

LANDFILL AGREEMENT
ORCHARD RIDGE LANDFILL

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LANDFILL AGREEMENT: ORCHARD RIDGE LANDFILL

1.0 Agreement. This agreement ("Agreement") entered into this 21 day of JANUARY, 1993, 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 the Village of Germantown, a Wisconsin municipal corporation located in Washington County ("Germantown") and the Menomonee Falls/Germantown Local Committee-Orchard Ridge Landfill ("Local Committee").

2.0 Recitals.

WHEREAS, the Operator gave notice to the clerks of Menomonee Falls, Germantown, Waukesha County, and Washington County of its intent to construct and operate the Landfill and asked the clerks to identify, pursuant to § 144.44(1m)(b) Wis. Stats., all local approvals required; and

WHEREAS, the Villages 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 Germantown appointed one (1) member to the Local Committee; and

WHEREAS, pursuant to § 144.445 Wis. Stats., the Local Committee has negotiated this Agreement with the Operator and has held several public hearings, both to ascertain the issues of concern held by the public and to describe the provisions of the Agreement; and

WHEREAS, the Local Committee has recommended the adoption by Menomonee Falls and Germantown of resolutions 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 first day after the Operator executes this Agreement and the Village Board of Menomonee Falls approves this Agreement by adopting a resolution ("Commencement"). The clerk of the Village of Menomonee Falls shall insert above; the date of passage of said resolution. If the Village Board of Germantown then

approves this Agreement by resolution, the Agreement shall be binding upon and inure to the benefit of the Village of Germantown as well.

3.3 Waiver. The parties acknowledge and agree that the Villages' authority to regulate and control the Landfill through their zoning and police powers have 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.

4.0 Definitions.

Daily Cover means cover which meets the requirements of NR 506.06(2), Wis. Adm. Code.

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, but not to exceed eleven (11) million cubic yards.

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 submitted to the Department dated October 11, 1991, as supplemented by the Operator.

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 Villages, 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 § 144.62(2), 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.

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), 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 § 144.445(3)(d), Wis. Stats.

Local Committee means the Menomonee Falls/Germantown Local Committee - Orchard Ridge Landfill created under § 144.445, 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.

Operating License means the license issued by the Department for the Landfill pursuant to §144.44(3), Wis. Stats.

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

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

Pre-Existing Local Approvals means any pre-existing local approvals, as defined in § 144.445(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 the recycling contract between the Operator and the Village of Menomonee Falls and such other materials as the Operator and Menomonee Falls may agree to during the Term of this Agreement.

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 § 144.01(15), Wis. Stats. and shall also include Yard Waste if Chapter 159, Wis. Stats. is amended to permit and if the Operator elects to dispose of Yard Waste in Landfill.

Solid Waste Facility means the property described in Exhibit A which includes the Landfill as defined herein and shall be known as the Orchard Ridge Recycling and Disposal Facility (RDF); but excludes the property identified on Exhibit A as the General Tire Shredding Area. Solid Waste Facility includes the area identified on Exhibit A as Berm Area only until one year after Final Closure or until all screening berms located thereon are removed, whichever occurs earlier.

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 off of 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.

Villages mean the Village of Menomonee Falls, its officers, employees and agents, and shall also mean the Village of Germantown, its officers, employees and agents provided that the Village Board of the Village of Germantown has approved the Agreement.

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

Yard Waste shall mean Yard Waste as defined in § 159.01(17), Wis. Stats.

5.0 Landfill Operations. Operator shall operate the Landfill 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 Landfill 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 shall constitute a fence enclosing the Landfill.

The Operator shall maintain a single main entrance gate to the Landfill 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 main gate area and providing a full-time attendant at the main entrance gate area at all times that the Landfill main gate is open.

5.2 Hours and Days of Operation. The Operator may accept waste at the Landfill 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. The Operator shall not operate the Landfill on Sundays or legal holidays unless authorized in advance by Menomonee Falls on a temporary, emergency basis. The Operator shall conduct no activities at the Landfill outside of the office prior to one hour before nor later than one hour after the hours of operation stated above.

Upon application by the Operator, to the Menomonee Falls Director of Public Works 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 Landfill 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 Landfill. At a minimum, the Operator shall employ vermin, rodent and insect control practices at least as stringent as those employed during calendar year 1992 at the Parkview Landfill as described in Exhibit G, attached hereto and made a part hereof.

