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WASTE FACILITY  
SITING BOARD

**FINAL OFFER**

of

**MADISON LANDFILLS, INC.**

**LIBBY LANDFILL**

**CASE NO. 45-91-04**

**Submitted to the Waste Facility Siting Board  
pursuant to Section 144.445(10), Wis. Stats.**

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## AGREEMENT

This Agreement made and entered into as of the date of its adoption by the Waste Facility Siting Board ("WFSB"), as the WFSB arbitration award under sec. 144.445(10), Wis. Stats., by and among Madison Landfills, Inc., a Wisconsin corporation, 6411 Mineral Point Road, Madison, Wisconsin 53705 (the "Landfill Operator"), the Town of Dunn, 4156 CTH B, McFarland, Wisconsin 53558, City of Madison, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53709, and Dane County, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53709 (hereinafter collectively referred to as the "Municipalities").

WHEREAS, Landfill Operator desires to open and operate a sanitary landfill for the disposal of solid waste (the "Landfill"); and

WHEREAS, the Landfill Operator proposes to locate the Landfill in the Town of Blooming Grove, Dane County, Wisconsin, on real property, more specifically described on Exhibit A attached hereto; and

WHEREAS, the Town of Blooming Grove elected not to participate in the negotiation/arbitration process under Section 144.445, Wis. Stats. and recommended the rezoning of the Landfill property and issuance of a conditional use permit to allow development of the Landfill; and

WHEREAS, the Landfill is located within 1200' of the corporate boundaries of the Town of Dunn and City of Madison and located

within Dane County, and the Municipalities are municipal corporations existing by virtue of the laws of the State of Wisconsin, and have a duty and obligation to insure a safe environment for the health, safety, and welfare of their citizens; and

Whereas, by virtue of Chapter 144 of the Wisconsin Statutes, such Municipalities have appointed members to a local negotiating committee to negotiate with the Landfill Operator concerning the proposed Landfill site, (hereafter referred to as "the Local Negotiating Committee").

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties agree as follows:

1. Parties; Successors to Landfill Operator.

This Agreement shall be applicable to the Landfill Operator, its successors and assigns, and to all parties to which the Landfill Operator may transfer or assign any part or all of its ownership interests in the Landfill. The performance of the Landfill Operator's obligations under this Agreement shall also be guaranteed by any party which agrees to use its net worth to allow the Landfill Operator to satisfy the financial responsibility requirements under sec. 144.443, Wis. Stats.

The Landfill Operator shall notify the Standing Committee (as hereinafter defined) and the Department of Natural Resources ("WDNR") of any and all change in ownership of the Landfill and provide proof that any such successor or assign acknowledges this Agreement and the duties and obligations hereunder.

2. Commencement Date and Term.

The commencement date of the Agreement shall be the date on which it is adopted by the WFSB as its arbitration award.

Except as otherwise specifically set forth in this Agreement, the term of this Agreement shall be equal to the active site life of the Landfill plus forty (40) years. The active site life begins when solid waste is received and ends when the Landfill is closed, as defined in sec. 144.43 (1m), Wis. Stats.

Further, the parties agree that the Landfill Operator retains the right at any time to cease accepting waste at the Landfill; this determination to be in the sole discretion of the Landfill Operator, as approved by the WDNR. Notwithstanding the foregoing, the Landfill Operator shall be responsible for proper closure and long-term care of the Landfill as required by WDNR regulations, state law, as well as this Agreement.

3. Standing Committee.

The Landfill Operator and the Local Negotiating Committee agree to the formation of a Standing Committee (the "Standing Committee") which will consist of: one representative of the Town of Dunn appointed by the Dunn Town Board, one resident of the Town of Blooming Grove appointed by the Blooming Grove Town Board, one member representing the City of Madison appointed by the Mayor of the City of Madison, one staff person from the Dane County Public Works Department and one member of the Public Works Committee of Dane County Board appointed by the County Board.

The Standing Committee will have the functions and powers

described in Exhibit B attached hereto and made a part hereof by reference. The Landfill Operator shall have a designated, non-voting, ex officio member of the Standing Committee.

The Landfill Operator shall pay to the Standing Committee the sum of \$5,000.00 prior to the receipt of waste at the Landfill and \$5,000.00 annually thereafter prior to the beginning of each calendar year for the active site life of the Landfill. Any unexpended amounts at the end of any calendar year shall reduce the amount payable for the next succeeding year.

All members of the Standing Committee shall be insured under liability insurance at the Landfill Operator's expense in accordance with Section 16 of this Agreement.

#### 4. Local Approvals.

Any and all pre-existing local approvals shall be deemed not applicable.

#### 5. Records.

The Landfill Operator shall provide each member of the Standing Committee free of charge with one copy of any reports or records submitted to WDNR pertaining to the amount of waste received (additional copies shall be provided as reasonably requested).

Further, the Landfill Operator shall provide the Standing Committee free of charge with an annual report during the active site life, on or before January 31, containing the following information for the preceding calendar year:

1. A list of commercial haulers using the Landfill.

2. A summary of monthly tonnages received at the Landfill.
3. A summary (type and estimated quantity) description of the general categories of waste received (i.e. municipal, commercial, ash, foundry sand, demolition, etc.)

The Landfill Operator shall also provide each member of the Standing Committee free of charge with one copy of all technical reports and monitoring data supplied to the State of Wisconsin Department of Natural Resources by the Landfill Operator pertaining to the Landfill, including the Plan of Operation, and proposed amendments to the feasibility study or any proposed changes to any special conditions imposed by the WDNR.

6. Liner and Cap Design.

Landfill Operator agrees to construct the Landfill with a composite liner, composite cap, and leachate collection system. The composite liner shall consist of a five (5) foot compacted clay liner and 60 mil. HDPE flexible membrane or equivalent. The cap shall consist of a clay cap which meets the requirements of applicable WDNR regulations and a flexible 40 mil VLDPE membrane or equivalent. In the event WDNR imposes these cap and liner specifications as a condition of its feasibility approval, Landfill Operator agrees not to petition for judicial review of such specifications or request a modification of these WDNR conditions.

7. Direct Compensation/Payments.

A. Compensation for Expenses of the Local Negotiating Committee.

The Landfill Operator hereby agrees to pay the sum of \$20,000



towards the reasonable and necessary expenses of the Local Negotiating Committee, including attorneys' fees relating to the negotiation.

The Landfill Operator shall pay these expenses to the parties designated by the Local Negotiating Committee invoice, within thirty (30) days of the issuance of the WFSB order adopting this Agreement as its arbitration award.

B. Highway and Street Reconstruction, Including Structures.

Prior to beginning operations at the Landfill, the Landfill Operator shall reconstruct Moorland Road, from the intersection of Moorland Road and Raywood Road, to Lake Farm Road; and Lake Farm Road from the curve to the proposed site entrance. Reconstruction shall include grading, including the removal of the existing subbase and pavement as appropriate and required by the City of Madison, installation of pavement, the installation of a new box culvert type structure to replace the current structure on Moorland Road or such structure that hydraulically fits the site over Nine Springs Creek, signing, marking, erosion control, and the establishment of turf on all disturbed areas and all private right of way acquisition, and all engineering and inspection costs. The work is to be done in conformance with the City of Madison Standard Specifications for Public Works Construction and the Wisconsin Department of Transportation Design ("DOT") Manual. The Landfill Operator shall reimburse the City of Madison and Town of Blooming Grove for the acquisition of any necessary right of way across privately owned property, provided the acquisition price is

determined in accordance with applicable statutes, regulations and case law.

The box culvert type structure shall be designated in accordance with NR116 of the Wisconsin Administrative Code and the Landfill Operator shall obtain the approval of DOT and the WDNR of the plans for the structure.

The Landfill Operator shall obtain the approval of the WDNR, and the City of Madison prior to commencement of construction. The Landfill Operator further agrees that no work shall be scheduled for these improvements without the City Engineer's approval of the starting date and schedule. None of these approvals shall be unreasonably withheld. The improvements to be made by the Landfill Operator shall not be subject to formal bidding processes, it being the intent that the improvements shall be made as a private contract.

The Landfill Operator shall provide a payment/performance bond or other surety for the performance of the improvements on Moorland, Raywood and Lake Farm and the box culvert, in accordance with the standard bonding requirements imposed by the City of Madison for such improvement projects.

The reconstruction of Moorland Road and Lake Farm Road shall be specified as a C-4 Classification requiring a 24-foot pavement and 8-foot shoulders on each side. Two 5-foot wide bike lanes adjacent to and continuous with the pavement shall be constructed. The pavement shall be a Madison Standard Class C pavement unless the aforementioned pavement analysis requires a more substantial

design. The clear width required for the structure shall be 40' minimum. The Landfill Operator shall install plastic pavement markings to delineate the bicycle path from the point of curvature to the point of tangency on the curves and epoxy paint markings on the remainder of the roadway. The box culvert type structure shall be designed at an HS20 loading. An underground conduit shall be installed at the Moorland and Raywood Road intersection and the Libby and Lake Farm Road intersection to facilitate the installation of traffic signals in the future.

The Landfill Operator agrees that the City of Madison and the Town of Blooming Grove shall not be responsible for costs or charges related to this project except those specifically enumerated and agreed in this or other written agreements between the City of Madison or Town of Blooming Grove and the Landfill Operator.

The Landfill Operator further agrees that the improvements will not be accepted by the City of Madison until all outstanding engineering and inspection charges indicated herein have been paid in full and affidavits and lien waivers are received by the City indicating that the contractor has been paid in full for all work and materials furnished.

The Landfill Operator shall require all contractors engaged in the construction of this project (or if the Landfill Operator chooses to construct any of the improvements it also shall be required) to comply with the City of Madison's contract requirements pertaining to damage claims and the contractor's

liability insurance as specified in Section 107 of the City of Madison Standard Specifications of Public Works Construction and addenda thereto. The Landfill Operator shall also require contractors engaged on the work to maintain a current certificate of insurance on file with the City Engineer.

The Landfill Operator agrees to guarantee all work performed in this Agreement for a period of one year from the date of final acceptance by the City of Madison Common Council against defects in workmanship and materials. If any defect should appear during the guarantee period, the Landfill Operator agrees to make required replacement or repairs of the defective work at its expense which are acceptable to the appropriate municipality. The expense includes a total and complete restoration of any disturbed surface or any component of the improvement to the standards provided in the plans and specifications, regardless of the improvements in the lands where repairs or replacement is required.

The Landfill Operator agrees to engage contractors for all construction included in this Agreement who shall be listed as qualified for such work by the Director of Public Works, according to City standards, and who shall comply with every requirement of Section 23.01 of the Madison General Ordinances (Minimum Wage Scale). The Landfill Operator shall furnish the City Engineer with the names of all contractors and their subcontractors, with the classification of the work they will perform, prior to any work beginning.

The Landfill Operator further agrees to construct a divided

entrance to Lake Farm Park off of Lake Farm Road in the highway right of way in the vicinity of the current entrance to the former Lemanski parcel, in accordance with DOT's facilities development manual.

The Municipalities shall:

(1) Provide their assistance, legal authority, and reviews to assure adequate right-of-ways are provided for this reconstruction and that legal authority to reconstruct is obtained. This will include assisting in the acquisition of the right-of-way for a temporary culvert and a temporary bypass of the Nine Springs Creek crossing.

(2) Not unreasonably withhold local permits and assistance necessary for this reconstruction.

(3) Grant necessary right of ways across lands owned by the Municipalities.

Upon acceptance of these improvements, ownership, control, and maintenance shall be turned over without reservation to the Municipality in which they are located.

C. Roadway Maintenance.

Landfill Operator agrees to reimburse the City of Madison for its proportionate share of necessary maintenance during the active site life to that portion of the roadway to be reconstructed by Landfill Operator pursuant to Subsection 7B. The proportionate impact of the Landfill traffic shall be determined by a traffic survey performed by a qualified traffic engineer who is mutually

acceptable to the City of Madison and the Landfill Operator. The traffic engineer shall apply standard Wisconsin Department of Transportation vehicle loading figures for calculating the impact of Landfill and non-Landfill traffic. The cost of the traffic study shall be paid by the Landfill Operator. The Landfill Operator may cause an updated traffic study to be performed by the mutually acceptable traffic engineer from time to time at its cost.

