

FEB 13 2004

LANDFILL AGREEMENT
ORCHARD RIDGE LANDFILL, SOUTHERN EXPANSION
FEBRUARY, 2004

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**LANDFILL AGREEMENT: ORCHARD RIDGE LANDFILL, SOUTHERN
EXPANSION**

1.0 Agreement. This agreement ("Agreement") entered into this 6th day of February, 2004 (the "Date of this Agreement"), by and between Waste Management of Wisconsin, Inc., a Wisconsin corporation with its principal offices located at W124 N8925 Boundary Road, Menomonee Falls, Wisconsin ("Operator") and the Village of Menomonee Falls, a Wisconsin municipal corporation located in Waukesha County ("Menomonee Falls"), and Waukesha County, a Wisconsin municipal corporation ("Waukesha County") and the Menomonee Falls/Waukesha County, Local Committee-Orchard Ridge Landfill ("Local Committee").

2.0 Recitals.

WHEREAS, the Operator gave notice to the clerks of Menomonee Falls and Waukesha County of its intent to construct and operate the Landfill (as subsequently defined) and asked the clerks to identify, pursuant to § 289.22(1m) Wis. Stats., all local approvals required for said construction and operation; and

WHEREAS, Menomonee Falls and Waukesha County passed resolutions indicating their intent to negotiate and, if necessary, arbitrate the Landfill, and Menomonee Falls appointed four (4) members to the Local Committee and Waukesha County appointed two (2) member to the Local Committee; and

WHEREAS, pursuant to § 289.33 Wis. Stats., the Local Committee has negotiated this Agreement with the Operator and has held public hearings to ascertain the issues of concern held by the public; and

WHEREAS, the Local Committee has recommended the adoption by Menomonee Falls and Waukesha County of resolutions or ordinances approving this Agreement.

3.0 General.

3.1 Applicability. This Agreement shall be applicable to the Operator and its parent, subsidiaries, successors and assigns.

3.2 Commencement. Except as otherwise provided herein, this Agreement shall commence on the day that the Operator receives a solid waste disposal facility license from the Department of Natural Resources for the operation of the Landfill ("Operating License") provided that the Operator has executed this Agreement and the Village Board of Menomonee Falls has approved this Agreement by adopting a resolution or ordinance acceptable to the Operator ("Commencement"). The clerk of the Village of Menomonee Falls shall insert above, the date of passage of said resolution. If the County Board of Waukesha County approves this Agreement by resolution or ordinance, the Agreement shall inure to the benefit of Waukesha County as well. The Operator shall give prompt notice to the clerks of Menomonee Falls and Waukesha County when it receives said Operating License.

3.3 Waiver. The parties acknowledge and agree that the Municipality's authority to regulate and control the Landfill through its or their zoning and police powers has been, in part, waived by this Agreement.

3.4 Term. The Term of this Agreement shall be from Commencement to forty (40) years after Final Closure and shall consist of two components: (1) the first component (Initial Term) shall be from Commencement to Final Closure and (2) the second component shall be from Final Closure until forty (40) years after Final Closure.

4.0 Definitions.

Clean Fill means soil, sand, dirt or other naturally occurring material that contains essentially no man-made components and which is not required by the Department to be disposed of in a solid waste disposal facility.

Daily Cover means cover which meets the requirements of NR 506.05, Wis. Adm. Code.

Date of this Agreement means the date, whether or not written into Section 1.0 above, when Menomonee Falls approves this Agreement by majority vote of its Board of Trustees.

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

Design Capacity means the in-place volume, in cubic yards, of the Solid Waste and all cover approved by the Department for Disposal at the Landfill.

Dirty Fill means any soil, sand, dirt or other naturally occurring material that does not meet the definition of Clean Fill.

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

Disposal or Dispose means the discharge, deposit, injection, dumping or placing of Solid Waste in the Landfill.

Expansion means the expansion at anytime by any means by the Operator beyond the Design Capacity of the Landfill.

Feasibility Report means the feasibility report received by the Department on April 30, 2003.

Final Closure means the date after which no further Solid Waste shall be Disposed in the Landfill by the Operator or by any other person, which shall be the earliest date of the following:

- a) The date the Operator notifies the Municipality, in writing, that the Operator is no longer Disposing and no other person is Disposing Solid Waste in the Landfill;

- b) The date for cessation of Disposal of Solid Waste in the Landfill as ordered by the Department; or
- c) The date the Landfill has reached Design Capacity.

Hazardous Waste means any Waste defined as a Hazardous Waste by the Department, under § Chap. 291, Wis. Stats., or its successor statute, or under regulations adopted by the Department in Chapter NR 600 et seq. Wis. Adm. Code, or its successor chapters, or by the USEPA pursuant to 42 USC 6901, et. seq., and 40 CFR 261 et. seq., as amended. This term does not include incidental household Hazardous Waste from residences.

Initial Term shall be the period from Commencement of this Agreement until Final Closure.

Landfill means that portion of the Solid Waste Facility depicted and described in Exhibit "A" and identified as "Landfill" at which Solid Waste Disposal will occur. The Parties acknowledge that the Landfill as identified will include land south of the current landfilling activity known as Orchard Ridge and will overlay onto the current landfilling activity.

Landfilling Operations means the activities of the Operator at the Solid Waste Facility related to or associated with the Landfill, including the constructing, surveying, environmental monitoring, environmental testing, repairing, maintaining, operating (including the extraction and transportation of clay, daily cover, rooting zone materials, and topsoil and including the operation of equipment), accepting and Disposing of Solid Waste and closing of the Landfill, and including the covering of the Landfill, where all of the above-noted activities occur anytime during the Initial Term of this Agreement.

Local Approvals means any local approval as "Local Approvals" are defined in § 289.33(3)(d), Wis. Stats.

Local Committee means the Menomonee Falls/Waukesha County Local Committee - Orchard Ridge Landfill created under § 289.33, Wis. Stats.

Long-Term Care or Long-Term Care Operations means activities at the Landfill, including care, maintenance and monitoring in and around the Landfill which occur anytime following the Final Closure of the Landfill.

Municipality means the Village of Menomonee Falls, its officers, employees and agents and shall also mean Waukesha County, its officers, employees and agents provided that the County Board of Waukesha County has approved the Agreement.

Operating License means the solid waste disposal facility license issued by the Department for the operation of the Landfill pursuant to §289.31, Wis. Stats.

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

PCBs means polychlorinated biphenyls in a concentration greater than fifty (50) parts per million.

Plan of Operation means the plan of operation for the Landfill which the Operator will submit to DNR pursuant to Sec. 289.30, Wis. Stats., as approved by DNR.

Pre-Existing Local Approvals means any pre-existing local approvals, as defined in § 289.33(3)(fm), Wis. Stats.

Radioactive Waste means any source of radiation licensed by the U.S. Nuclear Regulatory Commission.

Recyclable Materials means those materials which are designated Recyclable Materials pursuant to Chapter 287, Wis. Stats. subject to any waivers granted by the Department.

Recycling or Recycling Operations means the collecting, transferring, transporting, sorting, compacting, crushing, baling, densifying and chipping recyclable solid wastes and includes the stockpiling and disposal of nonusable portions of solid wastes, but not to include melting, smelting, or any process involving the actual reuse or remanufacture of Recyclable Materials.

Solid Waste means Solid Waste as defined in § 289.01(33), Wis. Stats. and shall also include Yard Waste if Chapter 287, Wis. Stats. is amended to permit and if the Operator elects to dispose of Yard Waste in Landfill.

Solid Waste Facility means the property shown in Exhibit A designated as the Solid Waste Facility.

Storage or Store means the holding of Solid Waste at the Solid Waste Facility for a period of time, at the end of which said Solid Waste will be treated, processed and ultimately Disposed of in the Landfill or transported away from the Solid Waste Facility.

Storage Operations means any activities at the Solid Waste Facility related to the Storage of Solid Waste anytime during the Initial Term of this Agreement.

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

Treatment Operations means any activities at the Solid Waste Facility related to the Treatment of Solid Waste anytime during the Initial Term of this Agreement.

Village mean the Village of Menomonee Falls, its officers, employees and agents.

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

Yard Waste shall mean Yard Waste as defined in § 287.01(17), Wis. Stats.

5.0 Landfill Operations. Operator shall operate the Solid Waste Facility in conformance with all applicable federal and state statutes, laws, regulations and permits and with all local ordinances, regulations and permits not waived under this Agreement. In addition, Operator shall operate the Solid Waste Facility in accordance with this Agreement.

5.1 Fencing, Gates and Security. Prior to excavation of any disposal area at the Landfill the Operator shall construct a fence (chain link topped by barbed wire) at least six feet high for security and safety reasons. The Operator shall maintain the fence throughout the Initial Term of this Agreement. Such fence shall completely enclose the Landfill, except for necessary service gates, which shall be controlled and locked when not in use. A fence enclosing the Landfill and other contiguous property owned by the Operator at the Solid Waste Facility shall constitute a fence enclosing the Landfill.

The Operator shall maintain a single entrance gate to the Solid Waste Facility for access of refuse vehicles to the Landfill. The Operator shall keep the gate to the Landfill closed and locked, except during the hours of operation. The Operator shall provide security at the Landfill sufficient to keep unauthorized persons from entering the Landfill. Security measures to be implemented by the Operator shall include, but shall not be limited to, providing automatic security lighting at the Landfill entrance gate area and providing a full-time attendant at the entrance gate area at all times that the Landfill main gate is open.

5.2 Hours and Days of Operation. The Operator may conduct Landfilling Operations and accept waste at the Solid Waste Facility only between the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 3:30 p.m. on Saturday, and not on Sundays or legal holidays, , unless authorized in advance by Menomonee Falls on a temporary, emergency basis. The Operator shall conduct no other activities at the Solid Waste Facility outside of the Operator's buildings prior to one-half hour before nor later than one hour after the hours of operation stated above except that from November 1 through March 31 the Operator may start equipment one hour before the hours of operation for warm-up purposes. All activities at the Solid Waste Facility before 6:00 a.m. and after 6:00 p.m. shall be conducted without the use of vehicle back-up alarms and without producing noise which can be heard by people residing outside the Landfill.

Upon application by the Operator to the Menomonee Falls Village Manager or his or her designee, Menomonee Falls may authorize operation of the Landfill on days and at times other than as described in this paragraph, when Menomonee Falls judges such operation to be necessary as a result of adverse weather conditions or other good cause or when such operation is in the best interest of the public.

5.3 Vermin, Rodent and Insect Control. The Operator shall take all reasonable steps, including the use of professional exterminators, to control vermin, rodents and insects at the Solid Waste Facility such that they do not constitute a public health threat or a nuisance either on the Landfill or outside the Landfill. The Operator shall minimize mosquito breeding areas within

the Solid Waste Facility. At a minimum, the Operator shall employ vermin, rodent and insect control practices consistent with NR 500, et seq., Wis. Admin. Code.

5.4 Birds. The Operator shall employ state-of-the-art methods to minimize the concentration of gulls and other birds at and in the vicinity of the Solid Waste Facility, and to minimize the attractiveness of the Landfill to gulls and other birds. At least annually during the period of Landfilling Operations the Operator shall investigate what constitutes state-of-the-art bird control at landfills similar to the Landfill, and the Operator shall provide an annual report not later than March 1st of each year to Menomonee Falls and Waukesha County describing Operator's investigation and what measures the Operator considers to be state-of-the-art bird control, as well as Operator's steps for implementation of state-of-the-art methods of bird control.

5.5 Water Drainage and Erosion Control. The Operator shall comply with the more stringent of: (1) the erosion controls approved by the Wisconsin Department of Natural Resources, (2) the Menomonee Falls erosion control ordinance in effect as of the Commencement of this Agreement. The Operator shall not cause erosion of soils or vegetation nor water run-off from the Solid Waste Facility onto any surrounding land. Upon notice from Menomonee Falls or Waukesha County of any surface water runoff problem or erosion problem, the Operator shall immediately commence and promptly complete abatement of the surface runoff problem or erosion problem.