5.4 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 or (2) the purpose of 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 from the Landfill onto any surrounding land. Upon notice from Menomonee Falls or Germantown 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.

5.5 Weed and Grass Control. The Operator shall cut weeds and grass within the Solid Waste Facility at least twice during the active growing season, and shall in addition 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 of 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.

5.6 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 Landfill which has blown outside the fenced area of the Landfill and/or which is collected along the fence perimeter 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.

5.7 Odor Control.

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

(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 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 state-of-the-art gas and odor control system at the Landfill for a period of not less than forty years after Final Closure.

5.8 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 Landfill;

(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 Solid Waste Facility. 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 Landfill 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 September 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 September 1st, said side slope shall be seeded as soon as reasonably possible during the next construction season.

5.9 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.

(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 Solid Waste Facility property to any non-Operator owned property. At a minimum, Operator shall maintain the screening berms and vegetation described in paragraph 5.10.

(d) In no event shall the noise from the Solid Waste Facility exceed 80 decibels 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 5.10), or weed and grass control (Section 5.5).

5.10 Screening Berms and Vegetation. In order to provide visual and audio screening of landfill operations from public roads and private property other than property owned by Operator, the Operator shall maintain an earthen berm along Highway 145 sufficient to screen landfill operations from the sight of traffic along Highway 145 as shown on Exhibit B, such berm to be constructed prior to landfilling operations. Operator shall also maintain a vegetative zone along the entire southern perimeter of the Landfill consisting of existing trees and shrubs and additional trees and shrubs to be planted by the Operator as shown on Exhibit B. All berms constructed for screening purposes shall be removed upon Final Closure to provide useable land at the Landfill perimeter in accordance with Sections 8.1, 8.2 and 8.3, infra.

5.11 Road Clean-Up; Policing of Vehicles.

(a) Operator shall conduct visual inspections of the following roads to look for Solid Waste from vehicles traveling to or from the Landfill:

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 Landfill to inform Operator of any debris 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 the Menomonee Falls or Germantown, depending upon road location, 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 Landfill.

(c) Operator shall as often as necessary each day conduct all street sweeping and cleaning operations necessary to remove dirt and Solid Waste from landfill operations from the surface of County Line Road, between Boundary Road and Highway 145.

(d) Operator shall actively monitor and inspect all vehicles using the Landfill to ascertain that such vehicles are in proper working condition with respect to vehicle equipment necessary to prevent the inadvertent loss of Solid Waste. No vehicles with defective equipment shall be permitted to enter the Landfill following the date of notification to the driver of such condition, unless such condition has been repaired.

5.12 Daily Cover. Operator shall provide Daily Cover as required by DNR and EPA to control offensive odor and to prevent windblown refuse from covered portions of the Landfill as required by sections 5.7 and 5.6, respectively.

5.13 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 every provision of the approved Plan of Operation shall be considered to be a part of this Agreement. Any violation of the provisions of the approved Plan of Operation shall be deemed to be a violation of this Agreement. Operator shall notify Menomonee Falls and Germantown within ten days of any application by Operator for any modification of the approved Plan of Operation for the Landfill. No provision of the approved Plan of Operation shall be considered to supersede any provision of this Agreement.

5.14 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 Landfill. Such log shall indicate the name of the complainant (or "anonymous" if no name is given), the date 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 date the Disposal of Solid Waste begins at the Landfill and shall supply a copy of the log to Menomonee Falls Director of Public Works monthly for the previous month. Operator shall designate a single person 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 such person, and shall advise the Village, immediately upon any change with respect to such information.

5.15 Notice of Violation; Attempt to Cure. In the event Menomonee Falls determines, in its opinion, 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 failure. The Operator shall attempt to correct the alleged violation or failure to comply.

5.16 Stipulated Penalties. After giving the notice provided in Section 5.15, 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, or in circuit court. In the event Menomonee Falls prevails in said action, the Operator stipulates that the court shall impose a penalty set forth in the following schedule:

PENALTY SCHEDULE PER DAY OF VIOLATION

	Up to <u>30 Days*</u>	31 to <u>60 Days*</u>	Over <u>60 Days*</u>
Violation or failure to comply with Sections 5.0 to 16.0, unless specified otherwise below	\$ 100	\$ 200	\$300
Violation or failure to comply with Sections 5.2, 6.1, 6.3, 9.2 and 12.2	\$1,000	\$2,000	\$4,000

* In any 365-day period.