D. Compensation to Dane County Parks.

The Landfill Operator agrees to:

- (1) Make an annual donation of \$10,000 to the Friends of Dane County Parks during the active site life, for the sole purpose of maintaining, or improving Lake Farm Park. Payments shall be made within thirty (30) days after the end of each calendar year during the active site life. Amounts for the first and last year of the active site life shall be prorated. The amount referenced in this paragraph D (1) shall be adjusted annually to reflect changes in the Milwaukee Area, all Items, Consumer Price Index for All Urban Consumers issued by the Bureau of Labor Statistics, U.S. Department of Labor (the "CPI"). If the CPI ceases to use the current base year equalling 100 as the basis of calculation, or if a change is made in the term or number of items contained in the CPI, or if the CPI is altered, modified, converted or revised in any other way,

then the CPI shall be adjusted to the figure that would have been arrived at had the change in the manner of computing the CPI in effect at the date of this Agreement not been altered. If such CPI shall no longer be published by said Bureau, then any substitute or successor index published by said Bureau or other governmental agency of the United States, and similarly adjusted as aforesaid shall be used. If such CPI (or a successor or substitute index similarly adjusted) is not available, a reliable governmental or other reputable publication mutually agreeable to the parties should be used in determining the CPI. Dane County shall provide the Landfill Operator with a general accounting of the expenditure of each annual donation prior to the due date of the next succeeding donation. Dane County agrees to recognize such annual donation in the form of a suitably placed identification of the uses of the funds in Lake Farm Park.

- (2) Upon issuance of the WDNR license for the Landfill, donate to Dane County, a three hundred foot (300') wide conservancy easement along the northern property line of the parcel depicted on Exhibit C, attached hereto, to be used exclusively as parkland. The conservancy easement will reserve the right to the

Landfill Operator to use the easement property as borrow source as specified in the WDNR approved feasibility report.

- (3) Grade and construct a wood chip hiking trail across the easement property described above, in a form similar to the wood chip trails constructed by Dane County Parks as part of its E-way system.
- (4) Construct a gravel parking lot sufficient to accommodate twenty (20) cars, at a location near the divided entrance to Lake Farm Park to be constructed by the Landfill Operator pursuant to Subsection 7B.

E. Compensation to Adjacent Property Owners.

The Landfill Operator hereby agrees as follows:

(1) Water Supply Replacement for Private Wells.

At any time during the active site life of the Landfill, new private wells or hook up to alternative water supply systems shall be paid for by the Landfill Operator at the request of the landowner for the following wells:

- (i) 3424 Lake Farm Road (Robert Van Daalwyk)
- (ii) Dane County Parks (Lake Farm Park) (2 wells)
- (iii) 4269 Libby Road (Timothy and Sandra Docter)
- (iv) Sinaiko homestead on Lake Farm Road

The Landfill Operator shall also abandon the private wells servicing such properties at the Landfill Operator's expense. At the request of the Landfill Operator, the City of Madison agrees to use its municipal authority to require the property owner listed in Section 7E(ii) above to hook up to the City of Madison water supply system if they request replacement of their



existing water supply, and to permit the Landfill Operator to properly abandon the private well servicing such property, at the Landfill Operator's expense.

(2) Community Water Supply.

Within one (1) year after issuance by WDNR of the Landfill license the Landfill Operator, at its expense, shall construct a community well on its property outside the mandated 1,200 well setback area, with sufficient capacity to provide water to 3218 Lake Farm Road (Charles A. Neuhauser), properties on Libby Road as far east as the WARF property, on Wautcheeta Trail, on McConnell Street, on Waubesa Avenue south to its intersection with Gannon Street, on Gannon Street and on Alma Road. The Town of Dunn and Town of Blooming Grove shall assist in acquiring any necessary easements for a water distribution system, and shall use their power of eminent domain, if necessary, to acquire the necessary property rights. The Landfill Operator shall reimburse the Town of Dunn and Town of Blooming Grove for expenses incurred and reasonable amounts paid to obtain the necessary property rights.

Within three (3) years after issuance by the WDNR of the Landfill license, the Landfill Operator, at its expense, shall install all water mains and laterals necessary to provide water from the described community well to all homes within the described service area which exist as of the date construction of the Landfill commences, and shall, at its expense, hook up all of the residences to such community water system. The Town

of Dunn and Town of Blooming Grove agree to use their municipal authority to require each residential property owner to hook up to the community water supply system, and to permit the Landfill Operator to properly abandon the private well servicing such residential property, at the Landfill Operator's expense.

The Landfill Operator agrees to comply with all applicable laws, ordinances and regulations in constructing the community well, installing the supply system and abandoning the private wells. The depth of the community well and the pressure of the water distribution system shall conform to the specifications of the City of Madison water utility. Madison Water Utility Engineers and inspectors shall review the plans for the community water supply well and distribution system and shall inspect the installation of the system and perform any necessary tests to assure its safety and proper function, all at the Landfill Operator's expense.

Upon completion of the construction of the community well, the Landfill Operator shall administer the water system and charge the users only for operating and maintenance expense.

(3) Well Testing.

The Landfill Operator, at its own expense, agrees to test all private and community wells within 1/2 mile of the perimeter of the Landfill disposal area twice per year during the active site life, provided that access is permitted by the well owner. All wells within one-quarter mile will be tested quarterly. In the event any of such private or community wells

indicates an exceedence of WDNR preventive action limits (PAL's), then the Landfill Operator shall also test at its expense all wells located in the area bounded by Lake Waubesa, Lake Farm Road, Libby Road and Gannon Road (extended west to the point where it would intersect with Lake Farm Road) twice per year until such time as the PAL's are no longer exceeded.

The parameters tested for quarterly shall include as a minimum but not be limited to, field Ph, field conductivity, COD, dissolved iron, hardness, chloride, alkalinity, nitrate, nitrogen and TOC, as designated by the WDNR.

All sampling and testing during the operation of the Landfill shall be done by an independent certified Wisconsin laboratory. The Landfill Operator is responsible for providing test results to the well owners with copies to the Dane County Environmental Health Department.

After final closure, tests shall be conducted for these wells on an annual basis for forty (40) years, the cost of which shall be paid for by Landfill Operator.

Notwithstanding any provision of this Agreement, the Municipalities shall not be liable for any contamination caused by the Landfill.

(4) Property Value Guarantees.

(a) Appraisal Process.

To minimize the concerns of local area residents as to real estate values in the neighborhood of the Landfill, the Landfill Operator agrees to provide economic protection for the

properties within the area bounded by Libby Road, Lake Farm Road, Lake Waubesa and Gannon Road (extended west to the point where it would intersect with Lake Farm Road), and properties outside those boundaries that front on either Gannon Road or on Lake Farm Road between Libby Road and the point where Gannon Road would intersect with Lake Farm Road if extended west, on the terms and conditions hereinafter set forth.

To be eligible for fair market value price protection under this Subsection 7E(4), owners of real estate must place their property on the market for sale with a real estate broker licensed under the laws of the State of Wisconsin. At such time as the applicable property is offered for sale, the owner or his/her agent must provide the Landfill Operator with both the name of the broker with which such real estate is listed and the proposed terms of sale. The owner shall then cause the property to be appraised at its fair market value both (1) as of that day and (2) as of that day but making the sole additional assumption that the Landfill had continued in use as farmland rather than being developed as a sanitary landfill. The real estate appraiser hired by the owner shall be a professionally designated member of the American Institute of Real Estate Appraisers, or the Society of Real Estate Appraisers, or recognized by the National Appraisers Association and shall work independently of the Landfill Operator and property owner.

Upon its completion, the owner shall make known the result of the appraisal to the Landfill Operator. In the event the

Landfill Operator disagrees with the valuation arrived at, it shall have a right to obtain an appraisal valuing the subject property in the same manner as it was valued by the appraiser for the owner. Any appraiser retained by the Landfill Operator shall be a professionally designated member of the American Institute of Real Estate Appraisers, or the Society of Real Estate Appraisers, or recognized by the National Appraisers Association and work independently of the property owner and Landfill Operator.

The Landfill Operator shall pay one-half (1/2) of the cost of the affected property owner's appraisal upon presentation of the appraiser's invoice. The cost of the Landfill Operator's appraiser shall be paid by the Landfill Operator.

(b) Computation of Fair Market Value and Diminished Fair Market Value.

For purposes of Subsections 7E(4)(a)-(f) "fair market value" means the value of the property as if the Landfill property described herein had continued in operation as farmland rather than being developed as a sanitary landfill. For purposes of Subsections 4(a)-(f) "diminished fair market value" means the difference, if any, between the fair market value and the market value of the property as of the date of the appraisal with the Landfill present. Fair market value and diminished fair market value shall be established as follows: (i) by a single appraiser under Subsection (a) if the results were acceptable to both parties or (ii) by agreement between the two

appraisers retained under Subsection (a). If the two appraisers retained under Subsection (a) do not agree, they shall meet forthwith and have five (5) days to agree upon a fair market value and diminished fair market value. If they are unable to agree, they shall have seven (7) days to pick a third appraiser with similar qualifications who shall act as a review appraiser and shall arrive at a fair market value and diminished fair market value within fifteen (15) days of his or her selection. The Landfill Operator and the property owner shall each pay one-half (1/2) of the cost of the third appraisal upon presentation of the appraiser's invoice.

(c) Amount of Compensation.

Any property affected by this Section 7E(4) shall continue to be exposed for sale until:

- (i) The property owner sells it at the fair market value price, in which case no payment shall be made by the Landfill Operator, unless the property owner elected to waive his rights under this Section 7E(4) and receive compensation as stated in paragraph (e).
- (ii) The property owner receives a bona fide arm's length written offer which is less than the fair market value. The property owner or his/her agent shall notify the Landfill Operator of the offer and the Landfill Operator may elect to either purchase the property at the fair market value or permit the property owner to accept the offer and then pay the

property owner the difference between the sale price and the fair market value (not to exceed the diminished fair market value). Amounts paid by the Landfill Operator shall be adjusted by \$3.00 per \$1,000 of the difference for any real estate transfer tax savings and 6% of the difference for any real estate brokers' commissions savings and other customary closing prorations. The Landfill Operator shall have ten (10) days to exercise its option to purchase the property. If the Landfill Operator does not respond in writing within ten (10) days the owner shall assume that the Landfill Operator does not want to purchase the property and proceed accordingly.

- (iii) The property has been continuously exposed to the market for sale for a period equal to the average days on market for properties located in the Town of Dunn and Village of McFarland (other than properties in the area covered by this Section 7E(4)) sold during the six (6) calendar months prior to date the property is listed for sale, and no offers of purchase have been received. The average days on market shall be based on data maintained by the Greater Madison Area Board of Realtors Multiple Listing Service. If no offers of purchase have been received for the affected property, the Landfill Operator shall purchase the property at the fair market value, less the adjustments described

in subparagraph (ii) above, with the closing of such purchase to take place within forty-five (45) days after the expiration of minimum listing period.

(d) Effective Date.

This section shall become effective as soon as construction of the Landfill commences and shall terminate at the end of the active site life.

(e) Opt Out Election.

A property owner may elect to not enter into the property value protection process described in this Subsection 7E(4), by notifying the Landfill Operator of his or her intent not less than ten (10) days prior to offering the property for sale. Within ten (10) days after closing of the sale of such property, the Landfill Operator shall pay such property owner the sum of One Thousand Dollars (\$1,000) as consideration for the property owner's waiver of any compensation under this Subsection 7E(4).

(f) Applicability of Section.

(i) Except as set forth in subparagraph (iv) below this section 7E(4) shall only be applicable to owners of record as of the date construction of the Landfill commences, or their heirs.

(ii) Payment under this section shall be made only once for any one parcel of property. Landfill Operator shall be obligated to participate in the appraisal process described in paragraph (4)(a) only once for any parcel of property.



(iii) Property owners conveying under this section shall do so by deed or land contract, free and clear of all liens and encumbrances other than taxes levied for the year of sale, recorded easements for public utilities serving the property, recorded building and use restrictions and covenants, and municipal and zoning ordinances.

(iv) If the property owner chooses to sell the property to one other than an arm's length purchaser, the property owner shall not be eligible for compensation under this Section 7E(4). The purchaser, however, shall be eligible for compensation under this Section upon his or her sale of the property during the active site life of the Landfill, provided that the procedures set forth herein are complied with.

(v) Any time the Landfill Operator purchases property under this section, the property owner shall have three months from the date of closing to vacate the property. Any property owner choosing to occupy beyond the date of closing shall be responsible for and pay all utility costs incurred during his/her occupancy, and pay rent to the Landfill Operator in the amount of \$300/month.

(5) Compensation to Area Residents.

On or before December 31st of each year during the active site

life, the Landfill Operator shall make the payments to area property owners described on Exhibit G. Payments for the first and final years of active site life shall be prorated. The amounts referenced in this paragraph 7E(5) shall be adjusted annually to reflect changes in the CPI. This paragraph 7E(5) shall only be applicable to owners of record as of the date construction of the Landfill commences, or their heirs.