5.6 Weed and Grass Control. The Operator shall cut weeds and grass within the Solid Waste Facility at least twice during the active growing season, except that the Operator shall only be required to cut the vegetative cover on the side slopes and top of the Landfill once per year. In addition, the Operator shall control and prevent the growth of noxious weeds as defined in Section 66.96 Wis. Stats. or in the Village of Menomonee Falls Ordinances. The Operator shall maintain those areas at the perimeter of the Solid Waste Facility and along public roads adjacent to the Solid Waste Facility in a neat condition consistent with a suburban residential community.

Upon application by the Operator, Menomonee Falls may permit the creation by the Operator of a natural-style prairie in lieu of any of the requirements of this section.

5.7 Windblown Refuse.

(a) The Operator shall eliminate windblown refuse at all times to the maximum extent possible;

(b) The Operator shall pick up all material from the Solid Waste Facility which has blown outside the fenced area of the Solid Waste Facility and/or which is collected along the fence perimeter. Such pick-up shall be performed on a daily basis at least at the time of closing, and additionally as necessary unless impossible on account of adverse weather. The Operator shall attempt to eliminate windblown refuse by i) maintaining a small daily work face; ii) applying Daily Cover; iii) taking advantage of prevailing wind direction and orienting daily landfill operations accordingly; and iv) using internal screens. The Operator shall use mobile wind screens at least twelve feet in height around the active area of the Landfill whenever paper is blowing from said active area.

5.8 Odor Control.

(a) The Operator shall eliminate to the maximum extent possible noxious, offensive and foul odors from the Solid Waste Facility;

(b) All odorous materials shall be buried as soon as they are received at the Landfill and shall not be disturbed thereafter. The Operator shall apply Daily Cover to all waste at the Landfill. The Operator shall construct an active gas (negative pressure) system in each phase of the Landfill and shall activate the same after final cover is installed on each phase. The Operator shall implement and maintain an active (negative pressure) state-of-the-art gas and odor control system at the Landfill for a period of not less than forty years after Final Closure.

5.9 Dust Control.

(a) The Operator shall eliminate to the maximum extent possible the generation of dust from all roads, parking areas and unpaved or unvegetated areas of the Solid Waste Facility;

(b) At a minimum, the Operator shall pave and maintain in a paved condition all parking areas, the Landfill entrance area, scale area, recycling area and all roads up to the point of entrance to the active module of the Landfill at the Landfill, sufficient to minimize the generation of dust from such areas. The Operator shall apply water and other dust retardants as necessary to control dust generation. The Operator shall maintain a live vegetative cover on all undisturbed areas of the Landfill. If a disturbed area will not be used in the next construction season, then the Operator shall seed this area in the Fall of the construction season in which the area was disturbed. The Operator shall seed all berms and other earth constructions around the perimeter of the Landfill and elsewhere on the Solid Waste Facility as soon as possible but not later than the Fall of the season in which they are constructed. Notwithstanding the foregoing, the Operator will not be required to seed any Landfill base liner or any internal side slope to the base liner and shall only be required to seed external side slopes of the Landfill according to the following schedule:

1) If the final approved contour and final cover is achieved before October 1st said side slope shall be seeded during that construction season; or

2) If the final approved contour and final cover of said side slope is achieved after October 1 said side slope shall be seeded as soon as reasonably possible during the next construction season.

5.10 Noise Control.

(a) Operator shall take all steps necessary to ensure that trucks, earth moving equipment and all other vehicles operating at the Solid Waste Facility or delivering material to the Solid Waste Facility are fitted with and use effective mufflers and other noise reduction equipment. Operator shall maintain its own vehicles and other equipment so the backup alarms are not louder than required by OSHA regulations.

(b) Operator shall actively monitor each vehicle coming onto the Solid Waste Facility property and shall notify the driver of each vehicle without an effective muffler that such vehicle may not return to the Solid Waste Facility without an effective muffler at any time following such notification, and Operator shall enforce such restriction.

(c) Operator shall create and maintain a system of berms and vegetation to minimize the transmission of noise from the Landfill property to any non-Operator owned property. At a minimum, Operator shall maintain the screening berms and vegetation described in paragraph 5.11.

(d) In no event shall the noise from the Solid Waste Facility exceed 80 dBA at any non-Operator owned residential property as measured by a certified decibel meter, except during, and as a result of, the construction or maintenance of the screening berms and vegetation (Section 5.11), or weed and grass control (Section 5.6).

5.11 Screening Berms and Vegetation. Operator shall install and maintain those berms and vegetation along Highway 145 and Main Street that are required by the Department in its approval of the plan of operations for the Solid Waste Facility (including any modifications thereof).

5.12 Road Clean-Up; Policing of Vehicles.

(a) Operator shall take all reasonable measures to prevent any solid waste or foreign materials from being tracked from the Solid Waste Facility or from vehicles using the Solid Waste Facility onto roadways outside the Solid Waste Facility. Operator shall conduct visual inspections of the following roads to look for Solid Waste or foreign materials from vehicles traveling to or from the Solid Waste Facility:

Daily inspections: Highway 74 (Main Street) between Boundary Road and Highway 145, County Line Road between Highway 145 and Boundary Road, Highway 145 between Highway 74 and County Line Road, and Boundary Road/Wausaukee Road between Highway 74 and County Line Road (to be conducted at least once each day the Landfill operates, at or within 2 hours prior to the time of closing for the day, and in addition as necessary).

Weekly inspections: Fountain Boulevard between Highway 74 and County Line Road, County Line Road between Fountain Boulevard and Highway 145, Highway 74 (Main Street) between Fountain Boulevard and Highway 145.

(b) Operator shall maintain a notice at its main entrance gate advising all drivers entering the Solid Waste Facility to inform Operator of any solid waste outside the Solid Waste Facility noticed on their incoming routes. Upon observation or notification of any Solid Waste described above, the Operator shall immediately arrange for the pick-up and proper Disposal of such Solid Waste. In the event of a complaint to Operator regarding the presence of Solid Waste on or adjacent to the above-described roadways from vehicles using the Landfill, Operator shall

promptly investigate and remove such Solid Waste. In the event that Operator believes that Solid Waste along such roads is due to persons or causes other than vehicles using the Landfill, Operator may avoid its obligations to inspect and remove such Solid Waste only upon the concurrence of Menomonee Falls, which concurrence shall not be unreasonably withheld. This paragraph shall apply to all Solid Waste, including without limitation, garbage, bagged or unbagged medical waste, containerized or non-containerized commercial or industrial wastes, and dirt and mud from vehicles entering or leaving the Solid Waste Facility.

(c) Operator shall as often as necessary each day conduct all street sweeping and cleaning operations necessary to remove dirt and Solid Waste from Solid Waste Facility operations, or from vehicles using the Solid Waste Facility from the surface of Boundary Road between County Line Road and Main Street.

(d) Operator shall actively monitor and inspect all vehicles using the Solid Waste Facility to ascertain that such vehicles are in proper working condition with respect to vehicle equipment necessary to prevent the inadvertent loss of Solid Waste. Operator shall notify all drivers of vehicles not in such proper working condition, and no vehicles with defective equipment shall be permitted to enter the Solid Waste Facility following the date of notification to the driver of such condition, unless such condition has been repaired.

5.13 Daily Cover. Operator shall provide Daily Cover as required by DNR and EPA to control offensive odor and to prevent windblown refuse from the Landfill as required by sections 5.7 and 5.8, above.

5.14 Compliance with Plan of Operation and Other Laws and Regulations. Operator shall fully comply with the Plan of Operation as approved by the Wisconsin Department of Natural Resources for the Landfill and for any other solid waste facilities located on the Solid Waste Facility, and every provision of the approved Plan of Operation and each modification to the Plan of Operations approved by WDNR shall be considered to be a part of this Agreement. Any violation of the provisions of any approved or modified Plan of Operation shall be deemed to be a violation of this Agreement and enforceable as such. Operator shall notify Menomonee Falls and Waukesha County within ten days of any application by Operator for any modification of the approved Plan of Operation for the Solid Waste Facility. No provision of any approved Plan of Operation which is less stringent than this Agreement in any respect shall be considered to supersede any provision of this Agreement.

5.15 Complaints. Operator shall create and maintain a Complaint log, for the purpose of recording each complaint from any person with respect to any aspect of the operations of the Solid Waste Facility. Such log shall indicate the name of the complainant (or "anonymous" if no name is given), the date and time of the complaint, the substance of the complaint, the name of the person taking the complaint, a record of the response, if any, of Operator to the complaint, and the name of the person taking remedial action or making other response to the complaint, if any. Operator shall maintain such log continuously from the Commencement of this Agreement and shall supply a copy of the log to Menomonee Falls Village Manager or his or her designee monthly within 15 days after the end of each month for the previous month. Operator shall designate one individual with responsibility for responding to complaints about landfill operations and for maintaining the log and providing a copy of the log monthly to Menomonee

Falls. Operator shall advise Menomonee Falls annually of the name, title, address, and telephone number of said individual, and shall advise the Village, immediately upon any change with respect to such information. Menomonee Falls shall designate one individual with responsibility to investigate any complaints about landfill operations and said individual shall do so within twenty-four (24) hours after receipt of the same whether from the Operator or directly from the complainant and shall advise the Operator of the investigation. The Operator shall have the right to challenge the validity of any such complaint.

5.16 Notice of Violation; Attempt to Cure. In the event a Municipality believes that the Operator is violating or has failed to comply with any term or provision of this Agreement, it shall give written notification of the same and describe the alleged violation or compliance failure. The Operator shall attempt to correct the alleged violation or compliance failure.

5.17 Stipulated Penalties. After giving the notice provided in Section 5.16, a Municipality may enforce any violation or compliance failure in Circuit Court, and Menomonee Falls may enforce any violation or failure to comply with any of the requirements of this Agreement by an action in municipal court for municipal ordinance violation.. In the event a Municipality prevails in said actions, the Operator stipulates that the court shall impose a penalty set forth in the following schedule:

PENALTY SCHEDULE PER DAY OF VIOLATION/PER VIOLATION

	<u>1 to 5 days*</u>	<u>5 to 30 days*</u>	<u>Over 30 days*</u>
Violation or failure to comply with Sections 5.0 to 16.0, unless specified otherwise below	\$ 200	\$ 300	\$500
Violation or failure to comply with Sections 5.2, 6.1, 6.3, 9.2 and 12.2	\$1,000	\$3,000	\$5,000

* In any 365-day period.

However, such stipulated penalties may only be imposed for violations which continue for more than five (5) days after a Municipality gives notice of such violation or failure under Section 5.16, and in the event of violations which continue for more than five (5) days, the stipulated penalties shall include all days of violation, including the first five (5). Each day of violation, and each section or subsection violated, shall be a separate violation. Such penalties are in addition to, and not in lieu of, any other penalties for the same violations or failures which may be due any other governmental entity. Either party shall have the right to appeal any judgment of the municipal court to Waukesha County Circuit Court.

For purposes of determining the number of days of violation and the consequent daily penalties, days of violation of the same subsection (or, if no subsections, section) of this

Agreement shall be cumulative over the one-year period immediately preceding the most recent violation of such subsection (or, if no subsections, section) at issue in the enforcement proceedings.

6.0 Community Impact.

6.1 Operator Responsibility for Protection of Neighboring Wells. From the Date of this Agreement the Operator agrees to comply with the procedure set out in Exhibit B attached hereto and made a part hereof in response to any test result of a sample from a private well that indicates an exceedence of certain parameters, as described in Exhibit B. Operator shall within 60 days of the Date of this Agreement conduct baseline sampling and shall semiannually thereafter conduct testing of the private wells serving each residential property located on Bonnie Lane and on Highway 145 between County Line Road and Main Street, upon provision of reasonable access by the owner of each such property. Such baseline and semi-annual testing shall include the substances listed in Table 1, NR140.10, and the primary non-bacterial contaminants listed in NR809.09, Wis. Admin. Code.