However, such stipulated penalties regarding Sections 5.6(a), 5.7(a), 5.8(a), 5.9(a), and 5.11(b) and (c) may only be imposed ten (10) days after Menomonee Falls gives notice of such violation or failure under Section 5.15 and for each day the violation or failure continues thereafter. Each day of violation 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. By way of illustration only, if it were shown that the Operator violated Section 5.2 of this Agreement five times in May of 1995, ten times in July of 1995, ten times in October of 1995, ten times in January of 1996, six times in April of 1996, and one time in June of 1996, and to have violated Section 5.3 of this Agreement three times in February of 1996, an enforcement proceeding for violations in June of 1996 of Section 5.2 would result in a penalty based on a total of thirty-seven days of violation (i.e., ten days in July of 1995, ten days in October, 1995, ten days in January of 1996, six days in April of 1996 and one day in June of 1996, all within one year of the June violation), but not including the five days in May of 1995 (more than one year prior to the June, 1996 violation) nor the three days in February, 1996 (violations of a different Section of the Agreement). A stipulated penalty for such violations of Section 5.2 of the Agreement would be computed as follows: 30 days at \$1,000 per day, plus seven days at \$2,000 per day. By way of further illustration, if the Operator had violated or failed to comply with a particular subsection of Section 5.6 thirty times in the 365 days prior to the day of the currently alleged violation or failure, then the appropriate penalty would be \$2,000, not \$1,000.

6.0 Community Impact.

6.1 Property Value Diminution. 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 Commencement of 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 commence when the Operator receives a license for the Landfill which is the subject of this Landfill Agreement and which will be known as the Orchard Ridge Recycling and Disposal Facility. 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 Owners of the property, identified in

Exhibit D, 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 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.

6.2 Indemnification. The Operator agrees to defend, indemnify and hold harmless the Villages, their 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 cause bodily injury or other damage to any person or property as a result of the operation and/or closure of the Orchard Ridge Recycling and Disposal 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 Villages.

6.3 Well Monitoring. Within sixty (60) days after approval of the Plan of Operation by the Department and before any Solid Waste is deposited at the Landfill, the Operator shall install a bedrock monitoring well at the southwestern corner of the Landfill and perform the background monitoring of said well as required by NR 500, et seq. Further, the Operator shall conduct the groundwater monitoring program approved by the Department in its approval of the Operator's Plan of Operation. The groundwater monitoring program shall also include monitoring of the aforementioned additional bedrock well located at the southwest corner of the Landfill at the same frequency as required by DNR for other landfill monitoring, but at a minimum of three (3) times annually. Copies of all monitoring sampling results, or a diskette containing the same information, shall be provided to the Village of Menomonee Falls within thirty (30) days after receipt of such sampling results by the Operator. In the event that such

monitoring detects concentrations of any substance in excess of a preventive action limit (PAL), then the Operator shall conduct such further groundwater monitoring as may be reasonably required by the Village of Menomonee Falls, including the testing of private drinking water wells; except additional sampling shall be required only if the monitoring shows exceedence of both the background concentration and the PAL for that substance. Notwithstanding the foregoing, the Operator shall retain the right to establish that the exceedence was not caused by the Operator.

6.4 Traffic. Operator acknowledges that trucks and other refuse vehicle, and private automobiles traveling to and from the Landfill may have the potential for increasing traffic at County Line Road and Hwy. 145. Operator shall cooperate with the Villages of Menomonee Falls and Germantown in two (2) traffic studies of this intersection to be conducted during the life of the Landfill as may be necessary in the opinion of the Village of Menomonee Falls or the Village of Germantown. The Operator shall pay for such studies. Further, the Operator shall pay the Villages' portion of such road improvements as may be identified by such studies; provided that the improvements qualify for federal and/or state highway aid. Road improvements to be paid for by the Operator shall be limited to installation of traffic lights or other signals, placement of road signs, and modifications to roadside structures and vegetation.

7.0 Operator Performance of Municipal Functions.

7.1 Road Maintenance. Operator shall, beginning with the Commencement date of this Agreement and continuing until Final Closure of the Orchard Ridge Landfill, be responsible for all costs of maintaining, repairing and resurfacing County Line Road from Highway 145 to the access to the Landfill. For the purposes of this section, the Operator shall maintain such road in a condition as good as that existing on January 1, 1993. Snow removal and salting shall be the responsibility of the Village of Menomonee Falls.