F. Contingency Fund.

The amount of fifty cents (\$ .50) per ton for every ton disposed of at the Landfill shall be deposited quarterly by the Landfill Operator in escrow to be administered and invested by a third party (the "Escrow Agent") mutually agreeable to Dane County, City of Madison, Town of Dunn, and the Landfill Operator, pursuant to the definitive Escrow Agreement attached as Exhibit D (the "Escrow Agreement"). The Escrow Agent must be a bank trust company authorized to do business in the State of Wisconsin or such other third party as may be mutually agreeable. The amounts deposited in escrow are referred to herein as the Contingency Fund. Such deposits shall be made within thirty (30) days following the calendar quarter for which they are due, and shall be accompanied by a written report of the tonnage received by the Landfill during such calendar quarter. Any deposits not received by the due date shall bear interest at an annual rate equal to the greater of twelve percent (12%) per annum or the Wall Street Journal "prime rate" on the due date plus three percent (3%), until paid.

The Municipalities shall have the option of hiring an

independent consulting firm to perform computations in order to verify the tonnage reported by the Landfill Operator. Such consulting firm shall use field surveys to verify such tonnage. If such independent computations reveal that the Landfill Operator's reported tonnage to the WDNR has been understated by ten percent (10%) or greater, the costs of such computations shall be borne by the Landfill Operator. The Landfill Operator shall pay such costs of the independent consulting firm within thirty (30) days after presentation of such bill.

The independent consulting firm's computations shall be determinative of the amount deposited during such periods. If the Landfill Operator has understated the amount deposited, the difference shall be paid within ten (10) days of receipt of the consultant's results. If the Applicant has overstated the amount deposited during such periods, the Landfill Operator shall receive a credit against its next quarterly payment to the Contingency Fund, based upon the amount of the overstated waste.

The Contingency Fund shall be used for the purposes of:

- (1) long term monitoring and care of the Landfill, including repair of environmental controls at the Landfill, after the expiration of the Landfill Operator's obligation to maintain financial responsibility assurances under Section 144.443, Wis. Stats.;
- (2) investigation of any releases, or suspected releases, or substances from the Landfill;

- (3) remediation of any releases of substances from the Landfill;
- (4) payment of monetary damages for damage to persons or property arising out of or in connection with or occurring as a result of the operation, use or closure of the Landfill;
- (5) payment of amounts necessary to address any unforeseen occurrences at the Landfill which pose a threat to human health or the environment, including impacts within the scope of the Waste Management Fund but which are not compensated by the Fund;
- (6) to process any waste existing at the Landfill which is determined to be hazardous, in a technologically advanced manner that will render it harmless to the environment.

The Contingency Fund may only be expended to pay amounts lawfully due under one of the conditions described above, and not for operational expenses, errors or damages in the construction and operation of the Landfill or WDNR mandated long-term care. This fund shall only be used when the Landfill is closed and in the absence of any other public funds or funds available from the Landfill Operator.

Any fees of the Escrow Agent shall be paid from the Contingency Fund.

Any earnings on the Contingency Fund shall be

added to the Contingency Fund until such time as the Fund totals Twenty Million Dollars (\$20,000,000). Once the Fund totals Twenty Million Dollars (\$20,000,000), any earnings in excess of the CPI increase for each calendar year shall be paid annually to the Landfill Operator. Provided, however, that if a claim is paid from the Contingency Fund after the Fund totals Twenty Million Dollars (\$20,000,000), all earnings shall remain in the Fund until the Fund again totals Twenty Million Dollars (\$20,000,000).

Upon closing of the Landfill, the Landfill Operator shall deposit in the Contingency Fund, in the form of letter of credit, surety bond or cash, the amount, if any, by which the Contingency Fund is less than One Million Five Hundred Thousand Dollars (\$1,500,000).

The Contingency Fund shall continue in perpetuity or until the Municipalities and the Landfill Operator agree to terminate the Contingency Fund. Upon termination of the Contingency Fund, the Escrow Agent shall disburse the balance as the parties agree, and the Escrow Agreement shall terminate.

G. Compensation for Local Fire Protection Services.

The Landfill Operator shall reimburse the City of Madison and Town of Blooming Grove for the full cost of emergency fire fighting services within the Landfill (ordinary fire protection services for

the building and other structures on the Landfill Operator's property being provided at no cost). The Landfill Operator shall provide to either Fire Department a full description of the fire or occurrence requiring emergency services whether or not the municipal fire service was originally notified.

H. Security for Payments.

As security for the payments to be made under Section 3 and Subsections 7C, 7D, 7E and 7F, the Landfill Operator shall furnish, upon issuance of the WDNR license, a surety bond, letter of credit or cash escrow in the amount of One Hundred Thousand Dollars (\$100,000.00). The financial security provided pursuant to this paragraph shall be for the benefit of the affected property owners, Town of Dunn, City of Madison, Dane County and the Standing Committee, and shall terminate and be released to the Landfill Operator when the Landfill is closed (as defined in Section 144.43 (1m), Wis. Stats). A claim may be made against such financial assurance only upon default by the Landfill Operator in its obligations under such Sections. The escrow account shall be set up as a separate account with the Escrow Agent chosen pursuant to Section 7F.

8. Limitations on the Source and Types of Incoming Waste.

A. Types of Waste.

No hazardous waste, infectious waste or other waste which under federal or state law may not be disposed of in a solid waste landfill shall be accepted for disposal at the Landfill.

In the event that it is determined that any non-household hazardous waste is deposited at the Landfill, the Landfill Operator shall immediately notify Dane County and shall confirm the report in writing within one (1) week of discovery of such hazardous waste. Upon discovery of such hazardous waste, the Landfill Operator shall cause such waste to be contained and removed in accordance with all applicable state and federal regulations.

B. Source of Waste.

The Landfill shall accept only waste generated within the State of Wisconsin.

9. Waste Reduction and Recycling.

The Landfill Operator agrees to provide recycling and recovery operations at the Landfill site including a compost facility and material recovery facility (MRF), as practical or as required by state statute. In addition, the Landfill Operator shall not allow the disposal of newsprint, ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE and PET plastic containers, tires or lead acid batteries unless the disposal of such items is otherwise permitted at landfills owned by Dane County, or landfills operated by private operators in Dane County, in accordance with Chapter 41 of the Dane County ordinances.

10. Roads and Traffic.

The Landfill Operator and the Local Committee agree:

A. Route Identification.

(1) Primary Access.

Exhibit E attached hereto shows the primary route which

will be used for access to the Landfill. The Landfill Operator and transporters of solid waste to the Landfill shall be limited to access to and from the Landfill on the primary access route described as follows:

Along Highway 12 & 18 east or west, exiting at Raywood Road, traveling down Raywood Road to Moorland Road, traveling Moorland Road "east" to Lake Farm Road and traveling Lake Farm Road to the Landfill entrance; unless these roads are closed to truck traffic, in which case the emergency access provision shall apply.

All persons transporting waste to the Landfill and leaving the Landfill shall use this route, excepting:

(a) Individual residents of the Town of Dunn or Town of Blooming Grove transporting their own residential or agricultural waste in non-commercial registered vehicles.

(b) Solid waste collection vehicles collecting waste from the Town of Dunn or Waubesa Beach areas.

(c) Solid waste collection vehicles serving the Moorland Road area west of the Moorland Road/Raywood Road intersection and east of Rimrock Road.

(2) Emergency Access.

The emergency access route to and from the Landfill shall be Clayton Road to Larson Road to Meadowview Road to Lake Farm Road to the Landfill entrance. The Landfill Operator and all authorized generators and transporters of solid waste to the Landfill shall be allowed to transport to and leave the Landfill on the emergency access route during emergencies as determined by the Landfill



Operator in consultation with the Town of Blooming Grove, and Town of Dunn Chairpersons. After notice of the emergency to the Town Chairpersons of these towns, the use of the emergency access route will be allowed for no more than 48 hours. Also emergency access will be allowed after 24 hours notice to the Town Chairperson of these two towns, not to exceed 30 days per year, or whenever the primary access route shall need major construction, repair or resurfacing, if this is for more than 30 days.

(3) Enforcement.

Access shall be enforced by the Landfill Operator as follows:

(a) All vehicles using the Landfill will be given a written notification of the primary and emergency access route to the Landfill and the above restrictions for emergency access. Further, each municipality or private contractor using the Landfill will be given this same written notification.

(b) Signs will be posted at the Landfill Operator's expense on Clayton Road, Lake Farm Road south of the Landfill entrance, Moorland Road west of the intersection of Moorland and Raywood Roads, and other roads as identified by the Standing Committee which read:

NOT A LANDFILL ACCESS ROUTE  
ACCESS TO THE LANDFILL CAN BE REFUSED

(c) Signs will be posted at the Landfill Operator's expense on the South Beltline (as allowed by Wisconsin DOT) and on Raywood Road, at the Raywood Road/Moorland Road

intersection, and on Lake Farm Road north of the Landfill entrance which will read:

PRIMARY ACCESS  
ROUTE  
TO LIBBY LANDFILL

(d) The Landfill Operator will stop and question any driver whose vehicle enters the Landfill from the south on Lake Farm Road. The driver will be requested to sign a form indicating he has just picked up a load of waste in the Waubesa Beach area, or lives in the Town of Dunn. The Landfill Operator will keep a log of all such vehicles and provide that to the Standing Committee quarterly. The first time any vehicle enters the site and is not transporting waste under the exceptions set forth in subsection 10A(1) above or emergency conditions, the driver shall be given a written warning of the consequences of further improper access, his or her name shall be recorded, and the vehicle number and/or license number shall be noted. If the vehicle or driver thereafter again improperly accesses the site, entry and use of the Landfill will be refused. All records kept under these access provisions will be sent to the Standing Committee quarterly.

(e) The Standing Committee shall approve the type and placement of access route signs, which approval shall not be unreasonably withheld.

B. Traffic Signals.

At this time it is not anticipated that any additional traffic signals or signs will be needed on any roads leading to the Landfill. The Landfill Operator shall place underground access conduits during reconstruction at the Libby Road/Lake Farm Road, and at the Moorland/Raywood Road intersections for future use as deemed appropriate by the City of Madison or Town of Blooming Grove. Any design, construction and placement of underground traffic signals access conduits shall be approved by the City of Madison Transportation Department. When and if signals are needed these will be the sole responsibility of the City of Madison and Town of Blooming Grove, respectively.

The Landfill Operator will place appropriate traffic control signs at the access driveway at its expense; including, at the Landfill exit, a no left turn sign.

C. Methods of Hauling.

The Landfill Operator agrees to require all licensed trucks delivering waste to the Landfill to meet the requirements of Wisconsin Administrative Code NR 502.06(4)(d) as it is presently stated or as hereafter amended, as a prerequisite to being allowed to cross the Operator's scales and/or use the Landfill. The Landfill Operator will use its discretion on small private pickups or one-time deliveries from other trucks, and inform these people of the NR 502.06(4)(d) rules and the requirements of this Agreement. The first occurrence in this case will not be a violation. It shall not be a violation for the Landfill Operator to allow trucks carrying earth

materials, or other materials which by their nature cannot fall from the truck, to cross the scales and/or use the Landfill without a cover. Trucks carrying materials which can fall, be blown or otherwise dislodged from the trucks shall be covered.

D. Debris Pickup.

The Landfill Operator agrees to pick up and collect debris as necessary on Raywood, Moorland east of the Raywood Road/Moorland Road intersection, on Lake Farm Road to the Landfill and the emergency access route if used by trucks delivering waste to the Landfill and wherever debris attributable to the Landfill is deposited. If the City of Madison, Town of Blooming Grove, Town of Dunn or Dane County Parks finds it necessary to collect or remove debris attributable the Landfill, the Landfill Operator agrees to pay them a collection fee equal to their actual costs. Except in emergency situations, these municipalities agree to notify the Landfill Operator of the need for debris pickup and the approximate location 24 hours prior to instituting its own debris collection efforts. If the initial notification is not in writing, it shall be followed by written notification.

The Landfill Operator shall be responsible for picking up windblown refuse originating from the Landfill on any lands. The Landfill Operator shall be permitted to enter on private lands only after receiving written permission of the owner or occupant of such lands. To that end, the Landfill Operator agrees to develop a written permit form which can be signed by the applicable owners or occupants. The Landfill Operator with a parks employee shall patrol

Lake Farm Park every Friday afternoon. All blown debris shall be picked from the Park and access roads before 9:00 a.m. Saturday morning. This procedure shall be at the Landfill Operator's expense. At all other times the Landfill Operator shall remove windblown debris from the adjacent Dane County park within 24 hours of notification. Upon the Landfill Operator's failure to make cleanup, the County will act in accordance with the first paragraph of this Section D.