6.2 Property Value Protection. Pursuant to the following procedure, the Operator shall offer to enter into an Agreement to Guarantee Property Value, attached hereto as Exhibit C, with the owner of each property listed on Exhibit D, attached hereto. Within thirty (30) days after the Operator and the Village Board of the Village of Menomonee Falls approve this Agreement, the Operator shall send by certified mail, return receipt required, the letter attached hereto as Exhibit E, and a copy of the Agreement to Guarantee Property Value to the owner(s) of each property listed in Exhibit D. Said letter shall advise the owner(s) of the property that their rights under the Agreement to Guarantee Property Value will become available when the Operator receives the Operating License. The Operator shall provide copies to Menomonee Falls of all return receipts received.

Within thirty (30) days of receipt of the Operating License from the Department for the Landfill, the Operator shall send by certified mail, return receipt requested, a second letter, a copy of which is attached hereto as Exhibit F, and three duplicate originals of the Agreement to Guarantee Property Value to the owner(s) of each property listed in Exhibit D. The Operator's responsibility under this section shall be satisfied if the Operator sends said letters to the persons identified as the owners of said properties at the time the letters are mailed. All the duplicate original agreements so sent shall have been executed by a corporate officer of the Operator having the authority to bind the Operator. Said letter shall advise the owner(s) of the property that within 120 days of receipt of said letter, they should sign the duplicate originals and should return two (2) fully executed duplicate originals to the Operator if the owner(s) of the property wish to have benefits provided by the Agreement to Guarantee Property Value. Said letter shall also advise that the benefits under said Agreement remain available to those owner(s) of the property, or the other persons identified in Section 10 of the Agreement to Guarantee Property Value from the time said Agreement is executed and returned by the owner(s) until Final Closure of the Southern Expansion Orchard Ridge Recycling and Disposal Facility, as that term is defined in said Agreement. The Operator shall provide Menomonee Falls with copies of all return receipts and with one copy of each fully executed Agreement to Guarantee Property Value that it receives.

In the event the Owner of the property believes that an extension of this 120-day period (for execution and return of the originals) is necessary, he or she shall so advise the Operator. The Operator shall not unreasonably withhold its approval of an extension of up to an additional 120 days.

6.3 Indemnification. The Operator agrees to defend, indemnify and hold harmless the Municipality, its agents, employees and elected and non-elected officials, including any present or future members of this Local Committee, collectively and/or individually against any and all claims, expenses (including reasonable attorney's fees) and liabilities of every kind asserted against them, arising out of: 1) failure by the Operator to comply with any law or rule of any governmental authority or with any provision of this Agreement, 2) any act or omission of the Operator, its agents, employees or servants which causes bodily injury or other damage to any person or property as a result of the operation and/or closure of the Solid Waste Facility and 3) the execution, application, interpretation and enforcement of this Agreement except as otherwise may be agreed to be shared as provided herein; except to the extent that said claims, expenses and liabilities are caused solely by the acts or omissions of the Municipality.

6.4 Complaint Procedure and Contact Information Letter. Within thirty (30) days of Commencement and annually thereafter the Operator shall send by certified mail a letter in the form of Exhibit H to the owner of each residential property located on Bonnie Lane and on Highway 145 between County Line Road and Main Street.

7.0 Miscellaneous Project Provisions.

7.1 Water Main Extension. Beginning with the first construction season after Commencement of this Agreement, and at any time thereafter during the Initial Term of this Agreement, Menomonee Falls may construct, or bid out and have constructed for it, a water main in or along Highway 145 extending from the existing terminus to Main Street and may invoice the Operator for the cost of the same up to but not exceeding \$450,000. Said amount shall be invoiced in ten (10) equal annual installments and the Operator shall pay invoices within thirty (30) days of Operator's receipt of the same. The first installment shall be due no sooner than thirty (30) days after Menomonee Falls deems the project to be complete. Upon request, Menomonee Falls shall provide the Operator documentation regarding the cost of the project. At any time after Commencement of this Agreement and in the event that Menomonee Falls defers or determines not to construct the water main, and so notifies the Operator in writing, the Operator shall nevertheless pay Menomonee Falls \$45,000 per year for 10 years up to a total of \$450,000 under this Section 7.1, commencing 30 days after such written notification from Menomonee Falls. However, Menomonee Falls agrees that any such payments made by the Operator shall be a credit against any special assessment for the installation of any water main in or along highway 145 at any time in the future.

7.2 Fire Responsibilities. Menomonee Falls shall be responsible for providing fire protection to the Operator for fires involving equipment or buildings at the Solid Waste Facility, provided however that the Operator shall reimburse Menomonee Falls for its actual labor, equipment and other costs after the first twenty-four (24) hours of each fire, and for each fire after the third (3rd) in each calendar year. The Operator shall have sole responsibility for all fire protection relating to the Solid Waste Facility and vegetation at the Landfill property, and the

Operator shall fully reimburse, release, indemnify and hold harmless Menomonee Falls for all loss, damage or expense incurred by Menomonee Falls in responding or failing to respond to fires involving the Landfill and/or vegetation at the Solid Waste Facility property.

7.3 Haz-Mat Equipment. The Operator shall contribute up to \$30,000 to Menomonee Falls to cover the cost of acquiring Haz-Mat equipment for the Village. Menomonee Falls may invoice the Operator for said costs at anytime after Commencement of this Agreement. The Operator shall pay said invoice within thirty (30) days after receipt of the same.

8.0 Post Closure Use and Set Backs.

8.1 Post Closure Use Plan. Not later than two years prior to a voluntary Final Closure, and within six (6) months after an involuntary Final Closure, the Operator shall submit to the Menomonee Falls Village Board a conceptual post closure use plan for the Landfill property following Final Closure. Such plan shall be subject to the approval of the Village Board. Within thirty (30) days after Commencement of this Agreement, the Operator shall provide Menomonee Falls with a performance surety bond issued by a reputable surety in the amount of Twenty-Five Thousand Dollars (\$25,000.00), guaranteeing to the Village the preparation of this post closure use plan. The performance surety bond shall be in a form satisfactory to the Village and shall continue in force until the Operator has prepared and submitted said plan; however, the Operator may obtain a bond with a term of five (5) years or less, provided that the Operator shall, at least sixty (60) days prior to any expiration, obtain and submit to the Village renewal(s) from the same surety or another reputable surety until the plan is prepared and submitted. Each renewal shall also be in a form satisfactory to the Village.

Such plan shall provide, at a minimum, for the following:

- (a) The removal within one year following Final Closure of all screening berms surrounding the Solid Waste Facility;
- (b) The establishment and maintenance of suitable fencing around the perimeter of the Landfill;
- (c) The planting and maintenance of vegetation on the Solid Waste Facility;
- (d) Any public or private recreational uses of the Solid Waste Facility deemed suitable by the Operator and the Village Board at the time of review of such plan, including, to the extent technically feasible and not inconsistent with state and federal laws and regulations at the time of closure of the Landfill, reasonable public use of landfill surfaces consistent with public safety and the need to protect landfill equipment and appurtenances;
- (e) Any public educational purposes of the Solid Waste Facility deemed suitable by the Operator and the Village Board at the time of review of such plan; and
- (f) any other public or private use of the Solid Waste Facility, including commercial, industrial, institutional or other use.

In preparing the post closure use plan the Operator, in consultation with the Village, shall attempt to identify and shall describe post closure uses of the Solid Waste Facility which maximize the value of the Solid Waste Facility property for industrial, commercial, institutional or recreational use, to the extent technically feasible and not inconsistent with state or federal law.

The post closure use plan, if approved by the Village Board, shall be implemented by the Operator in accordance with a reasonable schedule to be set by the Village Board. The Operator shall prepare or have prepared an estimate of the cost of implementing the post closure use plan and shall provide the Village with this estimate within sixty (60) days after receipt of notice from the Village Board of its approval of the post closure use plan. The Operator shall provide the Village with a performance surety bond issued by a reputable surety in an amount double the amount reasonably anticipated by the Operator and the Village to represent the cost of implementing and maintaining said plan for a period of twenty (20) years. This bond shall be conditioned upon and guarantee to the Village the faithful implementation and maintenance of the post closure use plan and shall be in a form satisfactory to the Village. Further, the bond shall continue in force until the Operator has initially implemented the plan, at which time the amount of the bond shall be reduced to an amount reasonably anticipated by the Operator and the Village to represent the cost of maintaining the plan for a period of twenty (20) years. The Operator may obtain a bond with a term of five (5) years or less, provided that the Operator shall, at least sixty (60) days prior to any expiration of the term, obtain and submit to the Village, renewal(s) from the same surety or another reputable surety until its obligations to implement and maintain the plan have been met. Each renewal shall also be in a form satisfactory to the Village.

Notwithstanding the foregoing, the Operator may at any time seek a reduction in the amount of the bond by presenting documentation to the Village which establishes that the Operator has implemented portions of the plan. The bond shall be reduced by an amount equal to the initial estimate submitted to the Village of the cost of implementation of the portion of the plan so implemented. In the event that the Village and the Operator are unable to agree upon the amount of the bond or any reduction thereof, the Village's consultant and the Operator's consultant which prepared the plan shall select a third consultant which shall resolve all such disputes.

8.2 Final Setback of Solid Waste Facility. Within one year after Final Closure of the Landfill the Operator shall have removed from the Commercial Setback Zone all landfill screening berms, fences, roads and all other physical structures above ground and below ground, related in any way to the Landfill or its operation. The Commercial Setback Zone shall consist of a strip of land 400 feet in depth from the centerline of Main Street, located along the north side of Main Street, and extending from the intersection of Main Street and Highway 145 east along Main Street to the southeastern corner of the side slope of the Southern Expansion of the Orchard Ridge Landfill. Following Final Closure of the Landfill, the Operator shall make no use of the Commercial Setback Zone which would be inconsistent with the development and use of the Commercial Setback Zone for commercial or industrial activities or other activities approved by the Village Board. Operator shall in addition take all such steps following Final Closure as are necessary to prevent erosion of soil or migration of contaminants from the Solid Waste Facility onto the Commercial Setback Zone. Notwithstanding the foregoing, Menomonee Falls acknowledges and agrees that the Operator may be required by the Department to construct

certain berms, drainage facilities and landscaping in said Commercial Setback Zone as a condition of obtaining approval for the construction and operation of the Landfill and further acknowledges that it may not be possible to remove or relocate such berms, drainage facilities and/or landscaping.

9.0 Waste Restrictions.

9.1 Waste Service Area. Operator's primary service area consists of those portions of Waukesha County and Milwaukee County lying north of I-94 (but including the City of Waukesha), Washington County, and Ozaukee County, Wisconsin. However, Solid Waste originating outside of this four-county area may be Disposed of at the landfill.

9.2 Waste Type Restrictions. Operator shall never accept at the Solid Waste Facility, for Disposal at the Landfill or for any other purpose, any of the following types of waste:

- (a) Hazardous Waste;
- (b) Polychlorinated Biphenyls (PCBs) as defined herein;
- (c) Radioactive Wastes, (including Low-level radioactive waste) as defined herein;
- (d) Untreated infectious medical waste;
- (e) Municipal or medical incineration bottom ash;
- (f) Free liquid wastes of any kind as defined herein except for such incidental liquids as may exist in municipal refuse from households;

10.0 Services Guarantees.

10.1 Recycling Responsibilities. From Commencement until Final Closure, the Operator shall provide at the Solid Waste Facility a facility for the free drop-off during posted operating hours, by the residents of Menomonee Falls, of any and all Recyclable Materials generated by such residents and delivered by them to the Solid Waste Facility.