7.2 Fire Responsibilities. The Village of Menomonee Falls shall be responsible for providing fire protection to the Operator for fires involving equipment or buildings at the Landfill, provided however that the Operator shall reimburse the Village of 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 Landfill and vegetation at the Landfill property, and the Operator shall fully reimburse, release, indemnify and hold harmless the Village of Menomonee Falls for all loss, damage or expense incurred by the Village of Menomonee Falls in responding or failing to respond to fires involving the Landfill and/or vegetation at the Landfill property. Concurrently with the approval of this Agreement by the Village of Menomonee Falls the Operator shall make a financial contribution to the Village of Menomonee Falls for the purpose of enhancing or maintaining fire prevention in the Village of Menomonee Falls.

8.0 Final Use and Landscaping.

8.1 Final Use Plan. Not later than one year prior to a voluntary Final Closure and within six (6) months after an involuntary Final Closure, the Operator shall submit to the Village of Menomonee Falls Village Board a reasonable final use plan for the Landfill property following Final Closure. Such plan shall be subject to the approval of the Board. Within thirty (30) days after Commencement of this Agreement, the Operator shall provide the Village of 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 final 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 Landfill;
- (b) The establishment and maintenance of suitable fencing around the perimeter of the Landfill;
- (c) The planting and maintenance of vegetation on the Landfill;
- (d) Any public recreational uses 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 deemed suitable by the Operator and the Village Board at the time of review of such plan.

The final use plan, if approved by the Village Board, shall be implemented by 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 final 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 final 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. This bond shall be conditioned upon and guarantee to the Village the faithful implementation and maintenance of the final 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. 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 anytime, 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 Landscaping Plan. Operator shall implement the final landscaping plan along Hwy. 145 as shown in Exhibit B, attached hereto and made a part hereof. The Operator shall post a performance surety bond in the amount of Fifty-Four Thousand and no/100th Dollars (\$54,000.00) to assure that the Operator will implement the plan before Solid Waste is Disposed in the Landfill. Said bond shall be issued by a reputable surety and shall be conditioned upon and guarantee to the Village, the faithful implementation of the landscaping plan and shall be in a form acceptable to the Village. The bond shall continue in force until the Operator has initially implemented the landscaping plan. Upon acceptable implementation, the Village shall promptly instruct the surety to release the bond.

The Operator shall maintain all improvements shown in the landscaping plan until Final Closure. Then, except for damage caused by natural disasters including tornadoes, windstorms, fires, etc., the Operator shall continue to maintain all improvements shown in the Landscape Plan for five (5) years after Final Closure. Notwithstanding the foregoing, if the Operator conveys a fee simple interest in any portion of the property upon which the improvements are located to a third party (which for the purposes of this section shall mean an entity that is not owned or controlled by the Operator or by its parent, Waste Management, Inc.); then the Operator's obligations under this section shall cease as to that portion of the property, effective on the date said interest in that portion is transferred.

In the event that any trees provided by the Operator pursuant to the Landscaping Plan, die during the aforesaid periods (e.g., from implementation of the Landscape Plan

until Final Closure and except for damage caused by natural disasters, from Final Closure until five (5) years after Final Closure;), then the Operator shall remove said dead tree(s) and replace it/them with the same size and species of the tree(s) as specified in the Landscaping Plan. Such replacement shall be undertaken in the Spring or Fall (based upon professional advice of the more ideal time to replant such species) after it is determined that the tree(s) has/have died.

The Operator shall provide the Village with a performance surety bond issued by a reputable surety in the amount of Fifty-Four Thousand and no/100th Dollars (\$54,000.00), which is anticipated by the Village to represent the cost of maintaining said plan. This bond shall be conditioned upon and guarantee to the Village, the faithful maintenance of the vegetation planted pursuant to the landscaping plan and shall be in a form satisfactory to the Village. Further, the bond shall continue in force until five (5) years after Final Closure. 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 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 anytime, seek a reduction in the amount of the bond by presenting documentation to the Village which support such a reduction.

8.3 Final Setback of Landfill. Within one year of 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 260 feet in depth from the centerline of Highway 145, located along the east side of Highway 145, and extending from County Line Road in the north to the Milwaukee, St. Paul and Pacific Railroad tracks on the south. 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 Landfill onto the Commercial Setback Zone.