E. On Site Roads.

The Landfill Operator shall adequately gravel all non-paved roads located within the designated active landfilling area and, further shall blacktop the Landfill entrance area and the entrance road to the designated active landfilling area and shall keep the same in good repair during the life of the Landfill and after closure for as long as the road is used for leachate removal. Additionally, the Landfill Operator shall apply water or calcium chloride as a dust suppressant on all roads within the active landfilling area and temporary haul roads, as needed. The Standing Committee shall determine need, if the Landfill Operator fails to control dust from roads.

11. **Operations.**

A. Hours of Operation.

The Landfill Operator shall only operate the Landfill between 7:00 a.m. and 4:00 p.m., Monday through Friday, and 7:00 a.m. and 12:00 noon on Saturdays; where operation of the Landfill is defined to mean the operation of any equipment or trucks. Waste can be

received Monday through Friday until 3:00 p.m. and on Saturday until 11:00 a.m. The Landfill may be operated from 7:00 a.m. to 5:00 p.m. on Saturdays following either:

(1) A week within which New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas Day, or other legal holidays occur; or,

(2) A week within which adverse weather conditions (such as high winds, rain, ice, or heavy snow) have either prevented the Landfill Operator from operating the Landfill for an aggregate period of more than five (5) hours in any one day or have prevented trucking from reaching the Landfill.

The Landfill may also be operated from 7:00 a.m. to 5:00 p.m. on other Saturdays with the prior consent of the Standing Committee.

B. Odor Abatement.

The Landfill Operator agrees to make every effort to control odor from the Landfill. Odor is controlled by proper operations, applying daily cover to all solid waste, and through implementation of a gas control and burning system as the Landfill develops. The Landfill Operator agrees to implement an active gas control system at this Landfill from Phase 1 closure for the life of the Landfill and forty (40) years after closure. The specifics of the gas control system will be described as part of the Plan of Operation, will conform to WDNR approvals and United States Environmental Protection Agency New Source Performance Standards (NSPS) and will consist of a minimum of a continuously burning flare designed with a sufficient

gas detention time to oxidize all odors. The system will be designed to prevent or limit noise from blowers by enclosing systems in small aesthetically designed buildings. Building designs will be submitted to the Standing Committee for approval prior to being implemented.

The Landfill Operator agrees that it will take whatever precautions are feasible to prevent emissions into ambient air of any substance or combination of substances in quantities such that objectionable odors result. If 33 percent or more of the individuals who reside within 1/4 mile of the downwind direction of the Landfill (as determined by the Standing Committee during the period of emission) claim in an advisory petition to the Standing Committee, that they have experienced objectionable odors, the Standing Committee shall bring the matter to the attention of the Landfill Operator, and if necessary, to the attention of the WDNR.

Upon a determination that objectionable odors are being emitted from the Landfill, the Landfill Operator agrees that it will adopt the abatement or control measures proposed by the Wisconsin Department of Natural Resources and agreed to by the Standing Committee. It is further agreed that if the odors are attributable to an identifiable waste type, that this waste will be disallowed for future disposal.

C. Dust Abatement.

The Landfill Operator agrees to make every effort to control dust from the Landfill operations. Dust is generated during dry conditions, and mainly attributed to vehicular traffic on roadways at the Landfill. Further, dust is generated from open unvegetated land.

Further, the Landfill Operator agrees to maintain a vegetative cover on all areas which are disturbed and not being actively used, to control windblown dust.

A water truck shall be available at the Landfill for watering access roads, borrow areas, and other areas where dust may be generated.

The Landfill Operator shall provide the Standing Committee with the name and telephone number of an employee who will be available if watering or other emergency site maintenance on the Landfill is necessary, as determined by the Standing Committee.

D. Blowing Debris Control.

The Landfill Operator and the Local Committee agree that the Landfill Operator shall:

(1) Install additional windbreaks with a minimum dollar value of \$15,000 (trees and shrubs) and have berms installed to add to the natural tree and shrub windbreak in areas along the western edge of the Landfill. Specifications for these shall be developed in the Plan of Operation and approved by the Standing Committee prior to implementation. These will also be part of the landscaping plan.

(2) Prior to the acceptance of waste, the Landfill Operator will:

(a) Repair any breaks in existing perimeter line fences.

(b) Install a 6-foot high fence (i.e., chicken-wire,



chain-link, or similar material) with a wind deflector section of minimum 6-inch height angled in on top as determined by the Standing Committee.

(c) Plant corn rows, using SCS best management practices, in the buffer zone on the Landfill Operator's property east of the active part of the Landfill. The 100-to 150-foot buffer zone of corn rows shall act as an additional control for blowing debris, with no more than one-half (1/2) of the corn being harvested annually, from the farthest rows away from the edge of the waste.

(d) Use portable fencing windscreens in the active area with a minimum ten foot height and minimum length of 100 feet.

(3) The fencing which will be used as controls and the corn rows will be cleaned of litter and debris daily. The litter and debris shall be returned to the active area for disposal. Also, as notified by the Standing Committee the Landfill Operator agrees to pick up windblown debris from Lake Waubesa within twenty-four (24) hours of notification.

(4) During windy weather, the Landfill Operator shall:

(a) Maintain the disposal area in well screened

areas.

(b) Compact the waste loads immediately after waste is deposited.

(c) Apply liberal quantities of cover soil.

(5) The Landfill Operator agrees to stop accepting waste any day when windspeeds exceed 25 mph for a sustained period of 30 minutes or more; or, when the Landfill Operator or the Standing Committee determine it necessary because of windblown paper problems. Windspeed will be monitored on a continuous basis and recorded with records being maintained and reviewed by the Landfill Operator daily as part of routine monitoring. Records may be reviewed by the Standing Committee upon request. The Landfill Operator shall inform all haulers of this rule and provisions shall be made so that the haulers can check with the Landfill Operator regarding facility closure. The meter shall be maintained as required by the manufacturer and it shall be calibrated semi-annually.

The Landfill Operator agrees to comply with all provisions of the NR 500 series of the Wisconsin Administrative Code regarding fences and windblown debris control.

If the Landfill Operator fails to meet the provisions as outlined above, the Standing Committee, after notice to the Landfill Operator, and 24 hours to address and correct the compliance, shall have the right to authorize work needed to correct the Landfill Operator's failure to comply, and the Landfill Operator agrees to pay the Standing Committee costs.

E. Landfill Vector Controls.

The Landfill Operator agrees to properly compact and cover the waste and grade the site to eliminate ponded water, and to implement a proper rodent baiting program inside the fenced area.

The Landfill Operator further agrees to pay for a professional pest control specialist to regularly monitor the site (four times per year or more often as necessary); and/or advise additional pest control measures, and implement them as needed.

If the Landfill Operator fails to meet the provision as outlined above, the Standing Committee, after notice to the Landfill Operator, and 24 hours to address and correct the complaint, shall have the right to authorize work needed to correct the Landfill Operator's failure to comply (work must be completed by certified persons), and the Landfill Operator agrees to pay the Standing Committee costs.

F. Screening.

The Landfill Operator agrees to provide screening as designated in the feasibility report, along Lake Farm Road and in the entrance area. Further, the trees in the northwest and southeast portions of the area east of Lake Farm Road will be maintained as natural screening. Additional screening will be provided as required by final WDNR approvals.

Detailed plans for this along with windbreaks detailed in subsection 11D above will be developed in the Plan of Operation and submitted to the Standing Committee for approval prior to implementation. Active Landfill areas will be further screened by perimeter berms built in advance of filling on each lift. As these

berms are built, they will be graded, topsoiled, and seeded on a regular basis.

G. Mud Tracking.

The Landfill Operator agrees to maintain the paved entrance area and Lake Farm Road free of mud tracked from vehicles from the Landfill. This will be done by maintaining graveled access roads inside the site and sweeping or washing down paved roads inside the site and on Lake Farm Road.

The Landfill Operator further agrees to investigate installation of a "tire cleaner" to be located near the Landfill exit to remove mud from tires prior to exit from the Landfill. The Landfill Operator will provide the analysis of the feasibility of installing such a device at the Landfill as part of the Plan of Operation. If deemed feasible, one will be installed.

If the Landfill Operator fails to meet the provisions as outlined above, the Standing Committee, after notice to the Landfill Operator, and 24 hours to address and correct the complaint, shall have the right to authorize work needed to correct the Landfill Operator's failure to comply and the Landfill Operator agrees to pay the Standing Committee costs. After twenty recorded violations, the Landfill Operator shall install a "tire cleaner". Each day that the Operator remains in breach of a provision herein shall constitute a separate occurrence.

H. Lighting.

The Landfill Operator will have security and other outdoor lighting in and around the Landfill buildings. Detailed building

plans and lighting shall be submitted to the Standing Committee, and lighting shall be approved by the Standing Committee prior to installation, so as not to be offensive or intrusive to owners of adjacent properties.

I. Drainage and Erosion Control.

The Landfill Operator agrees to submit final drainage and erosion control plans to the Dane County Land Conservation Committee and obtain approval therefrom. This will be done after these plans are prepared as part of the Plan of Operation for the Landfill. Plans will be implemented in accordance with the Dane County Land Conservation Committee, and the local WDNR recommendations and approvals.

Concepts agreed to can be described as follows:

Surface water drainage to perimeter ditches and discharge into sedimentation basins is the primary erosion control measure that will be applied in the borrow excavation areas during Landfill development. This may include temporary ditches, diversion berms, and/or sedimentation basins. Any run-off from this area which is not routed to a perimeter drainage ditch for eventual discharge through a sedimentation basin should be routed through erosion bales, silt fences, or temporary sedimentation basins within the borrow excavation areas.

Surface water which ponds on the liner prior to the placement of waste will be tested for conductivity. If conductivity values are below 1,000 umhos/cm this water will be pumped to the perimeter drainage ditch. If values are greater than 1,000 umhos/cm, the water

will be handled as leachate. All water which comes in contact with waste shall be treated as leachate.

Routine maintenance will include inspection and repair of all drainage ditches and sedimentation basins. Disturbed areas shall be regraded, seeded, and fertilized as necessary to maintain efficient flow and operation of all drainage features.

J. Regulatory Compliance.

The Landfill Operator will comply, at all times, with this Agreement and shall operate the Landfill at all times in complete compliance with applicable Federal and State statutes, Administrative Codes, regulations, and requirements of the WDNR as per the current amended version of NR 500 and WDNR specifications unless otherwise notified in this Agreement.

K. Landfill Operator Training.

The Landfill Operator agrees to have a certified "Manager of Landfill Operations" on site whenever waste is being received or processed and to have all Equipment Operators be certified "Operators" also.

The "Manager of Landfill Operations" shall be in direct responsible care of the Landfill when he/she is on site and he/she and Equipment Operators must hold a valid certificate issued by the Governmental Refuse Collection and Disposal Association (GRCD), or equivalent organization.

The certificates shall be posted in a conspicuous place in the landfill office. The Manager and Operators shall be recertified as required by GRCD or other equivalent organization.

## 12. Environmental Monitoring.

The Landfill Operator shall implement the testing and monitoring program outlined in this Agreement and in the Feasibility Report. Further, the Landfill Operator will undertake additional testing and monitoring as required by WDNR or imposed as a final condition of feasibility or Plan of Operation approval or any subsequent requirements.

The monitoring program outlined provides for:

### A. Ground Water and Surface Water.

Ground and surface water in the vicinity of the Landfill will be monitored quarterly in accordance with NR 500, and NR140 and the final terms and conditions of the WDNR feasibility determination.

The ground water monitoring program is designed to provide information on upgradient and downgradient ground water quality in the unconsolidated deposits from which private wells draw water. Monitoring wells are located between the facility and the private wells within 1,200 feet of the Landfill. Downgradient monitoring wells located between the facility and Lake Waubesa and the lowland A shown in Exhibit F form an early warning system for changes in ground water quality. Baseline ground water monitoring will be performed prior to Landfill operation to characterize existing ground water quality in the Landfill monitoring wells and nearby private wells. The baseline monitoring will include analysis of indicator parameters plus an extended list of additional parameters, plus VOC's in all wells.

During the period of operation, ground water will be monitored

quarterly. Three of the quarterly samples will be analyzed for indicator parameters, whereas the fourth quarter (annual) sample will also be analyzed for the additional parameters as set forth in the feasibility report.

