of any route reasonably necessary to perform the services herein contracted.

**OVERWEIGHT ROLL-OFF CONTAINERS.** Customer shall not overload roll-off containers provided by Contractor. In the event an overweight fine is sustained by Contractor as a result of transporting a roll-off container loaded by Customer, the cost of said overweight fine shall be paid by Customer.

**BINDING EFFECT.** This Agreement is a legally binding contract on the part of both Contractor and Customer and their respective heirs, representatives, successors and assigns in accordance with the terms and conditions set out herein.

**FORCE MAJEURE.** If, and to the extent that either party is precluded from performing its duties and obligations under this Agreement as the result of acts of God, authority of laws, strikes, lockouts, labor disputes, riots or other causes beyond its control, such non-performing party shall be excused to the extent that its performance continues to be precluded by such acts.

**ASSIGNMENT.** Customer may not assign its rights and/or obligations under this Agreement without the prior written consent of Contractor, which consent may be withheld in Contractor's sole discretion.



# EXHIBIT H

## BENEFICIARIES OF \$1,000 SOCIO-ECONOMIC ANNUAL PAYMENT

<u>Current Property Owner</u>	<u>Current Property Owner Mailing Address</u>	<u>Physical Address for Eligible Property</u>
Jerome Oechsner & Mary Ann	316 Pinecrest Ct., Mayville 53050	N6917 Hwy V, Horicon 53032
Phillip Krebs	N6980 Hwy V, Horicon 53032	N6980 Hwy V, Horicon 53032
St. Johns Lutheran Cemetery Association	c/o Elsmer Kluge W2847 Hwy 33, Mayville 53050	N6973 Hwy V, Horicon 53032
Church View Farms, Inc.	N7110 Hwy V, Horicon 53032	N7110 Hwy V, Horicon 53032
St. Johns Lutheran Church	N7074 Hwy V, Horicon 53032	N7074 Hwy V, Horicon 53032
Scott Firari	N7207 Hwy V, Horicon 53032	N7207 Hwy V, Horicon 53032
George & Audrey Hechimovich	1050 Raasch Hill Rd, Horicon 53032	N7499 Hwy V, Mayville 53050
Brian & Mindy Riesen	N7796 Hwy V, Mayville 53050	N7796 Hwy V, Mayville 53050
Leonard & Joyce Schnabl	W3185 Petit Rd, Mayville 53050	W3185 Petit Rd, Mayville 53050
Darwin & Janet Backhaus	N7910 Hwy V, Mayville 53050	N7910 Hwy V, Mayville 53050
Keith & Linda Schnepp	N7936 Hwy V, Mayville 53050	N7936 Hwy V, Mayville 53050
Gabriel & Jamie Littlefield	N7997 Hwy V, Mayville 53050	N7997 Hwy V, Mayville 53050
Gerald & Aimee Streblow	W3209 Petit Road, Mayville 53050	W3209 Petit Road, Mayville 53050

# EXHIBIT I

## BENEFICIARIES OF \$1,500 SOCIO-ECONOMIC ANNUAL PAYMENT

<u>Current Property Owner</u>	<u>Current Property Owner Mailing Address</u>	<u>Physical Address for Eligible Property</u>
Horicon Marsh Bowman	P.O. Box 103, Mayville 53050	N7240 Hwy V, Horicon 53032
Quentin & Sally Bednarek	N7794 Hwy V, Mayville 53050	N7794 Hwy V, Mayville 53050
Nancy Machmueller & Janice Roemer	N7785 Hwy 67, Mayville 53050	N7785 Hwy 67, Mayville 53050
Anthony & Nancy Sellnow	N7627 Hwy 67, Mayville 53050	N7627 Hwy 67, Mayville 53050
Gordon Weiss	N7726 Hwy 67, Mayville 53050	N7726 Hwy 67, Mayville 53050
Andrew & Melissa Oechner	N7548 Hwy 67, Mayville 53050	N7548 Hwy 67, Mayville 53050
All Line Construction	W3444 Petit Road, Mayville 53050	N7477 Hwy 67, Mayville 53050
Steve Persha	N7241 Hwy 67, Mayville 53050	N7241 Hwy 67, Mayville 53050
Roger & Delores Rosin	W3365 Raasch Hill Road, Horicon 53032	W3365 Raasch Hill Road, Horicon 53032