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 Landfill, for Disposal at the Landfill or for any other purpose, any of the following types of waste:

- (a) Hazardous Waste;
- (b) Polychlorinated Biphenyls (PCB's) 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 except when Disposed in a lined monofill site at the Landfill;
- (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 the date of the issuance of the initial Operating License for the Landfill by the Department until Final Closure, the Operator shall provide at the Landfill a facility for the placement during posted operating hours, by the Villages' residents, of any and all Recyclable Materials generated and delivered by the residents. However, the Operator and either Village Board may, at any time during this Term, agree that the Operator may cease operating this facility, with respect to recyclables generated and delivered by the residents of that village.

10.2 Free Disposal of Solid Waste Generated by the Village of Menomonee Falls. The Operator shall from the date of the issuance of the initial Operating License by the Department for the Landfill until Final Closure accept for Disposal at the Landfill without a fee or charge for Disposal of any kind, the Solid Waste generated directly by the Village of Menomonee Falls operations or at its facilities, including wastes denominated "Village Patrol Truck Wastes." 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 shall not be required to accept more than Two Thousand tons of such waste for disposal during any fiscal year (defined as a year commencing from the date of issuance of the Operating License or from any anniversary of that date). If the Village delivers more than Two Thousand tons 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 Two Thousand tons.

10.3 Limited Free Disposal of Yard Waste Generated by the Residents of the Village of Menomonee Falls. From the Commencement of this Agreement until Final Closure, the Operator shall provide free disposal of Yard Waste pursuant to 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 H.

11.0 Payments to Municipalities.

11.1 Host Payments. Operator shall pay the Village Treasurer of the Village of Menomonee Falls a payment for Solid Waste Disposed of at the Landfill. The payment shall be paid monthly by the 25th of each month for the previous calendar month. The host payment shall be the greater of: (1) One and 98/100th Dollars (\$ 1.98) per ton of Solid Waste Disposed of at the Landfill during the previous month (hereinafter "Tonnage Based Payment") or (2) Eighty Thousand Dollars (\$80,000), (hereinafter "Minimum Payment") which, for the first year that Solid Waste is Disposed of at the Landfill, is estimated to be one-twelfth (1/12th) of the annual tonnage anticipated to be disposed of at the Landfill, and each year thereafter shall be one-twelfth (1/12th) of the tonnage of the Solid Waste Disposed of at the Landfill the previous year, multiplied by the most current Tonnage Based Payment. On making the thirteenth payment, and each twelfth payment thereafter, the Operator shall compare the host payment actually paid during the previous twelve months that Solid Waste was accepted for Disposal at the Landfill (hereinafter "Paid Annual Host Payment") to the amount of host payment calculated utilizing the actual tonnage of Solid Waste Disposed of at the Landfill in the previous twelve months multiplied by the Tonnage Based Payment in effect during the previous twelve months (hereinafter "Calculated Annual Host Payment"). If the Paid Annual Host Payment exceeds the Calculated Annual Host Payment, the Operator shall receive a credit for the difference and may apply this credit to its next payment. The Tonnage Based Payment and the Minimum Payment shall be increased annually on the anniversary date of this Agreement 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 4% per annum.

Operator and the Village of Menomonee Falls agree that each of them is interested and desires that host payment paid by the Operator to the Village of Menomonee Falls be used by the Village in a fashion designed to promote the long-term health and welfare of the residents of the Village of Menomonee Falls as a whole, and that a portion of the host payment be used directly for public park and recreational purposes. All host payment paid by the Operator to the Village of the Menomonee Falls pursuant to this Section 11.1 shall be used by the Village of Menomonee Falls exclusively for the purposes and according to the formula stated in Exhibit I to this Agreement, attached hereto or as may be amended by an 85% majority vote of the Village Board.

11.2 Local Committee Expenses. Within thirty days of the Commencement of this Agreement, the Operator shall pay Fifty Thousand and no/100th Dollars (\$50,000.00) to the Village of Menomonee Falls for reimbursement of all expenses of the Local Committee and the Villages relating to the negotiation of this Agreement, including without limitation, attorneys' fees and disbursements, independent consultant fees and disbursements, and mailing, photocopy, telephone and other costs of the Local Committee or the Villages. Operator shall have no obligation to make any payment in excess of Fifty Thousand and no/100th Dollars (\$50,000.00). Operator shall be credited with all payments made to the Local Committee or the Villages for Local Committee expenses which Operator shall have paid prior to the Commencement of this Agreement.