Water levels on all the wells will be measured quarterly. Data obtained from shallow wells will be used to monitor water table variations. Well nests have been included in the monitoring program in order to detect changes in vertical ground water gradients. All existing monitoring wells not in the monitoring program will be abandoned in accordance with WDNR guidelines.

The surface water monitoring program is designed to detect changes in water levels or water quality that may potentially affect Lake Waubesa and the lowlands A shown on Exhibit F and creek near the facility. Surface water will be monitored quarterly by the Landfill Operator at sampling stations in Lake Waubesa and the lowland and the sedimentation basins. Stage height will be measured at staff gauges placed in each of these locations as well as the gauge on Nine Springs Creek. All water quality results will be submitted to WDNR and the Standing Committee on a quarterly basis.

B. Leachate Monitoring.

A leachate quality testing program will be established to meet the requirements of the Madison Metropolitan Sewerage Treatment District and the WDNR feasibility determination. Samples for this program will be taken from the sampling risers upstream of the leachate storage tanks. These results will be submitted to the WDNR with the quarterly ground water monitoring results. Quantitative



data will be obtained from meters in the flow monitoring manholes. Records of quantities of leachate collected at the Landfill will also be submitted to the WDNR and the Standing Committee quarterly.

Leachate head levels in all leachate head wells will be measured monthly. Leachate head wells will be installed after final grades are reached and final cover applied at the designated locations. Leachate head levels will be reported to the WDNR and the Standing Committee each quarter along with the ground water monitoring results.

The Landfill Operator shall design and install the leachate collection system as required by WDNR, and will comply with NR 500 requirements for leachate collection and monitoring.

C. Collection Lysimeter Monitoring.

The Landfill Operator shall construct the collection lysimeters and implement the lysimeter monitoring program as specified in the WDNR feasibility determination. A collection lysimeter is proposed in each Phase. The lysimeter consists of a Hypalon membrane to be placed beneath the clay liner to detect leaks in the liner in the most critical location.

Liquid collected in the lysimeter will be sampled at a sampling riser. The arrangement of the valves and sampling riser upstream of the lysimeter manhole will allow "fresh" samples, unaffected by stagnation, to be collected. Samples taken from the collection lysimeter will be analyzed quarterly for the parameters specified in the WDNR feasibility determination. The quantity of liquid collected in the lysimeter system will also be recorded and submitted quarterly

to the WDNR and the Standing Committee.

D. Gas Monitoring.

The Landfill Operator shall construct the gas monitoring wells and implement the gas monitoring program specified in the WDNR feasibility determination. Methane concentrations will be measured quarterly in the gas monitoring wells which surround the Landfill. Any areas where vegetative stressing appears to be occurring will also be investigated for methane. Gas monitoring results will be submitted along with the quarterly ground water monitoring results.

13. Closure/Final Use/Zoning.

The Landfill Operator agrees to cease collecting waste at the Landfill and to begin the process of closing the Landfill not more than eighteen (18) years from the date the WDNR issues an operating license to the Landfill.

The Landfill Operator agrees to:

A. Designate the active area of the Landfill as a greenspace upon closure and request to zone the actual 51 acre fill area as conservancy.

B. Close the Landfill as proposed upon achieving final grades.

C. As set forth in Section 7D above, donate a conservancy easement along the northern border of the borrow area to Dane County Parks.

14. Long Term Care.

The Landfill Operator is required to care for the site after closure and provide for financial assurance to WDNR in the form of

bonding or escrow accounts. The Landfill Operator agrees to properly close and care for the Landfill for forty (40) years after closure, including:

A. Inspect it four times per year for erosion, settlement, vegetation, stressing, etc., and make repairs to the site as necessary.

B. Conduct monitoring as required by WNDR for forty (40) years after site closure (gas, groundwater, surface water, leachate, etc.)

C. Treat leachate after site closure as required by WNDR.

D. Provide an escrow account, bond, or other form of financial responsibility as required by WNDR, in both the Landfill Operator's name and the WNDR's name; and administer it as required under NR 500 Wisconsin Solid Waste Management rules to ensure long term care is completed as required.

E. Provide an escrow account, bond, or other form of financial responsibility as required by WNDR, in both the Landfill Operator's name and the WNDR's name; and administer it as required under NR 500 Wisconsin Solid Waste Management rules to ensure closure is completed as required.

F. Pay WNDR the required fees for the State Waste Management fund, Environmental Repair fund, ground water fund, etc., to assure the site qualifies for actions under

these funds in the event of an unforeseen occurrence after forty (40) years of long-term care.

G. Establish a special Contingency Fund as outlined in Section 7F for unforeseen contingencies, and to pay for contingency actions from such Contingency Fund.

Specific amounts of the long-term care and closure funds, and the detailed provision thereof will be outlined in the Plan of Operation.

15. **Emergency Planning.**

A. Description of Potential Hazards.

The purpose of this section is to provide minimum standards for the handling and return of hazardous wastes which are accidentally brought to the Landfill.

Only wastes allowed in Section 8A shall be disposed of at the Landfill. The Landfill Operator shall comply with all provisions of NR600 and NR500. Hazardous waste shall be defined as listed in NR 605.04.

All unsuitable waste received at the Landfill shall be returned to the waste hauler or owner if he/she can be determined. All unsuitable waste shall be removed from the Landfill within two (2) weeks of notification to the City of Madison/Dane County as stated in Section 8A.

If the owner or hauler of the waste cannot be determined, the Landfill Operator shall arrange to have the waste removed at its expense.

B. Emergency Response Resources.

(1) On-site Equipment. The Landfill Operator shall at a minimum provide the equipment listed in the following section.

(2) Local Agencies. The Landfill Operator shall consult with the local fire and police departments, hospitals and emergency response teams as necessary to draft and revise the contingency plan and emergency procedures.

The Landfill Operator shall coordinate its procedures with the City of Madison Fire Department's "Hazardous Incident Team" which shall be used as a backup service to the Landfill Operator's own immediate response team.

(3) State, Federal Agencies. The Landfill Operator shall comply with all State and Federal regulations including, but not limited to those enforced by the Federal E.P.A. and O.S.H.A. and Wisconsin DNR and DILHR.

C. Contingency Plan and Emergency Procedures.

(1) The Landfill Operator shall develop a contingency plan so as to prevent or minimize human health or environmental damage in the event of fire, explosion, or any unplanned sudden or non-sudden discharge of hazardous, infectious, radioactive or asbestos waste or their constituents to air, land, groundwater or surface water. The provisions of the plan shall be implemented immediately in the event of a fire, explosion or discharge of the

preceding waste or their constituents which could threaten human health or the environment. The plan shall be approved by the City of Madison City Engineer prior to the opening of the Landfill.

(2) A copy of the contingency plan and all revisions shall be filed with the City of Madison, Towns of Blooming Grove and Dunn, County of Dane and the Standing Committee. The plan shall be reviewed and amended, if necessary, whenever the plan fails during an emergency, the list of emergency equipment changes or the operation of the Landfill changes.

(3) At all times when the Landfill is in operation there shall be at least one person present with the responsibility of coordinating all emergency response measures. This Landfill emergency coordinator shall be a certified Landfill Manager and shall be thoroughly familiar with all aspects of the Landfill's contingency plan, all operations at the Landfill, the location and characteristics of the waste handled at the Landfill and waste which is banned, the location of all haul tickets or manifests within the Landfill and the Landfill layout. In addition, the coordinator shall have the authority to commit the resources needed to carry out the contingency plan.

(4) The contingency plan shall, as a minimum, contain the following:

(a) The name, position, address and phone number, office and home, of all persons qualified to act as facility emergency coordinator, and this list shall be kept up to date. Where more than one person is listed, one shall be designated as the primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates.

(b) Procedures for emergency shutdown of Landfill operations, and the actions Landfill personnel shall take in response to fires, explosions or any unplanned sudden or non-sudden discharge of hazardous waste or hazardous waste constituents to the air, land or surface water at the Landfill.

(c) A description of the procedures that will be used to notify local police departments, fire departments, hospitals and emergency response teams of the discharge of hazardous waste or fire or explosion at the Landfill.

(d) A list of emergency equipment at the Landfill, such as fire extinguishing equipment, internal and external alarms, and decontamination equipment. This list shall be kept up to date. The list shall include the location, physical description, and description of the capabilities of each item. At a minimum, the Landfill shall have:

- (i) One (1) cubic yard of bulk granular absorbent.
- (ii) Two (2) sets of personal protective gear including gloves, coveralls, boots and a full face respirator.
- (iii) Two (2) heavy-duty fifty-five (55) gallon overpack drums to handle leaking drums. The overpack drums shall meet the specifications of D.O.T. 49 C.F.R. 173.3.
- (iv) Suitable portable fire control equipment including foam or dry chemicals and a water tank trailer or truck.
- (v) An emergency lighting system for the front gate area and any outbuildings.
- (e) Landfill employees shall be familiarized with all emergency procedures, equipment and systems contained in the contingency plan.
- (f) All Landfill communication equipment, alarm systems, meters and fire equipment shall be tested semi-annually. All defective equipment shall be repaired or replaced.
- (g) In the event an emergency takes place, the following procedures shall apply:
  - (i) The Landfill's emergency coordinator shall:
    - (A) Activate internal facility alarms or



communication systems to notify all personnel of an imminent or actual emergency situation, where applicable.

- (B) Telephone the division of emergency government and comply with the requirements of Sec. 144.76, Wis. Stats., and Ch NR158.

NOTE: the division of emergency government's 24-hour number is (608) 266-3232; collect calls accepted.

- (C) Immediately identify the character, source, amount and areal extent of any discharged materials. This may be done by observation or review of facility records or manifests, and, if necessary, by off-site chemical analysis.

- (D) Assess possible hazards to human health or the environment that may result from the discharge, fire, or explosion. This assessment shall consider both direct and indirect effects of the discharge, fire or explosion such as the effects of any toxic, irritating, or asphyxiating

gases that are generated, or the effects of any hazardous surface water runoff from water or chemical agents used to control fire and heat induced explosions.

- (E) Immediately notify appropriate local authorities, if an assessment indicates that a discharge, fire, or explosion could threaten human health or the environment outside the Landfill, and that evacuation of local areas may be advisable. The emergency coordinator shall be available to help appropriate officials decide whether local areas shall be evacuated.
- (F) Take all reasonable measures necessary to ensure that fires, explosions, and discharges do not occur, reoccur, or spread to other waste at the Landfill. These measures shall include, where applicable, stopping processes and operations, collecting and containing discharge waste, and removing or isolating containers.
- (G) Provide for treating, storing, or disposing of recovered waste,

contaminated soil or surface water, or any other material that results from a discharge, fire, or explosion at the Landfill, immediately after an emergency.

(ii) The Landfill Operator shall note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen (15) days after the incident, the Landfill Operator shall submit a written report on the incident to the Municipalities, Town of Blooming Grove and Standing Committee. The report shall include:

- (A) Name, address, and telephone number of the Landfill Operator;
- (B) Name, address, and telephone number of the Landfill;
- (C) Date, time, and type of incident, such as fire, explosion;
- (D) Name and quantity of materials involved;
- (E) The extent of injuries, if any;
- (F) An assessment of actual or potential hazards to human health or the environment, where this is applicable;
- (G) Estimated quantity and disposition of

recovered material that resulted from the incident;

(H) A narrative describing the known or suspected causes of the incident and a statement describing the measures taken to investigate the incident to determine the cause. The narrative shall also describe any necessary measures which have been or will be taken to prevent such incidents in the future.

(I) Any amendments to the contingency plan.

D. Employee Training.

The facility emergency coordinator shall be a "Landfill Manager" certified by the G.R.C.D.A. or another equivalent organization as previously stated. They shall be thoroughly familiar with all emergency and spill control equipment.

All Landfill employees shall be familiar with emergency procedure and equipment.

A fire and emergency response drill shall be conducted for all employees at least once per year.

E. Periodic Evaluation.

The Standing Committee shall review the Landfill's contingency plan and emergency procedures annually. The Standing Committee, the

Municipalities and the Town of Blooming Grove shall be notified of the Landfill's annual fire and emergency response drill two (2) weeks in advance and shall be granted access to the drill site to observe procedures if they so choose.

16. Insurance and Indemnification.

A. Indemnification.

The Landfill Operator agrees to indemnify and hold harmless and defend the Municipalities and Town of Blooming Grove, their officers, agents, employees and duly appointed committees, including the local committee under Sec. 144.445, Wis. Stats., the Standing Committee, and other committees as may be established (the "Indemnitee"), for any and all liability, loss, claims or damages that they might suffer or be required to pay as a result of any claim, demand, cost or judgment by any person or entity at any time arising in any way from, or as the result of, any anticipated or unanticipated occurrence at the solid waste facility, including but not limited to the design, siting, construction, transportation to and from by the Landfill Operator or its affiliates, operation, maintenance, control, repair, administration, surveillance, monitoring, closure, long-term care, and termination of the solid waste facility, and the disposal, treatment, and storage of the solid waste at the solid waste facility and the negotiations or terms of this Agreement, other than those matters arising from the Indemnitees' own negligence or intentional acts. This obligation shall survive the expiration of the term of this Agreement and shall continue in perpetuity.