10.2 Limited Free Disposal of Solid Waste Generated by the Village of Menomonee Falls. From Commencement until Final Closure, the Operator shall accept for Disposal at the Landfill without a fee or charge for Disposal (except state or federal fees or taxes imposed on the generators of Solid Waste) Solid Waste generated directly by the Village of Menomonee Falls operations or at its facilities, including wastes denominated "Village Patrol Truck Wastes," as follows: (a) from Commencement until five (5) years after Commencement, 2000 tons per year ; and (b) from five (5) years after Commencement until Final Closure, 3000 tons per year (together, these tonnage limits are the "annual tonnage limits"). The foregoing shall not be construed to mean or imply any obligation on the part of the Operator to provide free Disposal of the Solid Waste generated by the residences, commercial entities or industries located within the Village.

Notwithstanding the foregoing, the Operator may accept more than the annual tonnage limits of such waste for disposal during any fiscal year(defined as a year commencing from the date of Commencement or from any anniversary of that date). If the Village delivers more than the applicable annual tonnage limits per fiscal year, the Operator may charge and the Village shall pay seventy-five percent (75%) of the prevailing disposal rate for any amount in excess of the annual tonnage limits, plus all state and federal fees and taxes imposed on the generators of Solid Waste.

10.3 Limited Free Disposal of Yard Waste Generated by the Residents of the Village of Menomonee Falls. From Commencement until Final Closure, the Operator shall provide free disposal of Yard Waste at the Solid Waste Facility generally in accordance with the terms and conditions set out in Sections 2, 3 and 4 of the Agreement for the Disposal of Residential Yard Waste from the Village of Menomonee Falls as attached hereto as Exhibit G.

10.4 Limited Free Disposal of Solid Waste Generated by the School Districts. Annually, from Commencement until Final Closure, the Operator shall accept for Disposal at the Landfill without a fee or charge for Disposal (except state or federal fees or taxes imposed on the generators of Solid Waste) up to 600 tons of the Solid Waste generated by the Hamilton and Menomonee Falls School Districts (up to 300 tons each per year). This obligation to provide free Disposal to said School Districts is conditioned upon either (1) the school districts direct hauling their Solid Waste to the Landfill either themselves, or by contract with a licensed solid waste hauler approved by the Operator and in trucks hauling only School District waste, or (2) the School Districts contracting with the Operator or the Operator's affiliates to haul said Solid Waste.

10.5 Electronics Recycling (E-Cycling). Annually, from Commencement until Final Closure, the Operator shall pay Waukesha County \$40,000 toward Waukesha County's e-cycling collection and/or recycling programs, conditioned upon the prior approval of the Agreement by the County Board of Waukesha County by resolution or ordinance. Until such approval by the County Board, the Operator shall make said \$40,000 annual payment to Menomonee Falls to be retained by the Village and applied toward the Village's recycling programs.

11.0 Payments to Municipality.

11.1 Host Payments. Beginning on the Date of this Agreement Operator shall pay a host payment for Solid Waste Disposed of at the Solid Waste Facility. The host payment shall be paid monthly by the 25th of each month for the previous calendar month. The host payment shall be Three and 5/100th Dollars (\$3.05) per ton of Solid Waste Disposed of at the Landfill during the previous month (hereinafter "Tonnage Based Payment"). Beginning on the second anniversary of the Date of this Agreement as stated in Section 1.0 above and continuing annually thereafter, the Tonnage Based Payment shall be increased based upon the increase in the Consumer Price Index, United States City Average, All Urban Consumers-All Items for the previous calendar year, but not less than 3% per annum nor more than 4% per annum.

Conditioned on the prior approval of the Agreement by the County Board of Waukesha County by resolution or ordinance, the host payment shall be paid 95% to the Village of Menomonee Falls and 5% to Waukesha County, directly by the Operator to each. Until such

approval by the County Board the entire host payment shall be paid to the Village of Menomonee Falls, which may retain 100% of host payments made prior to such County Board approval. Operator shall not object to, nor take any action to defeat or impair, any host payment sharing arrangement established at any time between the Village of Menomonee Falls and Waukesha County.

Operator and Menomonee Falls agree that each of them is interested and desires that host payments paid by the Operator to Menomonee Falls be used by the Village in a fashion designed to promote the long-term health and welfare of the residents of Menomonee Falls as a whole.

11.2 Local Committee Expenses. Within thirty days of the Date of this Agreement, the Operator shall pay up to Seventy-five Thousand and no/100th Dollars (\$75,000.00) to Menomonee Falls for reimbursement of all expenses of the Village related to the Local Committee relating to the negotiation of this Agreement, including without limitation, the Village's attorney's fees and disbursements, independent consultant fees and disbursements, and mailing, photocopy, telephone and other costs of the Village related to the Local Committee. Operator shall have no obligation to make any payment in excess of the aforesaid amount.

12.0 Landfill Review Activities.

12.1 Monitoring and Enforcement Responsibility. A Municipality's governing board shall have full authority to monitor Landfilling Operations; inspect Solid Waste Facility records (other than financial); receive, review and act on complaints related to Solid Waste Facility activity; recommend corrective action and take all other actions necessary to review and regulate the Solid Waste Facility activities as provided by this Agreement. Menomonee Falls may at any time create a Landfill Oversight Committee ("Committee") which shall consist of three (3) representatives of Menomonee Falls appointed by the Village President and one representative appointed by Waukesha County, if it desires to participate in the Committee and has approved this Agreement. The Committee shall have the functions and powers as are assigned by Menomonee Falls. The Operator shall have no obligation to pay any expense of the Landfill Oversight Committee. At any time, the Board of a Municipality may request the Landfill Oversight Committee, if one has been created, to assist with or take over any of their responsibilities or undertake any other function related to the operation of the Solid Waste Facility as the Board of the Municipality may deem appropriate.

12.2 Inspections, Records and Access. From the Date of this Agreement until forty (40) years following Final Closure, Municipality's governing board or their designees shall have the right to inspect and copy all of the records of Operator pertaining to Landfill design, total waste volumes Disposed of at Landfill, total waste tonnage Disposed of at the Landfill, complaints regarding landfill operations, and compliance with this agreement; and to inspect any part of the Solid Waste Facility. Such inspection and copying shall be upon reasonable notice during the hours of operation of the Solid Waste Facility and in a manner so as not to interfere unreasonably with landfill operations. Upon request, the Operator shall produce at the Solid Waste Facility such records which may be kept at a site other than the Solid Waste Facility.

13.0 Impact on Sewer Capacity. Operator shall guaranty that no leachate from the Solid Waste Facility shall reduce in any way the right or capacity of the Village of Menomonee Falls to

discharge wastewater to the Milwaukee Metropolitan Sewerage District, without the written approval of Menomonee Falls. Operator shall fully compensate the Village for all losses of right or capacity to discharge wastewater to the Milwaukee Metropolitan Sewerage District which the Village may suffer for any reason relating to the operation of the Landfill.

14.0 Waiver of Local Approvals.

(a) Except as otherwise provided herein, all applicable existing ordinances, regulations, permits, licenses, Local Approvals and Pre-Existing Local Approvals (including Waukesha's Enrolled Ordinance 147-152) that may be required of the Operator to allow it to construct (including the extraction and transportation of clay, daily cover rooting zone materials and top soil), operate, maintain, repair, close and provide Long-Term Care of the Landfill are hereby waived. This includes the waiver of all fees and enforcement provisions of these ordinances, regulations, permits, licenses, Local Approvals, and Pre-Existing Local Approvals (including Waukesha's Enrolled Ordinance 147-152). By this Agreement, any future ordinance, regulation, permit, license or Local Approvals and the enforcement of the same that may be required of the Operator to allow it to construct (including the extraction and transportation of clay, daily cover, rooting zone materials, and top soil), operate, maintain, repair, close and provide Long-Term Care of any landfill located on the Solid Waste Facility are also hereby waived. This waiver shall continue until the Operator's Long-Term Care responsibility for the Landfill ceases. However, this waiver does not extend to any Expansion.

(b) The regulatory and enforcement waiver provisions also apply to: (1) those uses, operations and businesses on the property shown on Exhibit A which are undertaken by the Operator as of the Date of this Agreement, and (2) the undertaking of any composting operations for Yard Waste and any Recycling Operations that the Operator determines to be required, in its reasonable business judgment, to meet the requirements of Chap. 287, Wis. Stats., as that chapter may be amended, to allow the most efficient Disposal of Solid Waste in the Landfill that will be undertaken by the Operator between Commencement and Final Closure.

(c) This Agreement specifically supersedes the Municipality's ordinances to the extent such uses, operations and business of Operator referenced in subparagraph (b) are consistent with those permitted in this Agreement on the property referred to in this Agreement as the Solid Waste Facility. Except, however, nothing in this section shall be construed as releasing or waiving the Operator's requirements to comply with chapters 62, 78, 94, 102 and 110 of the Village Ordinances; Chapter 106 of the Village Ordinances except weight limits on County Line Road higher than the weight limits on State Trunk Highway 145; Chapters 18, 38, 82 (except for Sec. 82-67), 90 and 114 of the Village Ordinances except as otherwise provided for or regulated by Sections 5.0 through 5.15 of this Agreement; Chapter 46 of the Village Ordinances, but only as applied to structures and flammable and combustible liquids; and Menomonee Falls ordinances regarding waste hauler permits (with a fee not to exceed what is reasonable and customary). Notwithstanding any other provision of this Agreement, these regulatory and enforcement waiver provisions do not waive any fees associated with those portions of the Village Ordinances not hereby waived. These regulatory and enforcement waiver provisions also do not apply in any way to waive any authority the Village or the County may have now or in the future to control or regulate, by regulation, ordinance, permit, license or by order, the uses, operations and businesses at the Landfill, or at the currently-licensed facility

where these orders, permits, licenses or ordinances are deemed necessary by the Village Board or the County Board to protect the public health, safety, and welfare, or prevent a public nuisance.

15.0 Waivers of Contested Case Hearings and Petitions for Judicial Review. Upon its approval of this Agreement, each Municipality shall dismiss any and all pending contested case hearings which it has requested and agrees not to request any contested case hearings relating to the feasibility of the Landfill. By approval of this Agreement, each Municipality forever waives its rights to seek judicial review of the decisions of the Department related to the approval of the Initial Site Report, Feasibility Report, the Plan of Operation or the issuance of the Operating license or any other aspect regarding the siting, design and/or construction of the Landfill unless inconsistent with the Agreement.

16.0 Adjustments to the Monthly Host Payment.

The method by which the Village of Menomonee Falls assesses the value for tax purpose of Orchard Ridge Recycling and Disposal Facility as of the Date of this Agreement is to estimate the value of the land using a market approach based upon sales of comparable vacant properties and considering the highest and best use of the land and the zoning of the land; and to estimate the value of the buildings using a depreciated cost approach; and not to use an income approach for estimating either the value of the land or the value of the buildings. Utilizing this same method of assessment the Initial Assessment of the Landfill as of January 1, 2004 shall be \$14,000 per acre.

Then, on the 1st of January of the following year and each subsequent January during the term of the Agreement, the monthly host payment described in Section 11.1 shall be adjusted by 1/12 of the amount by which the current taxes for the Landfill increased or decreased from the previous year at a rate greater than the change in the total equalized value from the previous year for all real property in the Village. This same adjustment shall be applied to the host payment for the remaining months of that calendar year.

However, in no event shall the host payment be increased or decreased, on account of this Section 16.0, by more than 40% of the host payment (as adjusted for CPI in accordance with Section 11.1) computed without the application of this section. Further, this section shall only apply to any action of the Village of Menomonee Falls or its assessor which results in an increase or decrease in taxes. Specifically, the host payment shall not be increased in the event that the taxes on the Landfill decrease because of real property tax relief provided by the State of Wisconsin on a uniform basis. Nothing in this section shall apply to the assessment or taxation of buildings.