11.3 Host Payments Sharing by Municipalities. Operator is aware that the Villages of Menomonee Falls and Germantown may share host payments from the operation of Landfill and from future landfill operations of the Operator in Germantown. Operator agrees that it shall not object to, nor take any action to defeat or impair, any host payment sharing arrangement between the Village of Menomonee Falls and the Village of Germantown.

12.0 Landfill Review Activities.

12.1 Monitoring and Enforcement Responsibility. The Village of Menomonee Falls Village Board shall have full authority to monitor Landfilling Operations; inspect Landfill records (other than financial); receive, review and act on complaints related to Landfill activity; recommend corrective action and take all other actions necessary to review and regulate the Landfill activities as provided by this Agreement. At any time, the Village Board of Menomonee Falls may appoint a Landfill Standing Committee to assist with or take over any of the responsibilities of the Village of Menomonee Falls Health and Sanitation Committee or for any other purpose related to the operation of the Landfill as the Village Board may deem appropriate. The Operator shall have no obligation to pay any expense of the Landfill Standing Committee.

12.2 Inspections, Records and Access. The Village of Menomonee Falls Village Board or its designee shall have a right from the Commencement of this Agreement until one year after Final Closure to inspect 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. Such right to inspect and copy shall be on reasonable notice during the hours of operation of the Landfill. Upon request, the Operator shall produce at the Landfill such records which may be kept at a site other than the Landfill.

From the date of this agreement until forty (40) years following Final Closure, the Village of Menomonee Falls Village Board, or its designee, may inspect any part of the Landfill, for the purposes stated in preceding paragraph. Such inspection shall be upon a reasonable notice during the hours of operation of the Landfill and in a manner so as not to interfere unreasonably with landfill operations.

13.0 Impact on Sewer Capacity. Operator shall guaranty that no leachate from the Landfill shall reduce in any way the right or capacity of the Village of Menomonee Falls to discharge wastewater to the Milwaukee Metropolitan Sewerage District. 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 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 from the Solid Waste Facility), operate, maintain, repair, close and to 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. 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 from the Solid Waste Facility), operate, maintain, repair, close and to provide Long-Term Care of the Landfill 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 as the Solid Waste Facility which are undertaken by the Operator as of the Commencement of this Agreement and (2) the undertaking of any composting operations for Yard Waste and any Recycling and Recycling Operations that the Operator determines to be required, in its reasonable business judgment, to meet the requirements of Chap. 159, 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 Villages' ordinances to the extent such uses are consistent with those permitted in this subsection on the property referred to in this Agreement as the Solid Waste Facility. However, nothing in this section shall be construed as releasing or waiving the Operator's requirements to comply with

chapters 10, 16 and 18 of the Village Ordinances; Chapter 6 of the Village Ordinances except weight limits on the County Line Road higher than the weight limits on State Trunk Highway 145; Chapters 11 and 24 of the Village Ordinances except as otherwise provided for or regulated by Sections 5.0 through 5.16 of this Agreement; Chapters 13, 14, and 15 of the Village Ordinances, but only as applied to structures; Chapter 22 of the Village Ordinances, but only as applied to structures and flammable and combustible liquids; 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 may in the future have to control or regulate, by regulation, ordinance, permit, license or by order, the uses, operations and businesses at the Solid Waste Facility, or at the currently-licensed facility where these orders, permits, licenses or ordinances are deemed necessary by the Village 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 Commencement of this Agreement, each Village 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 Village forever waives its rights to seek judicial review of the decisions of the Department related to the approval of the Initial Site Report, Site Appropriateness, Feasibility Report, the plan of operation or the issuance of the license for the Landfill 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 the Parkview Landfill as of the date of the Commencement 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, effective January 1, 1994 shall be Seven Thousand Five Hundred Dollars per acre (\$7,500).

Then, on January 1, 1995 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 by more than 40% of the host payment (as adjusted in accordance with the last sentence of the first paragraph 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 Construction and Operation of Agreement

17.1 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.

17.2 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.

(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.

17.3 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: Landfill Management Center
N96 W13503 County Line Road
Menomonee Falls, WI 53051

With a copy to: Waste Management of North America, Inc.
Northern Region
W124 N8925 Boundary Road
Menomonee Falls, WI 53051

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

Attention: Village Manager

the Village of Germantown: Village of Germantown
N122 W17177 Fond du Lac Avenue
Germantown, WI 53022

Attention: Village Administrator

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 party.