The Landfill Operator also agrees to support, defend and/or

reimburse the cost, attorney's fees, damages or other liabilities incurred by the Indemnatee for any proceeding brought by any person or entity at any time to establish that the Indemnatee may have liability for any loss, claim or damages arising in any way from, or as the result of, any anticipated or unanticipated occurrence associated with the solid waste facility, including but not limited to the design, siting, construction, transportation to and from by the Landfill Operator or its affiliates, operation, maintenance, control, repair, administration, surveillance, monitoring, closure, long-term care and termination of the solid waste facility, the disposal, treatment and storage of the solid waste at the facility and the negotiations or terms of this Agreement, other than those matters arising from the Indemnitees' own negligence or intentional acts. The terms and conditions of this paragraph shall run with the land and continue in perpetuity.

B. Asserting Indemnification Claims; Notice.

All claims for indemnification under this Section 16 shall be asserted and resolved as follows:

- (i) In the event that any claim or demand for which the Landfill Operator may be liable to the Indemnatee hereunder is asserted against or sought to be collected from the Indemnatee by a third party, the Indemnatee shall promptly notify, in writing, the Landfill Operator of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof to the extent then

feasible (which estimate shall not be conclusive of the final amount of such claim and demand). This written notification shall be referred to as the "Claim Notice". The Landfill Operator shall have fifteen (15) days from the time the Claim Notice is given or such shorter time as may be reasonably required under the circumstances (the "Notice Period") to notify the Indemnitee (A) whether or not the liability of the Landfill Operator to the Indemnitee hereunder with respect to such claim or demand is disputed and (B) whether or not the Landfill Operator desires at its cost and expense, to defend the Indemnitee against such claim or demand.

- (ii) In the event that Landfill Operator notifies the Indemnitee within the Notice Period of the desire to defend the Indemnitee against such claim or demand, Landfill Operator shall have the right to defend by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by it to a final conclusion. To the extent that a defense against any such claim or demand or any portion thereof is finally unsuccessful, it shall conclusively be deemed an indemnification obligation of the Landfill Operator. If the Indemnitee desires to participate in, but not control, any such defense or settlement it may do so at its sole cost and expense.

(iii) If Landfill Operator elects not to defend the Indemnitee against any claim or demand for money damages, whether by not giving the Indemnitee timely notice as provided above or otherwise, then such claim or demand shall be conclusively deemed an indemnification obligation of the Landfill Operator. In the event Indemnitee decides to defend against such claim or demand, Indemnitee's costs and expenses shall not be deemed an indemnification obligation of the Landfill Operator.

C. Insurance.

(1) Liability Insurance. The Landfill Operator agrees to name the Town of Dunn, Town of Blooming Grove, City of Madison, and Dane County, their officers, agents, employees and duly appointed committees, including the Standing Committee and the Local Committee under Section 144.445 Wis. Stats., as additional insureds under the following policies as respects the Landfill: Comprehensive General Liability with a combined single limit coverage of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) umbrella coverage from start of Landfill construction for the full term of this Agreement. The City of Madison, the Towns of Blooming Grove and Dunn and the County of Dane shall be provided with copies of the policies of general liability and umbrella insurance



coverage within thirty (30) days of the effective date of the Agreement and within thirty (30) days of renewal of each such policy. If the Landfill Operator's insurance is underwritten on a Claims-made basis, the Retroactive Date shall be prior to or coincide with the effective date of this Agreement and the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive date. Landfill Operator shall maintain coverage for the duration of this Agreement and for two (2) years following the completion of this Agreement. Landfill Operator shall furnish all municipalities, annually, a Certificate of Insurance as evidence of coverage. It is further agreed that the Landfill Operator shall furnish all municipalities with a thirty (30) day notice of aggregate erosion, an advance of the retroactive date, cancellation, or non-renewal. It is also agreed that either Landfill Operator or all municipalities may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by the Landfill Operator.

- (2) Environmental Impairment. In addition to Landfill Operator's payments to the Contingency Fund, its financial responsibility obligations for environmental repair, long-term care and closure under NR 500, and its obligations to make payments to the waste

management fund under NR 500, the Landfill Operator shall pledge its full credit and resources towards coverage of any claim of environmental impairment arising out of or relating to the Landfill.

17. Severability.

If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to the parties or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of said Agreement shall be valid and enforced to the full extent permitted by law.

18. Waiver.

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. The failure of the Standing Committee or Municipalities to enforce at any time, any of the provisions of this Agreement, or to exercise any option which is herein provided, or to require at any time, performance by the Landfill Operator of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part thereof, or the right to therefore enforce each and every such provision.

19. Arbitration of Disputes; Attorneys' Fees.

Disputes arising from the interpretation of this Agreement shall be decided by arbitration. A list of five (5) arbitrators, supplied by the Waste Facility Siting Board, shall provide the source for selecting an arbitrator.

From a list of five (5) arbitrators, the Landfill Operator and Standing Committee shall each strike one name (with the party initiating the arbitration making the first strike), until one name remains. The remaining shall act as arbitrator and he/she shall handle the arbitration.

Any arbitration proceedings under this paragraph shall be governed by Chapter 788, Wis. Stats. (The Arbitration Act)

The fee for the arbitrator shall be paid by the party against whom the arbitrator rules.

The prevailing party in any action to enforce the provisions of this Agreement shall be entitled to recover all fees and costs, including, but not limited to attorneys and expert witness fees reasonably incurred by the prevailing party in such action.

#### 20. Incorporation of Successor Statutes.

Whenever reference is made to any specific statute or administrative code by the terms of the Agreement, such reference shall incorporate any successor statutes or administrative codes.

#### 21. Notices.

All notices, consents, requests, instructions, claims, approvals and other communications provided for herein and all legal process in regard hereto shall be validly given, made or served, if expressed in writing and delivered personally or sent by registered or certified mail, postage prepaid, to the address set forth here:

- (a) If to the Landfill Operator:  
Madison Landfills, Inc.  
6411 Mineral Point Road  
Madison, WI 53705

(b) If to Dane County:  
Dane County Clerk  
112 City-County Building  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53709

(c) If to City of Madison:  
City of Madison Clerk  
103 City-County Building  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53709

(d) If to Town of Dunn:  
Town of Dunn Clerk  
4156 CTH-B  
McFarland, WI 53558

(e) If to Town of Blooming Grove  
Clerk of Blooming Grove  
3325 Thurber Avenue  
Madison, WI 53714

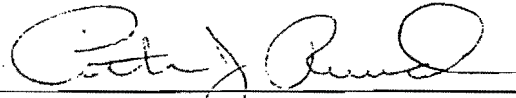
(f) If to Standing Committee:

(Address to be Designated by

Standing Committee upon organization)

or, to such other addresses as any party hereto may, from time to time, designate in writing, delivered in like manner. All notices shall be deemed given on the date personally delivered or certified by the U.S. Postal Service as delivered in the manner described.

Submitted by Madison Landfills, Inc. this 12th day of August,  
1991.



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Peter J. Ruud  
William E. Callahan  
Davis & Kuelthau, S.C.  
Attorneys for Madison Landfill, Inc.

P.O. ADDRESS:  
Davis & Kuelthau, S.C.  
111 E. Kilbourn Avenue  
Milwaukee, WI 53202  
(414) 276-0200

A-ML11.PJR

LEGAL DESCRIPTION

The NE 1/4 of the SE 1/4, Section 31, T7N, R10E; and

That part of the SW 1/4, Section 32, T7N, R10E, described as follows:

Beginning at the S 1/4 section corner, thence N along the 1/4 line 1237 feet, thence W 602.3 feet, thence N 1239.5 feet, thence W 173 feet, thence N 165 feet to the N line of the NW 1/4 of the SW 1/4, thence W along the N line of the NW 1/4 of the SW 1/4 to a point 1,090 feet E of the NW corner of said NW 1/4 of the SW 1/4, thence S 200 feet, thence W 1,090 feet to the W line, thence S along the W line to the SW corner of the SW 1/4, thence E along the S line to the place of beginning; except that part described as follows:

Beginning at the Southwest corner of Lot 4 of Certified Map 636 recorded in Volume 3 of Certified Surveys on pages 151 and 152, Dane County Registry; thence North  $89^{\circ}34'15''$  East, 298.00 feet along the South line of said Lot 4 and a true extension thereof, to the Southeast corner of Lot 1 of that Certified Survey Map 3792, recorded in Volume 15 of Certified Surveys, pages 303-304; thence North  $0^{\circ}44'15''$  East, 200.00 feet to the North line of the Southwest 1/4 of said Section 32, also being the center line of Libby Road; thence North  $89^{\circ}34'15''$  East, 676.50 feet along said North line of the Southwest 1/4; thence South  $0^{\circ}50'44''$  West, 420.00 feet; thence South  $89^{\circ}34'15''$  West, 973.70 feet; thence North  $0^{\circ}44'15''$  East, 220.00 feet to the aforesaid Southwest Corner of Lot 4 of Certified Survey Map 636 and the point of beginning, except that northerly portion thereof which is reserved for road right-of-way purposes.

## EXHIBIT B

### STANDING COMMITTEE

#### 1. Purpose

A Standing Committee shall be established to monitor the construction and operation of the Landfill site. The Committee's responsibilities shall include, among other things, reporting resident complaints to the Landfill Operator and responding to such complaints, holding regular meetings to review summaries to the Dane County Board, City of Madison Common Council and Towns of Blooming Grove and Dunn Town Boards. This language does not in any way relieve the Landfill Operator of its obligation to respond to complaints.

#### 2. Membership

Membership on the Committee shall consist of: one resident of the Town of Blooming Grove to be appointed by the Blooming Grove Town Board; one resident of the Town of Dunn to be appointed by the Dunn Town Board; one member selected by the Mayor of the City of Madison with the approval of the Common Council; one member of the Dane County Public Works staff appointed by the County Executive of the County of Dane, with the approval of the Dane County Board of Supervisors; and, one member of the Public Works Committee of the Dane County Board and approved by same. All members of the Committee shall be appointed within thirty (30) days of

issuance by the WFSB of its arbitration award for Madison Landfills, Inc., Libby Landfill (the "Agreement"). Each public member of the Committee shall serve for a term of three (3) years; provided, however, that the initial term of the member of the Committee appointed by the City of Madison shall be one (1) year, and the initial term of one member of the Committee appointed by Dane County shall be two (2) years, so that members of the Committee appointed by public bodies shall serve staggered terms. The Standing Committee shall elect, from among its members, an individual to function in the capacity of chairperson. For any action taken by the Committee, unless otherwise expressly provided, a majority vote of the Standing Committee is required. The Landfill Operator's representative shall serve in an ex officio manner and shall not vote on any of the issues that arise.

3. Term

The Committee shall continue to function for the active life of the Landfill and for a minimum of forty (40) years after closure. After the minimum period, the Committee shall continue to function until such time as a majority of the members of the Standing Committee vote to dissolve the Committee.

4. Replacement and Removal

A Standing Committee member may voluntarily resign at any time. Any Standing Committee member may be removed by the Standing Committee for good cause and upon a three-fifths



(3/5) vote of the Standing Committee. Any vacancy on the Standing Committee shall be filled within thirty (30) days by the appropriate unit of government.

5. Quorum

Three (3) members shall constitute a quorum.

6. Documents, Reports and Notices

All technical reports, monitoring data and other information or documents supplied to the State of Wisconsin Department of Natural Resources by the Landfill Operator shall be supplied to the Standing Committee at no cost. This shall include the plan of operation, any proposed amendments to the feasibility study, any proposed changes to any special conditions imposed by the State of Wisconsin Department of Natural Resources and all other reports required by this Agreement. At least three (3) weeks notice shall be provided to the Standing Committee prior to commencement of construction of any new cells. The Landfill Operator shall also notify the Standing Committee within one (1) week of all complaints received from residents and of all changes in the insurance coverage described in Section 16 of the Agreement.