17.0 Relation to Prior Agreement.

17.1 Prior Agreement Superseded in Part. Except as otherwise provided in this Agreement, effective on the Commencement of this Agreement, this Agreement shall supersede the prior agreement between the Operator and Menomonee Falls, entitled "Landfill Agreement": Orchard Ridge Landfill and dated January 21, 1993 (the "Prior Agreement") as to each and every matter addressed in this Agreement, and the terms and provisions of the Prior Agreement shall be of no further force and effect to the extent of all matters addressed in this Agreement. However,

this Agreement shall supersede Section 11.1 of the prior agreement as of the Date of this Agreement.

In addition to any other references in this Agreement, this Agreement preserves the following provisions of the Prior Agreement, which remain in full force and effect in accordance with the terms of the Prior Agreement:

(a) The third sentence of Section 5.10 of the Prior Agreement, entitled Screening Berms and Vegetation.

(b) Section 6.1 of the Prior Agreement, entitled Property Value Diminution, as to any Agreement to Guarantee Property Value between the Operator and any owner under the Prior Agreement, but only unless and until the Operator enters into an Agreement to Guarantee Property Value with any such owner under this Agreement.

(c) Section 6.2 of the Prior Agreement, entitled Indemnification.

17.2 Host Fee Adjustment Carryover. On January 21, 1993 the Operator and Menomonee Falls entered into the Prior Agreement regarding the Orchard Ridge RDF, which provides for the payment of a host payment by the Operator to Menomonee Falls for each ton of Solid Waste disposed of in the Orchard Ridge RDF; and also provides the Operator in Section 11.1 of the Prior Agreement with a possible credit under certain conditions to be applied to further host payments. In the event the Operator is entitled to apply such a credit; but if there are not remaining host payments required to be paid under the Prior Agreement sufficient to offset the credit; then the Operator shall be entitled to offset any remaining credit against the payments required under section 11.1 of this Agreement.

18.0 Construction and Operation of Agreement

18.1 Relationship of the Parties. Except as otherwise explicitly provided herein, no party to this Agreement shall by virtue of this Agreement have any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other party and nothing in this Agreement shall be deemed to constitute any party a partner, agent or legal representative of any other party or to create any fiduciary relationship between or among the parties.

18.2 Assignment.

(a) This Agreement may not be assigned by either party without the prior consent of the other party, except that without such consent, the Operator may assign its interest hereunder to any successor or Affiliate that shall assume all of its obligations under this Agreement, and Menomonee Falls may direct the division of host fee payments pursuant to Section 11.1.

(b) This Agreement shall be binding upon and insure to the benefit of the permitted successors and assigns of the parties hereto pursuant to this Section. Any attempted assignment made contrary to this Section shall be void.

18.3 Notices. Any notices or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, return receipt requested, postage prepaid, as follows:

If to the Operator: Orchard Ridge Recycling and Disposal Facility
Landfill Management Center
W124 N9355 Boundary Road
Menomonee Falls, WI 53051

With a copy to: Waste Management of Wisconsin, Inc.
W124 N8925 Boundary Road
Menomonee Falls, WI 53051

If to the Village of Menomonee Falls: Village Clerk
Village of Menomonee Falls
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

With a copy to: Village Manager
Village of Menomonee Falls
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

If to Waukesha County: Waukesha County
Director, Department of Parks and Land Use
1320 Pewaukee Road
Waukesha, WI 53188

Attention: Director, Department of Parks and Land Use

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other parties. Failure to provide the extra copy referenced above shall not affect the validity of notice when the notice is sent to the primary listed address for a party.

18.4 Waiver. The waiver by either party of a default or a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any default or breach.

18.5 Entire Agreement Modifications. The provisions of this Agreement shall (a) constitute the entire Agreement between the parties, and (b) be modified only by written agreement duly executed by all parties.

18.6 Severability: Arbitration. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect. In the event the parties are unable to so agree, then they agree that this matter shall be submitted to a single qualified arbitrator agreed to by the Operator and Menomonee Falls. The arbitration shall be conducted as the Operator and Menomonee Falls may agree, or in default thereof as the arbitrator may establish, and in default of that according to those rules relating to the conduct of the arbitration established by the Construction Industry Rules of the American Arbitration Association, in order, to the maximum extent practicable in light of such court determination, to give effect to the original intentions of the parties as reflected in the Agreement: the decision of the arbitrator shall be binding upon the parties and may only be modified as provided in Chap. 788, Wis. Stats. In the event the Operator and Menomonee Falls cannot agree upon an arbitrator within fifteen (15) days, then the Operator and Menomonee Falls may file such court actions in Waukesha County Circuit Court as may be available to them to enforce, interpret and seek declarations of rights and responsibilities regarding this Agreement.

18.7 Headings. Captions and heading in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

18.8 Governing Law. This Agreement any question concerning its validity, construction or performance shall be governed by the laws of the State of Wisconsin.

18.9 Venue. The Operator, and the Municipality hereby agree that any action, suit or proceeding arising out of this Agreement or any transaction contemplated hereby shall be brought in Waukesha County Circuit Court, and that neither the Municipality nor the Operator shall object to the institution or maintenance of any such action, suit or proceeding in such court based on improper venue, forum non conveniens or any other ground relating to the appropriate forum for such action, suit or proceeding.

18.10 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.

18.11 Conventions. In this Agreement words importing any gender include the other genders; references to statutes are to construed as including all statutory provisions consolidating, amending or replacing the statute referred to; references to "writing" include printing, typing, lithography, and other means of reproducing words in a visible form; references to agreements and other contractual instruments shall be deemed to include all subsequent amendments thereto or changes therein entered into in accordance with their respective terms; references to persons include their permitted successors and assigns; and the term "including" shall mean including without limitation.

This document was drafted by:

For The Village of Menomonee Falls
Michael P. Carlton, Esq.
von Briesen & Roper, S.C.
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Telephone: 414/276-1122

For Waste Management of Wisconsin, Inc.
David E. Stewart, Esq.
Stewart Law Offices, S.C.
250 Sunnyslope Road - Suite 300
Brookfield, Wisconsin 53005
Telephone: 262/785-8108

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the day and year set forth below.

LOCAL COMMITTEE

Date: 2/6/04 Stanley D. Larson Approved
Stanley Larson
Date: 2/6/04 Michael K. McDonald Approved
Michael McDonald
Date: 2/6/04 Tim Newman Approved
Tim Newman
Date: 2/6/04 Steven R. Schmitz Approved
Steven R. Schmitz
Date: 2/6/04 Dale R. Shaver Approved
Dale R. Shaver
Date: 2-6-04 Jeffrey Steliga APPROVED
Jeffrey Steliga (Chair)

WASTE MANAGEMENT OF
WISCONSIN, INC.

Date: 2/6/04 By: Don A. Upel
Title: District Manager

VILLAGE OF MENOMONEE FALLS

Date: 2/6/04 By: Jefferson E. Davis
Title: Village President

Date: Feb. 6th 2004

By:

Richard A. Farrenkopf
Richard A. Farrenkopf

Title: Village Manager-Clerk/Treasurer

Date: 3-17-04

By:

W. D. P. Iney
Title: County Executive

WAUKESHA COUNTY

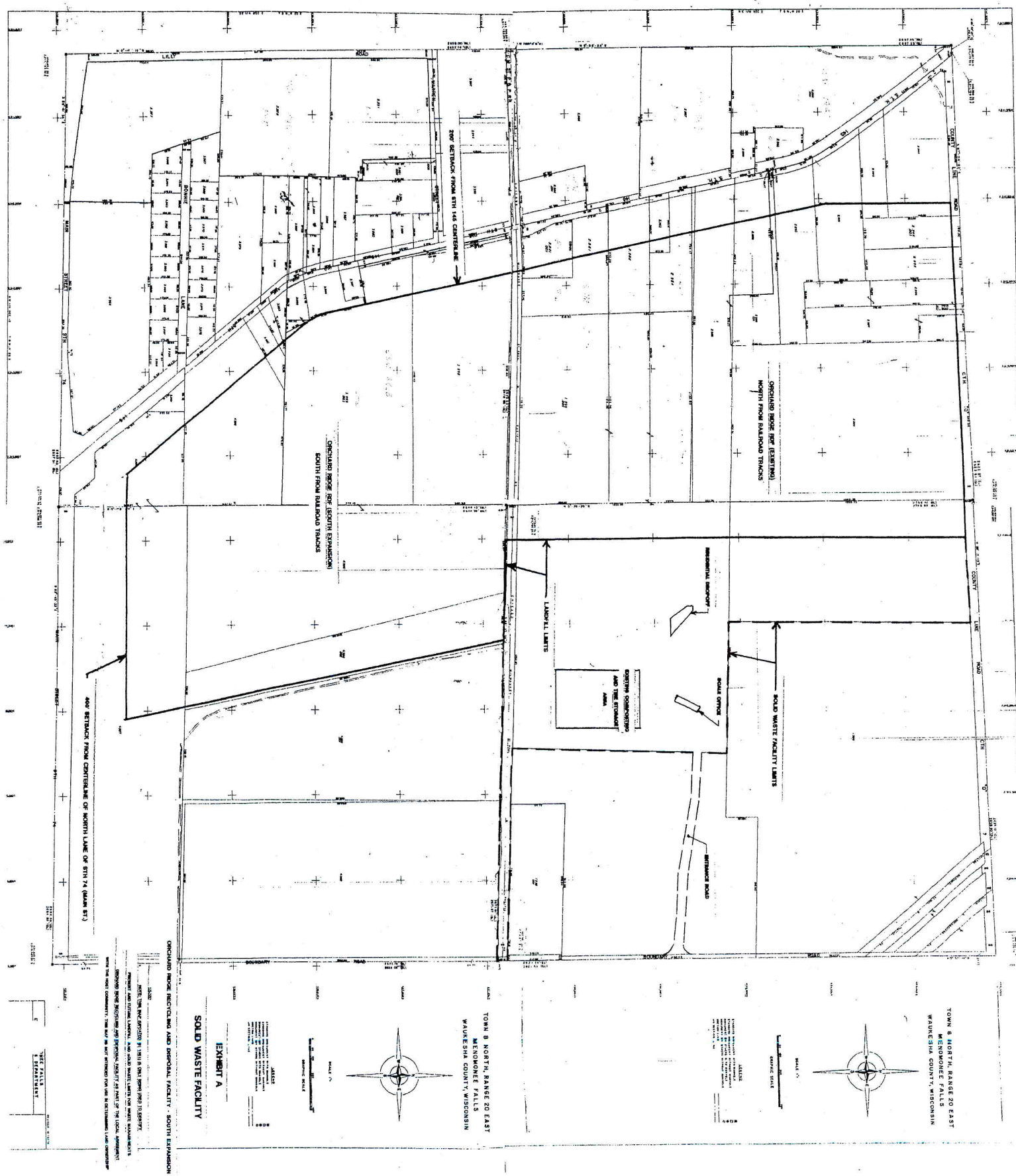


EXHIBIT A
SOLID WASTE FACILITY

ORCHARD RIDGE RECYCLING AND DISPOSAL FACILITY - SOUTH EXPANSION

NOTE: THE NEW FACILITY IS TO BE SITUATED IN THE SOUTH EXPANSION AREA OF THE EXISTING FACILITY. THE FACILITY IS TO BE SITUATED IN THE SOUTH EXPANSION AREA OF THE EXISTING FACILITY. THE FACILITY IS TO BE SITUATED IN THE SOUTH EXPANSION AREA OF THE EXISTING FACILITY.

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EXHIBIT B

RESPONSE TO WELL CONTAMINATION

If the test of a sample from a private water supply well collected by the Landfill Operator, DNR, or the well owner (said test to have been conducted in accordance with DNR's protocols for sampling and analysis, including the use of a DNR certified lab) indicates an exceedance of a primary non-bacterial maximum contaminant level as defined in NR 809, Wis. Admin. Code or a health related Enforcement Standard as defined in NR 140.10 Wis. Admin. Code, then:

A. The Landfill Operator shall, upon notice from DNR or the well owner, secure another sample from said well and test the same [utilizing the procedure stated above] to confirm or deny the results. The Landfill Operator shall deliver the test results to the well owner within thirty (30) days of said notice. If the results of this test confirm the exceedance, then the exceedance will be said to have been documented.