17.4 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.

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

17.6 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 selected according to the rules of the American Arbitration Association, who shall arbitrate the matter in accordance with 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.

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

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

17.9 Venue. The Operator, and Villages hereby agree that any action, suit or proceeding arising out of this Agreement or any transaction contemplated hereby shall be brought in a court of competent jurisdiction [in Waukesha County], and that neither the Villages 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.

17.10 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.

17.11 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.
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For Waste Management of Wisconsin, Inc.
David E. Stewart, Esq.
Stewart Law Offices, S.C.
250 Sunnyslope Road - Suite 319
Brookfield, Wisconsin 53005
Telephone: 414/785-8168

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

NEGOTIATING COMMITTEE

date: 1-18-93 William A. Duncan
William Duncan, Chairperson

date: 1-18-93 William Holz
William Holz

date: 1-18-93 Robyn Shiley
Robyn Shiley

date: 1-18-93 Jeffrey Steliga
Jeffrey Steliga

date: 1/18/93 Lloyd L. Turner
Lloyd L. Turner

WASTE MANAGEMENT OF
WISCONSIN, INC.

date: 2/3/93 By: Donald L. Otter
Donald L. Otter
Title: Regional Landfill Manager

VILLAGE OF MENOMONEE FALLS

date: 2-3-93 By: Robert J. Steliga
Robert J. Steliga
Title: Village President

date: 2-3-93 Attest: Patricia A. Struve
Patricia Struve
Title: Village Clerk

VILLAGE OF GERMANTOWN

date: March 16, 1993

By:

Arthur D. Zabel
Arthur Zabel

Title: Village President

date: March 16, 1993

Attest:

Jane Wilms
Jane Wilms

Title: Village Clerk

ORCHARD.DLA - 01/25/93

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Exhibit G	Vermin Control Letter
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EXHIBIT C

AGREEMENT TO GUARANTEE PROPERTY VALUE

AGREEMENT TO GUARANTEE PROPERTY VALUE

This agreement ("Agreement") made and entered into on this ____ day of _____, 1991____, 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).

RECITALS

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

WHEREAS, Waste Management desires to expand its current landfilling activities and establish a landfill to be known as the Orchard Ridge Recycling and Disposal Facility ("Landfill") and has, pursuant to Sec. 144.445 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, 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, at the Property Owners' option, Waste Management shall purchase the Property from the Property Owners 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 _____, negotiated by the Local Committee appointed by the municipalities pursuant to Sec. 144.445(7), Wis. Stats. and Waste Management, is executed by the Village of Menomonee Falls;
- b. The issuance of all necessary licenses, approvals, permits, etc., if any, as may be required by the Villages of Menomonee Falls and Germantown 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 for the Landfill described in Waste Management's Feasibility Report.

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.

The Property Owners further 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 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.

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, 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 hire, at their expense, 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 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 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.

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.

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) is 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 cumulative period of two hundred and seventy (270) 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 270 day period to attempt to sell their 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 and/or the Milwaukee Sentinel not less than once per week during any portion of the cumulative 270-day period that 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 cumulative period of 270 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 270 DAYS. If the Property Owners have attempted to sell their Property under either of the methods provided in Section 4 for a cumulative period of at least 270 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 270 days after the issuance by the Wisconsin Department of Natural Resources of a license to Waste Management for 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 270 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 provide such title or within sixty (60) days after the Property Owners cure any defects in the title 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 270 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. 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 to guarantee the value of the Property and to purchase the Property is personal, and does not run with the land; however, said Agreement shall inure to the benefit of the Property Owners, jointly and severally, and may be transferred or assigned from one to the other, and inures to the benefit of their personal representatives, trustees, guardians, custodians or their heirs; but, in all events, shall terminate as described above in Section 9.

11. 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 herein and that as to construction or enforcement of this obligation, the laws of the State of Wisconsin shall apply. 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:
INC.