7. Meetings

The Standing Committee shall hold an organizational meeting within thirty (30) days of the appointment of the last member of the Standing Committee by a public body for the purpose of electing officers, scheduling further meetings and such other matters as the members of the Standing Committee

shall deem necessary or appropriate. Thereafter, the Standing Committee shall hold regular semi-annual meetings in March and October of each year. At the meeting held in March the Standing Committee shall issue a written report detailing its activities for the preceding twelve (12) months. The Standing Committee may establish a schedule for meetings for the purpose of review, explanation and discussion of technical data and the status of the Landfill site construction, operation and closure. Special meetings of the Standing Committee may be held upon twenty-four (24) hours notice either personally delivered, or by telephone where written notice is expressly waived by the person receiving telephonic notice, for the purpose of addressing any issue of concern involving the Landfill site construction, operation or closure. The Committee shall publish a schedule of planned meetings. Upon the occurrence of an event deemed by any Standing Committee member to constitute an emergency condition, a special meeting may be called with less than twenty-four (24) hours notice, provided each Standing Committee member is personally notified. The public may attend any Standing Committee meeting.

8. Committee Access to Site

Individual Committee members with proper identification shall have the right to conduct on-site inspections of the Landfill site. Such inspections shall be conducted during operating hours, but only after giving notice to the Landfill

Operator's employee in charge at the Landfill site, if immediately available. If such individual is not immediately available, then notice to any of the Landfill Operator's employees on the site shall constitute notice under this provision. In a condition deemed an "emergency" by the majority of the Standing Committee, access during operating or nonoperating hours shall be provided within three (3) hours of notifying the Landfill Operator. The Landfill Operator may restrict access to certain areas if necessary for the safety of the Standing Committee members. Members of the Standing Committee may also inspect the daily log for the site at the time of such inspection.

9. Notices To The Operator

If, in the judgment of the majority of the Standing Committee members, the Landfill site is not being constructed or operated in compliance with the approved plan of operation, or with any applicable state statute or regulation, or this Agreement or any other provision of the law, whether it be within law or equity, the Standing Committee may serve written notice of such perceived noncompliance upon, and may make recommendations to, the Landfill Operator. Similarly, if any aspect of the construction, operation or closure of the Landfill site causes or is likely to cause, in the judgment of the majority of the Standing Committee, a problem due to noise, dust, debris, odor, maintenance of access road, litter, etc., the Standing Committee may serve upon the Landfill

Operator written notice of the Standing Committee's concern and make recommendations to remedy or address such concern. The Standing Committee may report any suspected violations at any time to DNR or Dane County Environmental Health.

10. No Waiver of Rights

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

11. Enforcement

The Standing Committee shall have legal standing in its own name to enforce any provision of law or any provision of the Agreement if the Landfill Operator fails to remedy the concern of the Standing Committee as herein before stated. Upon receipt of any notice of non-compliance or notice of an issue of concern to the Committee, the Landfill Operator shall immediately investigate any allegations of non-compliance or issue of concern made by the Standing Committee and shall initiate action within twenty-four (24) hours to alleviate

and/or correct the situation. The Landfill Operator shall deliver a written report concerning the investigation and any resulting remedial action to the Standing Committee within seventy-two (72) hours of receipt of the original notice. The Landfill Operator may petition the Standing Committee for an extension of the above time limits and, upon showing sufficient cause, the Standing Committee may extend the limits.

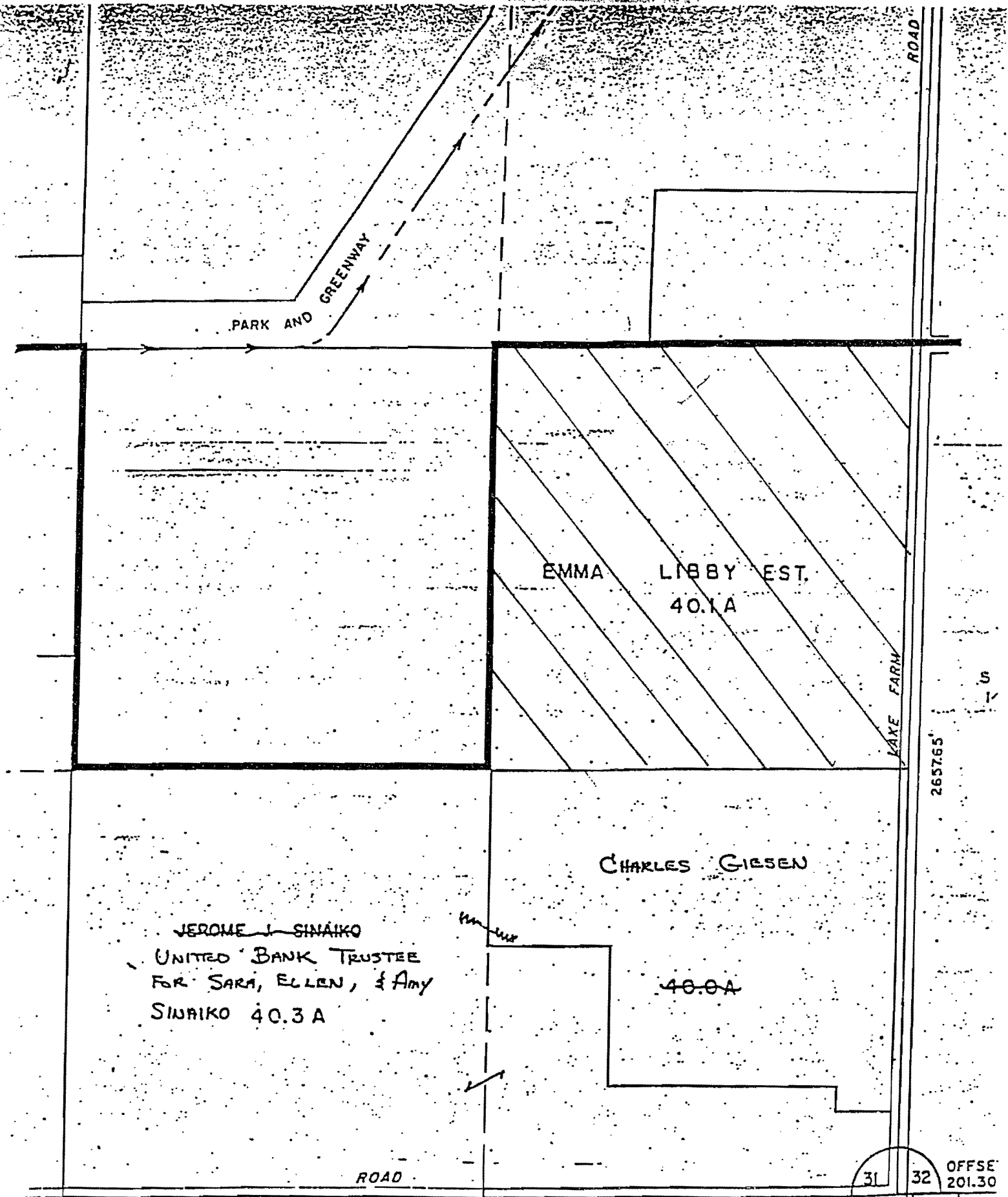
12. Telephone Numbers

The Landfill Operator shall supply the Standing Committee with the telephone numbers at which three of its representatives can be reached at all times, including weekends, holidays, and nighttime hours for the purpose of making an immediate response.

The representatives of the Landfill Operator shall be able to meet members of the Standing Committee at the Landfill for the purpose of making a site investigation within three (3) hours of the phone notification.

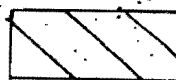
13. Standing Committee Funds

The Standing Committee shall deposit all funds received under Section 3 of the Agreement in an interest-bearing account. The Standing Committee shall approve all disbursements from such account by majority vote. If there remain any sums in the account after the Committee is dissolved, the Standing Committee may disburse such sums equally among the four (4) municipalities.



DUNN

2636.28'



Borrow Area

EXHIBIT D  
ESCROW AGREEMENT

THIS ESCROW AGREEMENT (hereinafter referred to as the "Escrow Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_, among Madison Landfills, Inc., a Wisconsin corporation (hereinafter referred to as the "Landfill Operator"), and the City of Madison, Dane County, and the Town of Dunn (collectively the "Municipalities", individually a "Municipality") and \_\_\_\_\_, a trust company [or other type of mutually acceptable institution] qualified to do business in Wisconsin (hereinafter referred to as the "Escrow Agent").

WITNESSETH

Whereas, the Landfill Operator and the Municipalities are parties to an arbitration award issued by the Waste Facility Siting Board for the Libby Landfill (hereinafter referred to as the "Agreement");

Whereas, the Landfill Operator has undertaken certain obligations in the Agreement and agreed to provide a source of funds under Section 7H of the Agreement in the event those obligations are not met, or in the event funds are required for any of the reasons set forth in Section 7F of the Agreement;

Whereas, a condition contained in the Agreement is the execution and delivery by the Landfill Operator of this Escrow Agreement; and

Whereas, the parties desire that \_\_\_\_\_ serve as Escrow Agent, and \_\_\_\_\_ is willing to do so, all under the terms and conditions set forth in this Agreement.

Now, therefore, the parties hereto, in consideration of the mutual covenants contained herein and in the Agreement, and intending to be legally bound hereby, agree as follows:

1. Definitions. Unless otherwise specifically defined in this Escrow Agreement, all terms used herein shall be as defined in the Agreement.

2. Deposit in Escrow. The Landfill Operator shall deposit with and deliver to the Escrow Agent, the amounts described in Sections 7F and 7H of the Agreement. These amounts are referred to as the Contingency Fund and Escrow Account, respectively. The Escrow Agent shall accept and invest the Contingency Fund and Escrow Account, and administer them as described in this Escrow Agreement and the Agreement.

3. Obligations of Escrow Agent. Escrow Agent shall hold the Contingency Fund and Escrow Account for the time required by this Escrow Agreement and the Agreement and manage them in accordance with the terms of this Escrow Agreement.

4. Interest. While the Contingency Fund and Escrow Account are held by the Escrow Agent, all interest thereon shall be added to the Contingency Fund or Escrow Account as applicable, and managed in accordance with the terms of the Agreement as if it had been deposited by Landfill Operator. At such time as the Contingency Fund totals Twenty Million Dollars (\$20,000,000), the



Escrow Agent shall retain additional interest or pay a portion of such additional interest to Landfill Operator as set forth in Section 7F of the Agreement.

5. Demands and Payment.

5.1 A "Demand" is a formal request to the Escrow Agent for payment. The Demand shall state the basis upon which payment is requested. The Demand must be in writing and delivered to the Escrow Agent in accordance with Section 10 hereof, with a copy to all of the other parties.

5.2 If, within fifteen (15) days of the date of a Demand, the Landfill Operator indicates in writing to the Escrow Agent, with copy to the Municipalities delivered in accordance with Section 21 of the Agreement, its opposition to the Demand and in detail its reasons therefor (the "Opposition Notice"), the Escrow Agent shall not pay the Demand.

5.3 If no Opposition Notice is issued within the required fifteen (15) days, the Escrow Agent shall immediately pay the Demand.

5.4 If the Landfill Operator and the party making the Demand are able to resolve the dispute by mutual agreement, they shall jointly instruct, in writing, the Escrow Agent. The Escrow Agent shall comply with these instructions. If the parties are unable to resolve the dispute by mutual agreement, then at any time after thirty (30) days from the date of the Demand the party making the Demand may institute arbitration in accordance with Section 6 hereof.

5.5 If the Demand is granted as a result of the Arbitration, interest on that portion of the Demand granted from the date of the Demand to the date of the payment of the Demand by the Escrow Agent shall accrue for the benefit of the party making the Demand, and shall be paid when the Demand is paid.

6. **Arbitration.** All disputes hereunder shall be settled in accordance with Section 19 of the Agreement, except that any request for arbitration made hereunder shall indicate in detail the relief sought and what action the Escrow Agent should take if the requesting party's position is upheld.

7. **Distribution and Termination.**

7.1 As specified in Section 7H of the Agreement, the Escrow Agent shall release the Escrow Account to Landfill Operator, upon receipt of notice that the Landfill is closed (as defined in Section 144.43(lm), Wis. Stats.).

7.2 Ten (10) days after the parties notify the Escrow Agent of their intention to terminate the Contingency Fund under Section 7F of the Agreement, the Escrow Agent shall reserve from the Contingency Fund, an amount equal to the amount of all then Pending Demands (as hereinafter defined). The balance, if any, of the Contingency Fund not reserved, as provided above, shall be distributed by the Escrow Agent as directed by the parties.

7.3 At such time as all Pending Demands are finally determined and paid, the Escrow Agent shall distribute the balance, if any, remaining in the Contingency Fund as directed by the

parties. This Agreement shall terminate upon the complete distribution of the Contingency Fund.