If the results of this test do not confirm the exceedance, then the Landfill Operator shall collect a third sample utilizing the same procedure. The Landfill Operator shall deliver the test results to the well owner within sixty (60) days of said notice. If results of the third sample confirm the exceedance, then the exceedance will be said to have been documented. If the results of the third sample do not confirm an exceedance, then the exceedance will be said not to have been documented.

B. If the results of the Landfill Operator's test under subparagraph A document the exceedance, then the Landfill Operator shall forthwith deliver, at its sole cost, potable water to residents residing upon the property served by the well and utilizing the same.

C. If upon further investigation, including additional testing by the Landfill Operator, it is determined by DNR that the exceedance is caused by a source other than the landfill, then the Landfill Operator's obligation to provide potable water will cease.

D. Unless the above investigation establishes to DNR's satisfaction that the landfill or any expansion thereof is not the source of the exceedance, then the Landfill Operator shall take appropriate measures to provide a new well, unless potable water cannot be produced on the property, in which event the Landfill Operator shall take all necessary steps to promptly secure a permanent potable water supply reasonably acceptable to the well owner.

E. The Operator shall only be required to comply with Subparagraphs B and D if: (i) the well at which the exceedance was documented is within 1/2 mile of the outer edge of Solid Waste contained in the Landfill or in any expansion thereof and (ii) the well owner and tenant, if any, reasonably cooperate with the Landfill Operator in the investigation under Subparagraphs A through D.

AGREEMENT TO GUARANTEE PROPERTY VALUE

This Agreement ("Agreement") made and entered into on this _____ day of _____, 20____, by and between Waste Management of Wisconsin, Inc., a domestic corporation having its principal offices at W124 N8925 Boundary Road., Menomonee Falls, WI 53051 ("Waste Management"), and _____, residing at _____ (hereinafter "Property Owners" whether one or more ; having Property described as _____ (tax key no.).

RECITALS

WHEREAS, Property Owners own property in proximity to Waste Management's current landfill known as the Orchard Ridge Recycling and Disposal Facility; and

WHEREAS, Waste Management desires to expand its current landfiling activities and establish a landfill to be known as the Southern Expansion of the Orchard Ridge Recycling and Disposal Facility ("Landfill") and has, pursuant to Sec. 289.33 Wis. Stats., undertaken negotiations with the members appointed to a local negotiating committee ("Local Committee") regarding the Landfill; and

WHEREAS, certain individuals have advised the Local Committee that they have a concern about the preservation of property values of real property located in proximity to the Landfill; and

WHEREAS, some of these individuals have previously entered into agreements similar to this Agreement granting to those individuals rights arising out of Waste Management's operation of the existing Orchard Ridge Recycling and Disposal Facility; and

WHEREAS, the parties to this Agreement desire to address these concerns.

IT IS HEREBY AGREED AS FOLLOWS:

1. WASTE MANAGEMENT'S GUARANTY. Subject to the conditions and in accordance with the procedures set forth herein, and at the Property Owners' option, Waste Management shall purchase the Property from the Property Owners at the Guaranteed Price if the Property Owners are unable, after following the procedure set forth herein, to sell the Property for at least the Guaranteed Price (as this term is defined herein). Alternatively, Waste Management shall pay the Property Owners, subject to the conditions set forth herein, the difference between the selling price approved by Waste Management and said Guaranteed Price. The payment of the difference shall be paid to the Property Owners in cash at the time the Property is sold to the third party who has agreed to pay the selling price.

2. EFFECTIVE DATE OF AGREEMENT. This Agreement, when signed, shall become effective and binding on Waste Management only upon the occurrence of all of the following:

- a. The written agreement, dated _____, 2004, negotiated by the Local Committee appointed by the municipalities pursuant to Sec. 289.33(7), Wis. Stats. and Waste Management, is approved by the Board of the Village of Menomonee Falls and is executed accordingly; and
- b. The issuance of all necessary licenses, approvals, permits, etc., if any, as may be required by the Villages of Menomonee Falls and Waukesha County to establish and operate the Landfill pursuant to the aforesaid agreement; and
- c. The issuance by the Wisconsin Department of Natural Resources ("DNR") of a license to Waste Management of a license for the operation of the Landfill.

The Agreement shall remain binding upon the parties until Waste Management's obligations are terminated pursuant to the provisions set forth in Section 9 below.

3. DETERMINATION OF "GUARANTEED PRICE." In the event the Property Owners wish to exercise the guaranty set out in Section 1, the Property Owners and Waste Management shall, during the 10 days following receipt by Waste Management of the Property Owners' written notice of their intent to exercise the guaranty, attempt to agree upon the value of the Property. If mutual agreement is reached within said 10 days or any time by the process of this Section, the agreed value shall, for the purposes of this Agreement, be known as the Guaranteed Price. Following the procedure of Section 4, the Property Owners shall advertise or list the Property for an asking price equal to or greater than the Guaranteed Price.

If the parties are unable to agree as to the value of the Property during said 10 day period, then the Property Owners shall select and hire a qualified professional appraiser who shall be instructed to determine the fair market value of the Property as follows:

- a. Assume that no landfilling activities have been, are or will be undertaken at the Landfill;
- b. Any comparables selected by the appraiser shall be located a sufficient distance away from the Landfill or any other Waste Management landfilling activity so that the selling price was not, in the opinion of the appraiser, influenced by the presence of the Landfill;
- c. The use of the Property on July 1, 1991 shall be conclusively deemed by the appraiser to be the highest and best use of the Property; irrespective of the zoning classification of the Property;
- d. A full narrative appraisal shall be prepared;

- e. The appraisal shall be prepared in full compliance with any and all state standards and state regulations which pertain to the preparation of an appraisal of the Property except those standards and regulations which are specifically preempted by these instructions; and
- f. The appraiser shall note the condition of the premises, both interior and exterior, at the time of the appraisal.

The appraiser shall provide a copy of the written appraisal report to Waste Management and the Property Owners immediately upon its completion. If Waste Management accepts the appraised value this shall be the Guaranteed Price and the Property Owners shall attempt to sell their property in either of the two ways described in Section 4 at an asking price equal to or greater than the Guaranteed Price. Waste Management shall reimburse the Property Owners up to \$250 of the cost of the written appraisal report, within 15 days after the Property Owners provide Waste Management with a copy of the appraiser's invoice and a copy of the appraisal.

If Waste Management does not accept the appraised value as the Value of the Property it shall within 7 days of receipt of Property Owners' appraisal report retain, at its own expense, a qualified professional appraiser who shall be instructed to determine the fair market value of the Property, in accordance with instructions a – f above, and provide a written report within 30 days of such retention. The appraiser shall provide a copy of the written appraisal report to Waste Management and the Property Owners immediately upon its completion. The arithmetic average of the two appraised values shall be the Guaranteed Price. The Property Owners shall then attempt to sell their Property in either of the two methods described in Section 4, at an asking price equal to or greater than the Guaranteed price.

Notwithstanding the foregoing, if either the Property Owners or Waste Management does not accept the arithmetic average of the appraised values as the value of the Property; then the

non-accepting party or parties may, within 7 days of receipt of the written appraisal report of the Waste Management appraiser, instruct the two previously selected appraisers to choose and promptly retain a third qualified professional appraiser to determine the fair market value of the Property in accordance with instructions a – f above, and to provide a copy of the written appraisal report to both parties within 30 days of such retention. The arithmetic average of the three appraisals shall be the Guaranteed Price. The Property Owners shall attempt to sell their Property in either of the two methods described in Section 4, at an asking price equal to or greater than the Guaranteed Price. The appraisal fee for the third appraiser shall be paid by Waste Management. Also notwithstanding the foregoing, the parties acknowledge and agree that they may, at any time in the foregoing process, attempt to reach a mutual agreement about the Guaranteed Price and upon so doing this shall be the Guaranteed Price.

For the purpose of this section, “qualified professional appraiser” shall mean a person who is: (1) not related to the Property Owners, (2) licensed as an appraiser by the State of Wisconsin, and (3) a member of at least one national appraisal association.

4. OFFERING FOR SALE. In the event that the Property Owners wish to exercise the guaranty set out in Section 1, they shall notify Waste Management of same in writing by certified mail and thereafter they shall make a good-faith effort to sell the Property for a period of at least one hundred and twenty (120) days. This good faith effort to sell can be made in either of the following two ways or in any combination thereof: (1) the Property Owners may advertise and attempt to sell their Property without the employment of a real estate broker, or (2) they may enter into a residential listing contract with a licensed real estate broker. Both Waste Management and Property Owners shall act in good faith concerning the sale of the Property at a price at least equal to the Guaranteed Price.

If the Property Owners elect for all or any portion of the 120 day period to attempt to sell the Property themselves, they shall place a "For Sale" sign on the Property and shall advertise the Property for sale in the classified section of the Milwaukee Journal Sentinel not less than once per week during all of the 120-day period during which they are attempting to sell the Property themselves. Waste Management may, at its expense, supplement this advertising and undertake attempts to find a purchaser for said Property during this period.

Alternatively, if the Property Owners elect to use a broker, they shall give Waste Management seven (7) days written notice by certified mail of the broker whom they wish to retain before signing a listing contract with the Broker. The broker shall be (1) licensed as a broker in Wisconsin, (2) unrelated to the Property Owners, (3) a member of the Board of Realtors Multiple Listing Exchange for Washington, Waukesha, Ozaukee and Milwaukee counties, and (4) obligated to use his or her reasonable best efforts to market the Property. Any objection or claim by Waste Management that the broker does not satisfy the above four criteria shall be waived unless Waste Management, within 7 days of said written notice from Property Owners, provides its written specification of which of said four the broker does not satisfy.

Said listing contract or contracts shall extend for all of that portion of the period of 120 days that the property owners elect not to attempt to sell the property themselves and shall specifically provide: (1) that the broker(s) shall list the Property in the multiple listing exchange for Milwaukee, Waukesha, Ozaukee and Washington Counties and shall agree to keep the Property so listed until the occurrence of either the sale of the Property or the expiration of the listing contract, (2) that no broker shall be entitled to any commission or other payments whether for broker's costs or otherwise in the event Waste Management purchases the Property at any time after the expiration of the listing contract and (3) that no broker shall be entitled to a commission on the amount paid by Waste Management pursuant to the procedure of Section 5 of

this Agreement. The Property Owners shall cooperate with the broker(s) in obtaining a purchaser pursuant to the terms as set out in the listing agreement and shall make, in good faith, all reasonable efforts necessary to conclude a sale pursuant to the terms of the listing Agreement. No provision hereunder shall be construed to grant Waste Management any option to purchase or right of first refusal as against any potential third party purchaser during the term of the listing contract.

5. OFFERS TO PURCHASE. The Property Owners agree to provide Waste Management with a copy of every Offer to Purchase which they receive for their Property and agree not to accept any Offer until Waste Management has given its approval; notwithstanding the foregoing, the Property Owner shall not be required to obtain such approval if the purchase price in the Offer equals or exceeds the Guaranteed Price. Waste Management may not withhold its approval for any reason other than price. Waste Management may approve of an Offer to Purchase at a price below the Guaranteed Price. In such event, Waste Management shall pay the Property Owners at the closing, the difference, if any, in cash between the selling price set out in the Offer to Purchase and the Guaranteed Price.

Waste Management may request that the price set out in the Offer to Purchase, if less than the Guaranteed Price, be countered as to price, and in the event that the potential buyers accept the Counter Offer, Waste Management shall pay the Property Owners at the closing, the difference, in cash, between the selling price set out in the Counter Offer and the Guaranteed Price.

6. WASTE MANAGEMENT TO PURCHASE THE PROPERTY AFTER 120 DAYS. If the Property Owners have attempted to sell their Property under either of the methods provided in Section 4 for a period of at least 120 days, then the Property Owners may request, in writing, that Waste Management purchase their Property. However, Waste Management shall

have no obligation to purchase the Property until at least 120 days after the issuance by the Wisconsin Department of Natural Resources to Waste Management of a license for the operation of the Landfill and the issuance of all necessary approvals, permits, etc. as maybe required by the Villages of Menomonee Falls and Germantown to establish and operate the Landfill.

It is the intention of Waste Management to avoid panic selling prior to the licensing of the Landfill, and the Property Owners agree that any attempts which they make to sell their Property prior to the time that Waste Management receives the required licenses, permissions and approvals for the Landfill, will not be considered in meeting the requirement for sales attempts for 120 days. Upon request, Waste Management will notify the Property Owners in writing of the date when it has received the required licenses, permission and approvals for the Landfill.

Property Owners shall provide proof of advertising of the Property for sale or a copy of the listing contract(s) and an affidavit of their good-faith attempts to sell said Property. Provided the Property Owners have complied with the foregoing procedure, Waste Management shall purchase the Property at the Guaranteed Price, subject to the conditions set out in Sections 7 and 8 below.

7. EVIDENCE OF TITLE. Within fifteen (15) days after providing such proof of advertising, copies of listing contract(s) and the affidavit, Property Owners shall provide Waste Management a commitment from a title insurance company licensed in Wisconsin to issue title insurance in the name of Waste Management in the amount of the Guaranteed Price. After receipt of such commitment, Waste Management shall have thirty (30) days to notify the Property Owners of any defects in title which make the same unmerchantable. Any such defects shall be cured at the expense of the Property Owners. If any defect cannot be cured and Waste

Management is unwilling to waive the same, then Waste Management shall have no obligation to purchase the Property.

8. DOCUMENTS REQUIRED FOR CLOSING; PRORATIONS; CLOSING COSTS. In the event that the Property Owners have merchantable title, the closing shall occur within 60 days after the Property Owners have provided a title commitment or within sixty (60) days after the Property Owners cure any defects shown in the title commitment to make it merchantable. The Property Owners shall convey the Property to Waste Management by good and sufficient Warranty Deed, free and clear of all liens and encumbrances, except municipal and zoning ordinances; recorded easements; recorded building and use restrictions and covenants. Property Owners shall warrant and represent that they have neither notice nor knowledge of any:

- a. Planned or commenced public improvements which may result in special assessments or otherwise materially affect the property.
- b. Government agency or court order requiring repair, alteration or correction of any existing condition.
- c. Underground storage tanks or any structural, mechanical, or other defects of material significance affecting the property, including but not limited to inadequacy for normal residential use of mechanical systems, waste disposal systems and well, unsafe well water according to state standards, and the presence of any dangerous or toxic materials or conditions affecting the property; all except for any materials or conditions which are caused by Waste Management.
- d. Wetland and shoreland regulations affecting the property.

Further, the Property Owners shall pay at closing all conveyancing costs typically paid by a seller, including but not limited to: title insurance premium, real estate transfer tax and

recording fees. The Property Owners shall also execute, at closing, a standard affidavit as to the liens and possession and shall provide lien waivers from all contractors, subcontractors and materialmen, if any, who have provided services or materials for the Property within six (6) months prior to closing. Real estate taxes for the year of closing shall be prorated based upon the real estate taxes assessed and levied for the prior year and if the residential Property is a part of a larger tax parcel, then the tax proration shall be based upon the taxes for the improvement, plus the percentage of the taxes which approximates the percentage of the land comprising the Property compared to the total land included in the tax parcel. The Property Owners shall be responsible for and shall pay all utilities through the date of closing. Possession and physical occupancy of the premises shall be given to Waste Management at closing. Prior to closing the Property Owners shall give Waste Management, or its agent, the right to inspect the property for the purpose of determining the existence of any damage to the premises which may have occurred between the date of the first appraisal and the date of the closing. The Property Owners shall be responsible for all damage in excess of normal wear and tear and any claim for such damage shall be presented to the Property Owners prior to closing; or such claim shall be waived. Property Owners shall repair such damage prior to closing or the reasonable cost of such repair shall either be deducted from the Guaranteed Price or, at Property Owners' option, be escrowed from the sales proceeds with a non-party pending judicial determination of any dispute regarding liability therefore or cost thereof.

9. TERMINATION OF WASTE MANAGEMENT'S OBLIGATIONS. This Agreement shall terminate and Waste Management shall have no further obligations under this Agreement upon the occurrence of all of the following events: (i) waste is no longer being disposed of at the Landfill; (ii) Waste Management serves notice of the same upon the Property Owners; and (iii) the Property Owners do not notify Waste Management of their exercise of the

guaranty granted in Section 1 within 120 days after service pursuant to (ii) above. The notice under (ii) above shall be served in the same manner as required for a summons under Ch. 801, Wis. Stats. and shall inform the Property Owners of guarantee and termination provisions hereunder. Upon timely notice of their exercise of the guaranty by the Property Owners, the terms of this agreement shall remain in full force and effect and the Property Owners are hereby granted the time necessary to utilize the procedures of this Agreement. Specifically, the Property Owners are hereby granted the time necessary to comply with the 120 day period set forth in Section 4.

For the purpose of this Agreement "waste is no longer being disposed of" shall occur at the earliest of the following dates: (1) the disposal of waste at the Landfill has been permanently terminated as the result of an order, judgment or decree issued by a federal, state or local agency, court or unit of government having jurisdiction under Administrative Code, Statute, Law, or Ordinances; (2) any agency having jurisdiction fails to issue or revokes any license, permit, or approval needed by Waste Management to operate the Landfill; (3) the Landfill has reached its design capacity approved by the DNR in the original Plan of Operation for the Landfill, as may be modified during the life of the Landfill, or (4) Waste Management voluntarily elects to permanently cease disposing of waste at the Landfill despite the fact that there is remaining capacity.

10. ASSIGNMENT OR TRANSFER. Except as provided otherwise in this Section, neither this Agreement nor the rights under it may be assigned, conveyed or otherwise transferred by the Property Owners. The guaranty given by Waste Management in this Agreement is personal and does not run with the land, and it terminates when the Property is sold, conveyed or otherwise transferred, unless the sale, conveyance or transfer is (a) from a Property Owner to their spouse, parent, child, brother, sister, son-in-law or daughter-in-law, or

(b) to their heir, beneficiary, personal representative, guardian or trustee. In the event of a sale, conveyance or transfer to one of those described in (a) or (b), the new property owner shall be entitled to the same guarantee as the preceding Property Owners, but the guarantee shall not pass to any owner of the Property subsequent to the new property owner. In all events, the guarantee shall terminate as described above in Section 9.

11. The Property Owners agree not to commence or undertake any action, litigation, petition, request for hearing, judicial or administrative review of proceedings with regard to attempts by Waste Management to obtain all required licenses and permits necessary for the establishment and operation of the Landfill. In the event the undersigned Property Owners, or either of them, engage in any of the above activities with regard to the aforesaid applications, this Agreement shall become null and void and neither party shall have any further obligations under same. It is expressly understood that the parties, by entering into this Agreement, do not waive any rights they may have at law or at equity except as expressly stated above and that as to construction or enforcement of this obligation, the laws of the State of Wisconsin shall apply. However, any Property Owners who have previously entered into an agreement regarding the Orchard Ridge Recycling and Disposal Facility similar to this Agreement and regarding their same property hereby waive: (1) the right to receive notice under Section 9 of their existing agreement with Waste Management and (2) all other rights granted to the Property Owners under Section 9 of their existing agreement with Waste Management. It being the intention of the parties to extend the rights to include the Southern Expansion of the Orchard Ridge Landfill. In addition to any other remedies available, Property Owners shall be entitled to specific performance of this Agreement. The Court may award to the prevailing party its actual, reasonable attorney fees and costs of enforcement of the Agreement, if the Court determines that the position of the non-prevailing party was not substantially justified.

GUARANTOR:

WASTE MANAGEMENT OF WISCONSIN, INC.

BY: _____

TITLE: _____

PROPERTY OWNERS:

EXHIBIT D
List of Properties with Names and Addresses
Of Owners Known as of February 2004

- | | |
|---|---|
| 1. Tax Key No.: 3.972000
Mr. John J. Bako Jr.
N89 W13624 Bonnie Lane
Menomonee Falls, WI 53051 | 10. Tax Key No.: 3.985000
Mr. and Mrs. Richard Mahn
W137 N9019 Highway 145
Menomonee Falls, WI 53051 |
| 2. Tax Key No.: 3.967000
Mr. John W. Berget
N89 W13794 Bonnie Lane
Menomonee Falls, WI 53051 | 11. Tax Key No.: 3.957000
Gary Merkel & Barbara Witt
N89 W13521 Bonnie Lane
Menomonee Falls, WI 53051 |
| 3. Tax Key No.: 3.982000
Ms. Lisa L. Matson
W136 N9013 Highway 145
Menomonee Falls, WI 53051 | 12. Tax Key No.: 3.964000
Mrs. Debra J. Nemitz
N89 W13773 Bonnie Lane
Menomonee Falls, WI 53051 |
| 4. Tax Key No.: 3.966000
Mr. Theodore J. Geiger
N89 W13809 Bonnie Lane
Menomonee Falls, WI 53051 | 13. Tax Key No.: 3.962000
Diana Lee Pierce
W193N16072 Stone Hedge Dr.
Jackson, WI 53037 |
| 5. Tax Key No.: 3.971000
Mr. Merwin S. Hall
N89 W13658 Bonnie Lane
Menomonee Falls, WI 53051 | 14. Tax Key No.: 3.961000
Allen L. and Patricia A. Ray
N89 W13687 Bonnie Lane
Menomonee Falls, WI 53051 |
| 6. Tax Key No.: 3.959000
Mr. Bruce Irwin
N89 W13585 Bonnie Lane
Menomonee Falls, WI 53051 | 15. Tax Key No.: 3.987000
Lawrence D. and Judith L. Schultz
W136 N9057 Highway 145
Menomonee Falls, WI 53051 |
| 7. Tax Key No.: 3.969000
Mr. and Mrs. Kenneth Blaeske
N89 W13764 Bonnie Lane
Menomonee Falls, WI 53051 | 16. Tax Key No.: 3.981000
Mr. Gary Schwartz
W3437 Playbird Road
Sheboygan Falls, WI 53085-201 |
| 8. Tax Key No.: 3.963000
Mr. Daniel Vandenboogard
N89 W13737 Bonnie Lane
Menomonee Falls, WI 53051 | 17. Tax Key No.: 2.992000
Arthur D. and Barbara L. Sellhausen
W137 N9439 Highway 145
Menomonee Falls, WI 53051 |
| 9. Tax Key No.: 3.986000
Mr. James W. Lutzke
W136 N9033 Highway 145
Menomonee Falls, WI 53051 | 18. Tax Key No.: 3.975000
Mr. Ernst Von Schleldorn
N88 W14167 Main Street
Menomonee Falls, WI 53051 |

19. Tax Key No.: 3.958000
Mr. John M. Hudlett
N89 W13555 Bonnie Lane
Menomonee Falls, WI 53051

20. Tax Key No.: 3.973000
~~Ms. Clara A. Zillmann~~
c/o Betty Stanfield
1836 Hilltop Dr.
West Bend, WI 53095

5298966_1

Exhibit E

To: All property Owners Identified in Exhibit D [see attached] of the Agreement between Waste Management of Wisconsin, Inc. ["Waste Management"] and the Village of Menomonee Falls ["Village"].