7.4 For the purposes of the Escrow Agreement, a "Pending Demand" is any claim upon the Contingency Fund which is included in a Demand sent or delivered to the Escrow Agent under Section 5 of this Agreement on or prior to the date of the notice that the Contingency fund will terminate under Section 7.2 and which has not been finally determined and paid on or prior to such distribution date.

8. **Resignation and Removal of Escrow Agent.** The Escrow Agent may resign or be removed by the mutual agreement of the parties, upon thirty (30) days written notice to all parties given prior to the effective date of the resignation or removal. In the event of the resignation or removal of the Escrow Agent, and the failure of the parties to agree upon a successor Escrow Agent within thirty (30) days after the receipt of notice of such resignation or removal, the Municipalities shall have the right to appoint a successor Escrow Agent which shall be a trust company authorized to do business in the State of Wisconsin. Any successor Escrow Agent, whether appointed by the mutual agreement of the parties or otherwise, shall execute and deliver to the predecessor Escrow Agent and all other parties an instrument accepting such appointment under the terms and conditions of the Escrow Agreement, and thereupon the successor Escrow Agent shall, without further act, become vested with all the rights, powers and duties of the predecessor Escrow Agent as if originally named herein.

9. Liability of Escrow Agent; Expenses.

9.1 The Escrow Agent shall have no liability or obligation with respect to the Contingency Fund, the Escrow Account or the parties, except for the Escrow Agent's negligence or willful misconduct. The Escrow Agent may rely upon any instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which the Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by the person or parties purporting to sign the same, and to conform to the provisions of this Escrow Agreement.

9.2 The parties agree that the fees and expenses of the Escrow Agent charged and incurred in performing its obligations hereunder shall be paid from the Contingency Fund.

10. Notices. Notice shall be given in accordance with Section 21 of the Agreement, provided that all notices to the Escrow Agent shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Contents of Agreement; Parties in Interest; Assignments; Etc. This Escrow Agreement and the Agreement and the attachments thereto set forth the entire understanding of the parties hereto with respect to the subject matter hereof. All of the terms and provisions of this Escrow Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs,

representatives and successors of the parties hereto. The Escrow Agreement shall not be amended except by written instrument duly executed by the parties and acknowledged and accepted by the Escrow Agent. The use of any pronoun herein when referring to any party has been for convenience only and shall be deemed to refer to the particular party intended.

12. **Governing Law.** This Escrow Agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.

13. **Cooperation.** Subject to the terms and conditions herein provided, each of the parties hereto shall use its best efforts to take, or cause to be taken, such action, and to execute and deliver, or cause to be executed and delivered, such additional documents and instruments and to do, or cause to be done, all things necessary, proper or advisable under the provisions of this Escrow Agreement and under applicable law to make effective the transactions contemplated by this Escrow Agreement.

14. **Counterparts.** This Escrow Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Escrow Agreement or any counterpart hereof to produce or account for any of the other counterparts.

In witness whereof, that Landfill Operator, the Municipalities and Escrow Agent each have executed this Agreement, on the day and date shown above.

MADISON LANDFILLS, INC.

By: \_\_\_\_\_

Attest: \_\_\_\_\_

COUNTY OF DANE

By: \_\_\_\_\_

Attest: \_\_\_\_\_

CITY OF MADISON

By: \_\_\_\_\_

Attest: \_\_\_\_\_

TOWN OF DUNN

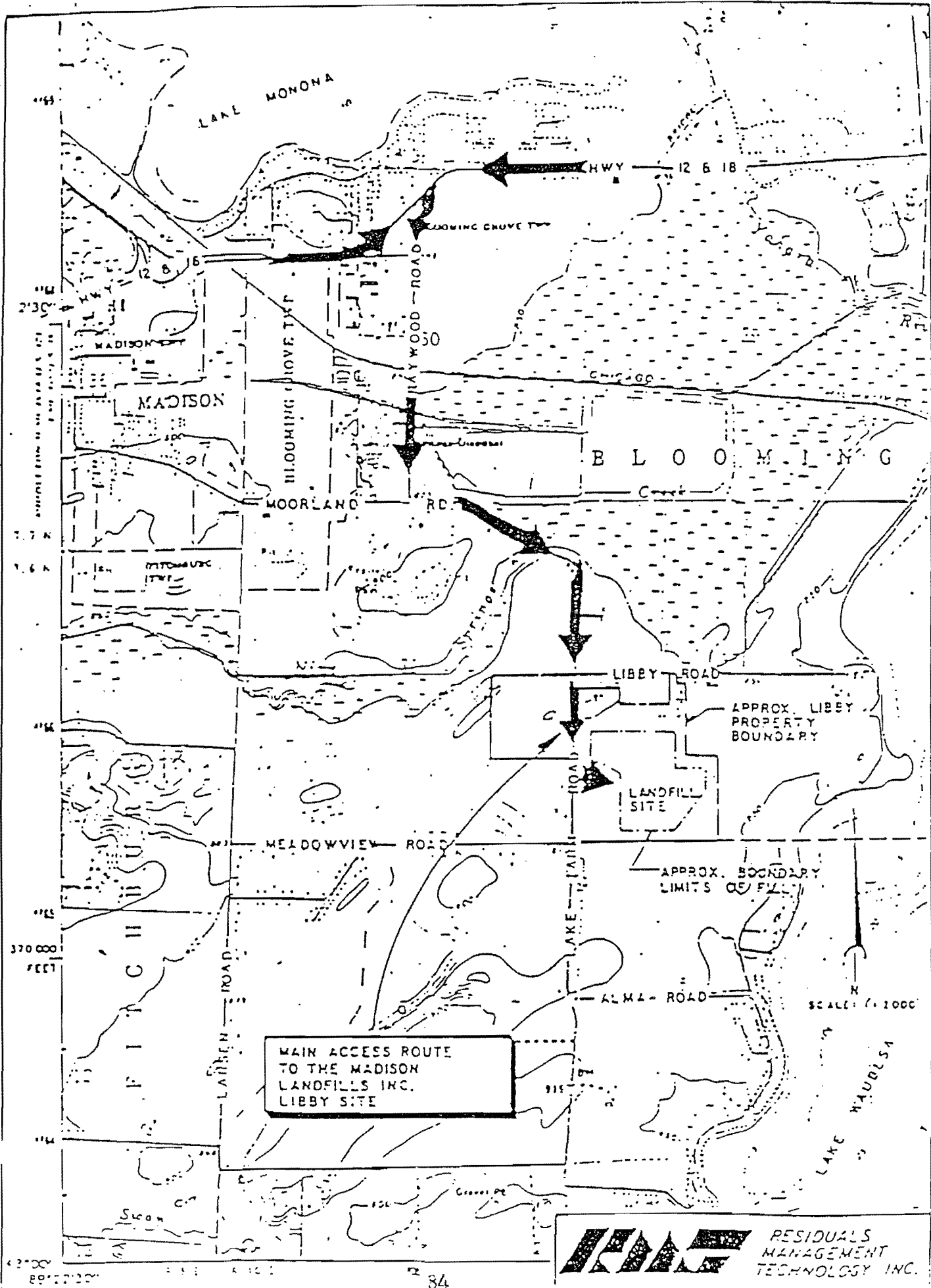
By: \_\_\_\_\_

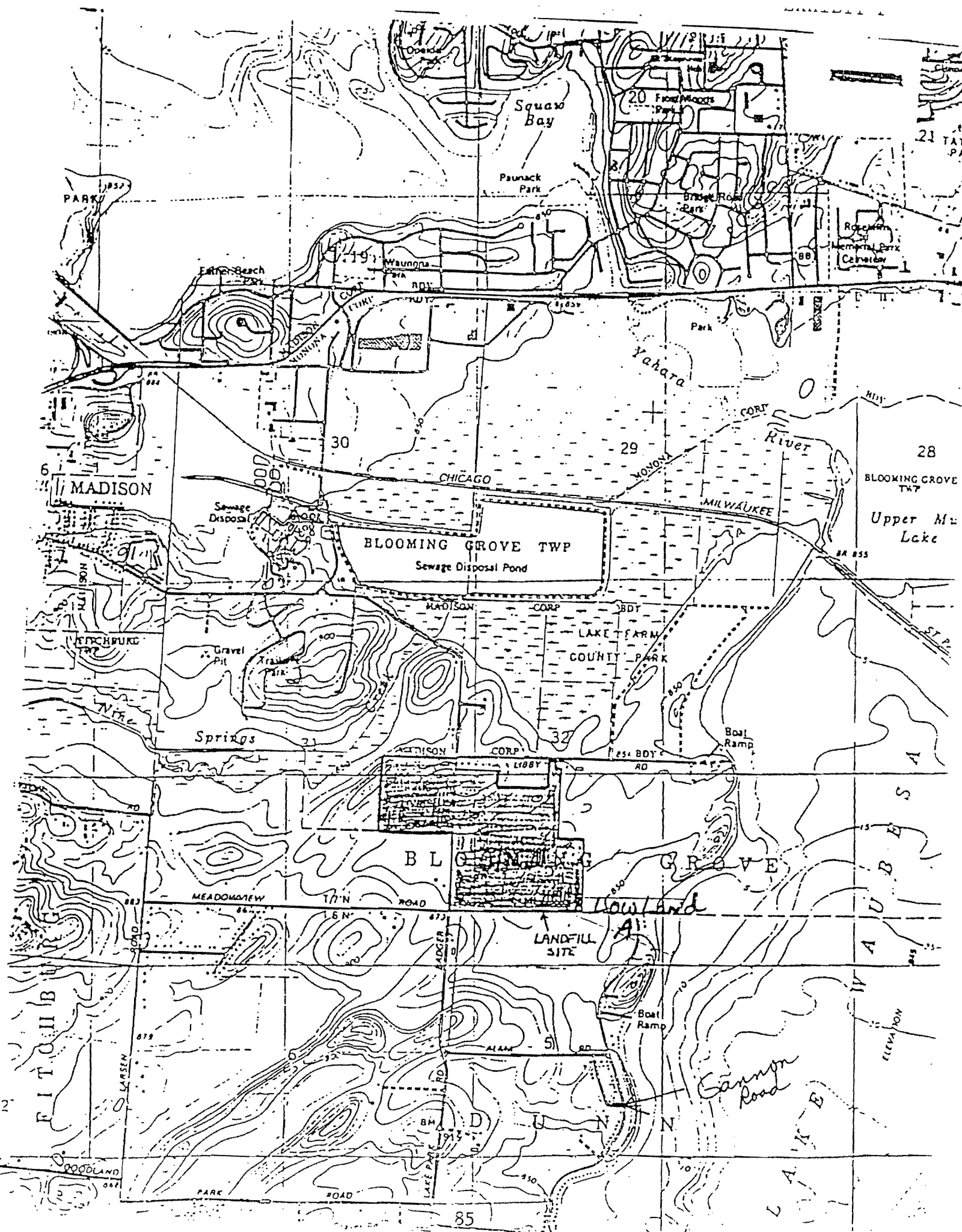
Attest: \_\_\_\_\_

[ ESCROW AGENT ]

By: \_\_\_\_\_

Attest: \_\_\_\_\_





Squaw Bay

Paunack Park

20 Forest Woods Park

21 TAYLOR PARK

PARK

Entire Beach

Waunona

Bridge Rock Park

Memorial Park Cemetery

30

29

28

MADISON

BLOOMING GROVE TWP

Sewage Disposal Pond

BLOOMING GROVE TWP

Upper Middle Lake

Sewage Disposal

CHICAGO

MILWAUKEE

Gravel Pit

LAKE FARM COUNTY PARK

Springs

Boat Ramp

B L

G R O V E

MEADOWNEW

17 N ROAD

Lowland

LANDFILL SITE

Boat Ramp

FITZGIBB

Cannon Road

85

ELEVATION



EXHIBIT G

ANNUAL DIRECT PAYMENTS

<u>Property Address</u>	<u>Annual Payment</u>
4479 Libby Road	\$1,500
4473 Libby Road	1,000
4467 Libby Road	1,000
4450 Libby Road	1,000
4449 Libby Road	1,000
4443 Libby Road	1,000
4269 Libby Road	500
3162 Waucheeta Trail	1,000
3158 Waucheeta Trail	1,000
3154 Waucheeta Trail	1,000
3150 Waucheeta Trail	1,000
3146 Waucheeta Trail	1,000
3140 Waucheeta Trail	500
3136 Waucheeta Trail	500
3132 Waucheeta Trail	500
3128 Waucheeta Trail	500
3218 Lake Farm Road	2,000
3424 Lake Farm Road	1,500
4551 Meadow View Road	500
4561 Meadow View Road	500