Re: Agreement to Guarantee the Property Value of Tax Key No. _____

Sent Via Certified Mail, Return Receipt Requested; No. _____

**THIS LETTER PROVIDES YOU WITH INFORMATION ONLY AND REQUIRES
NO ACTION ON YOUR PART AT THIS TIME**

Dear Property Owner [s]:

As you may know, the Village and Waste Management recently concluded their negotiations and entered into an agreement [the "Negotiated Agreement"] regarding Waste Management's expansion of its landfilling activities in the Village. This expansion will be called the Southern Expansion of the Orchard Ridge Recycling & Disposal Facility ["Orchard Ridge R&DF"]. Waste Management is currently seeking a license for the Southern Expansion of the Orchard Ridge R&DF from the Wisconsin Department of Natural Resources [WDNR].

The purpose of this letter is to notify you that one of the provisions in the Negotiated Agreement requires Waste Management to offer you an opportunity to enter into an Agreement to Guarantee Property Value of your property identified above [the "Agreement"]. I have enclosed a copy of this Agreement for your information, even though Waste Management's obligation does not arise until the WDNR issues Waste Management an Operating License for the Southern Expansion of the Orchard Ridge R&DF.

When DNR issues the Operating License (anticipated to be next summer) then Waste Management is required to give you written notice by Certified Mail within thirty [30] days after WDNR issues the Operating License. Waste Management will also send along with that notice three [3] duplicate originals of the enclosed Agreement signed by a Corporate Officer of Waste Management. Upon your receipt of that notice and those three duplicate originals of the Agreement, you will have 120 days to enter into the Agreement with Waste Management.

TO REPEAT, YOU DO NOT HAVE TO TAKE ANY ACTION AT THIS TIME. The enclosed copy of the Agreement is only being provided now to alert you that the Negotiated Agreement requires Waste Management to offer to enter into the Property Value Protection Agreement when Waste Management receives an Operating License for the Southern Expansion of the Orchard Ridge R&DF.

Thank you for your consideration of the foregoing.

Sincerely,

Steven Meyer
Landfill Manager
Enclosures

Exhibit F

To: All property Owners Identified in Exhibit D (see attached) of the Agreement between Waste Management of Wisconsin, Inc. ("Waste Management") and the Village of Menomonee Falls, ("Village").

Re: Agreement to Guarantee the Property Value of Tax Key No. _____

Sent Via Certified Mail, Return Receipt Requested; No. _____

Dear Property Owner (s):

As you know from my previous letter, the Village and Waste Management concluded their negotiations and entered into a negotiated agreement (the "Negotiated Agreement") regarding Waste Management's expansion of its landfilling activities to be known as the Southern Expansion of the Orchard Ridge Recycling and Disposal Facility (the "Orchard Ridge R&DF").

My previous letter advised you that one of the provisions in the Negotiated Agreement requires Waste Management to offer you an opportunity enter into an Agreement to Guarantee the Property Value of your property identified above (the "Agreement") when the Wisconsin Department of Natural Resources (WDNR) issues Waste Management an Operating License for the Southern Expansion the Orchard Ridge R&DF. This license was issued on _____ 2004.

Accordingly, a Corporate Officer of Waste Management has signed and I have enclosed three duplicate originals of this Agreement for your signature (s).

If you decide to enter into this Agreement with Waste Management, you must do so within 120 after your receipt of this letter, or you will lose your right to do so. In order to enter into this Agreement, you must sign two of the enclosed copies and send or deliver them to Waste Management of Wisconsin, Inc., Northern Region Office, W124 N8925 Boundary Road, Menomonee Falls, Wisconsin 53051. The third copy of the Agreement should be retained for your files.

To repeat, if you want to enter into this Agreement, you must sign and return two copies of this Agreement within 120 days after your receipt of this letter, otherwise it will be conclusively presumed that you are not interested in entering into this Agreement. If, for some reason, you believe that you need an extension of this 120 day period please send a written request for an extension to Waste Management of Wisconsin, Inc. at this same address and state the reason the extension is needed and the length of the extension (not to exceed an additional 120 days). If your request is received during the 120 days, Waste Management will not unreasonably withhold its approval of your request and will promptly, within 10 days of its receipt of any request, advise whether the extension is granted or denied.

If you return the Agreements to Waste Management, please also attach a copy of your deed or other document setting forth the full legal description of your property.

After entering into the Agreement, if you decide to sell your property, you must send Waste Management written notice of your decision to sell by Certified Mail to Waste Management of Wisconsin, Inc., Northern Region Office, W124 N8925 Boundary Road, Menomonee Falls, Wisconsin 53051. You must attempt to sell your property for 120 days after the date of that notice.

This Agreement will terminate and Waste Management shall have no further obligations to purchase or guarantee the purchase price of your property when Waste Management is no longer disposing of solid waste at the Southern Expansion of the Orchard Ridge R&DF. Waste Management is required by this Agreement to give you personal notice when it ceases to accept solid waste for disposal in the expansion. You will have a further 60 days after your receipt of that notice to decide whether or not to attempt to sell your property and take advantage of Waste Management's obligation to purchase or guarantee the purchase price of your property.

By entering into this Agreement, you are not required to sell your property to Waste Management; instead, the Agreement only requires Waste Management to buy your property or to pay the difference between the guaranteed price and the price that it is actually sold for, in the event you decide, in your sole discretion, to attempt to sell your property. Obviously, you will want to carefully review this entire Agreement.

Thank you for your consideration of the foregoing. If you have any questions regarding this Agreement, I suggest that you discuss the same with your attorney. Either you or your attorney may contact me at the above address or phone number to discuss Waste Management's obligation under this Agreement.

Sincerely,

Steven Meyer
Landfill Manager

Enclosures

**AGREEMENT FOR DISPOSAL OF RESIDENTIAL
YARD WASTE FROM VILLAGE OF MENOMONEE FALLS**

This Agreement made this 20 day July, 1992 by and between Waste Management of Wisconsin, Inc. at its Parkview Recycling and Disposal Facility (RDF), a division of Waste Management of Wisconsin, Inc., whose address is N96 W13475 County Line Road, Menomonee Falls, Wisconsin (herein called the "Contractor"), and the Village of Menomonee Falls, a municipal Corporation located in Waukesha County, whose address is W156 N8480 Pilgrim Road, Menomonee Falls, Wisconsin (herein called the "Village").

R E C I T A L S:

WHEREAS, the Contractor has requested a Conditional Use Permit (herein called the "Permit") to operate a composting facility at the Parkview RDF (hereinafter called the "Composting Facility") as described in the Conditional Use Application dated May 4, 1992 (herein called the "Application"); and

WHEREAS, the Village has considered the Application and is willing to issue the Permit; and

WHEREAS, the Village has requested that the Contractor include in the composting Plan of Operation, free disposal, for residents only, who wish to dispose of their yard waste (as defined herein) at the Composting Facility.

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

1. **TERMS:** The terms of this Agreement shall commence on August 1, 1992, provided the Permit has been issued, and shall terminate at such time the Contractor

notifies the Village that it will cease accepting yard waste for disposal at the Composting Facility. If the Contractor elects to cease accepting yard waste at the Composting Facility, it shall give the Village sixty (60) days written notice of such closure, or if the Contractor is unable to continue its composting operation as a result of any permit changes required by or revoked by State, Federal or local agencies, it shall promptly give notice of such closure to the Village.

2. YARD WASTE DISPOSAL BY PERMIT: Subject to the following terms and conditions, bona fide residents of one-, two- or three-family residences in the Village shall be allowed to deliver, in person, yard waste to the Composting Facility during the hours of operation at the Parkview RDF, providing the resident presents to the Contractor a valid permit issued by the Village for the disposal of yard waste in the form as set forth in Exhibit A attached hereto. Eligible residents desiring to dispose of yard waste pursuant to this permit system shall be allowed to dispose of a maximum of one (1) cubic yard of yard waste per week without charge, except for any additional taxes, fees or surcharges imposed by any unit of government, subsequent to the date of this Agreement. In the event a resident has an amount of waste exceeding one (1) cubic yard, the Contractor shall charge \$5.00 per cubic yard, plus any such additional taxes, fees or surcharges imposed for said additional waste exceeding one (1) cubic yard, and collect said amount from the resident at the time of disposal. The Village shall have no responsibility to pay for yard waste delivered in excess of one (1) cubic yard. During the term of this Agreement, the Village agrees to annually issue permits in the form set forth in Exhibit A and the Contractor shall have no obligation to accept yard wastes, except pursuant to the permit terms and conditions herein provided for.

3. ACCEPTABLE YARD WASTE SHALL INCLUDE:

- a. Leaves;
- b. Grass clippings and garden wastes;
- c. Yard trimmings; and
- d. Tree branches (maximum of 8 feet long and up to 4 inches in diameter). Yard waste specifically does not include tree trunks or branches over 4 inches in diameter OR any tree stumps.

4. ADDITIONAL DISPOSAL CONDITIONS:

- a. Each load shall contain only yard waste and shall not be mixed with other wastes;
- b. No yard waste shall be accepted from tree trimming services;
- c. Each residence must empty their own yard waste bags or containers. Contractor shall provide a container for empty bags.

Dated at Menomonee Falls, Wisconsin, the date and year first above written.

VILLAGE OF MENOMONEE FALLS

By:

Robert Steliga
Robert Steliga, President

Attest:

Patricia A. Struve
Patricia Struve, Clerk

PARKVIEW RECYCLING AND DISPOSAL
FACILITY, a division of Waste Management of
Wisconsin, Inc.

By:

Ronald J. Dittus
Title: REGIONAL LANDFILL MANAGER

EXHIBIT A

April 5 - 11		Nov 29 - Dec 5	Nov 22 - 28	Nov 15 - 21	Nov 8 - 14	Nov 1 - 7	Oct 25 - 31	Oct 18 - 24	Oct 11 - 17	
April 12 - 18	1992 Village of Menomonee Falls Yard Waste Disposal Permit Permit # _____ Menomonee Falls Address: _____ _____ a resident of the Village of Menomonee Falls, is entitled to dispose of ONE CUBIC YARD (7 - 30 gallon cans) of his/her own residential yard waste presented during each week stated hereon at Parkview Composting Facility, N96 W13475 County Line Road, without charge, except for any state taxes or fees. A charge of \$5.00 per cubic yard will be imposed for yard waste in excess of one cubic yard per week, and for each disposal after the first disposal per week stated hereon. Permittees must be prepared to present a driver's license at Parkview Composting Facility to prove identification. Authorized Signature _____ Date _____ Hours: Mon - Fri 8:00am - 5:00pm Sat 8:00am - Noon							Oct 4 - 10		
April 19 - 25									Sep 27 - Oct 3	
Apr 26 - May 2									Sep 20 - 26	
May 3 - 9									Sep 13 - 19	
May 10 - 16									Sep 6 - 12	
May 17 - 23									Aug 30 - Sep 5	
May 24 - 30									Aug 23 - 29	
May 31 - June 6									Aug 16 - 22	
June 7 - 13		June 14 - 20	June 21 - 27	June 28 - July 4	July 5 - 11	July 12 - 18	July 19 - 25	July 26 - Aug 1	Aug 2 - 8	Aug 9 - 15

Letter to Residents naming Landfill contact person

Dear Residents:

Waste Management of Wisconsin, Inc. (Waste Management) and the Village of Menomonee Falls have entered into an agreement regarding the Southern Expansion of Waste Management's Orchard Ridge Landfill. Pursuant to this agreement, Waste Management is required to identify a person you should contact if you have questions, problems or concerns about the landfill and its operation. The name, address, and telephone numbers of the contact person are as follows:

Steve Meyer, Landfill Manager
Orchard Ridge, RDF
W124N9355 Boundary Road
Menomonee Falls, WI 53051

(262) 253-8620 – Office
(920) 377-0816 – Cell

By this agreement, Waste Management is required to log all complaints, explain the responses to the complaints and file the logs with the Village. You may wish to contact the Village Department of Public Works directly at (262) 532-4700.

Sincerely,

Orchard Ridge, RDF

Steven Meyer, Landfill Manager