WASTE MANAGEMENT OF WISCONSIN,

BY: _____

TITLE: _____

PROPERTY OWNERS:

A61491 - 8/26/91
12/10/92
12/30/92

EXHIBIT D

LIST OF TAX KEY NUMBERS SUBJECT TO
AGREEMENT TO GUARANTEE PROPERTY VALUE

EXHIBIT D
List of Tax Key Numbers required by Section 6.1

VILLAGE OF MENOMONEE FALLS

<u>Tax Key No.</u>	<u>Property Address</u>
2.986001	W137 N9237 Highway 145
2.988000	W137 N9401 Highway 145
2.992000	W137 N9439 Highway 145
3.952000	W135 N8956 Highway 145
3.953000	W134 N8984 Highway 145
3.955000	W134 N8887 Highway 145
3.956000	W134 N8875 Highway 145
3.957000	N89 W13521 Bonnie Lane
3.958000	N89 W13555 Bonnie Lane
3.959000	N89 W13585 Bonnie Lane
3.960000	N89 W13629 Bonnie Lane
3.961000	N89 W13687 Bonnie Lane
3.962000	N89 W13703 Bonnie Lane
3.963000	N89 W13737 Bonnie Lane
3.964000	N89 W13773 Bonnie Lane
3.966000	N89 W13809 Bonnie Lane
3.967000	N89 W13794 Bonnie Lane
3.968000	N89 W13764 Bonnie Lane
3.969000	N89 W13728 Bonnie Lane
3.970000	N89 W13698 Bonnie Lane
3.971000	N89 W13658 Bonnie Lane
3.972000	N89 W13624 Bonnie Lane
3.973000	N89 W13592 Bonnie Lane
3.974000	N89 W13560 Bonnie Lane
3.975000	N88 W15416 Main Street
Lot Only	Vacant Lot

Exhibit D
Page Two

<u>Tax Key No.</u>	<u>Property Address</u>
3.981000	W135 N8987 Highway 145
3.982000	W136 N9013 Highway 145
3.984000	W136 N9025 Highway 145
3.985000	W137 N9019 Highway 145
3.986000	W136 N9033 Highway 145
3.987000	W136 N9057 Highway 145
3.996000	W135 N9010 Highway 145
3.997000	W136 N9044 Highway 145
3.999000	W136 N9014 Highway 145

VILLAGE OF GERMANTOWN

<u>Tax Key No.</u>	<u>Property Address</u>
363-989	9750 Highway 145, Rt. 1
363-990	9750 Highway 145, Rt. 1
363-988	9750 Highway 145, Rt. 1
354-988	W140 N9827 Fond du Lac Ave.
354-999	N96 W14160 County Line Road
354-997	N96 W14250 County Line Road
354-998	1202 Allermann Drive Watertown, WI 53094

EXHIBIT E

NOTICE LETTER TO PROPERTY OWNERS

Omega Hills/Parkview-Landfill Management Center
NS6 W13503 County Line Road
Menomonee Falls, WI 53051
414/253-8626 • Telefax: 414/255-3798



A Waste Management Company

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. _____

Dear Property Owner[s]:

As you may know, the Village and Waste Management recently concluded their negotiations and entered into a negotiated agreement [the "Negotiated Agreement"] regarding Waste Management's expansion of its landfilling activities in the Village. This expansion will be called the Orchard Ridge Recycling & Disposal Facility ["Orchard Ridge R&DF"]. Waste Management is currently seeking a license for 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 review. But Waste Management's obligation does not arise until the WDNR issues Waste Management an Operating License at the Orchard Ridge R&DF.

Waste Management is required by the Negotiated Agreement with the Village to give you written notice by Certified Mail within thirty [30] days after WDNR issues the Operating License for the proposed Orchard Ridge R&DF. It is anticipated that the WDNR may issue this license by next December.

Waste Management is further required to send 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 Orchard Ridge R&DF.

Thank you for your consideration of the foregoing.

Sincerely,

Donald L. Otter
Regional Landfill Manager

DLO/jdd

Enclosures

EXHIBIT F

TRANSMITTAL LETTER TO PROPERTY OWNERS

Omega Hills/Parkview Landfill Management Center
N96 W13503 County Line Road
Menomonee Falls, WI 53051
414-255-3798 • Telefax: 414/255-3798



A Waste Management Company

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 its 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 to 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 Orchard Ridge R&DF. This license was issued on _____.

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 days 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 North America, 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 North America, 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 North America, Inc. Northern Region Office, W124 N8925 Boundary Road, Menomonee Falls, Wisconsin 53051. You must attempt to sell your property for 270 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 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 obligations under this Agreement.

Sincerely,

Donald L. Otter
Regional Landfill Manager

Enclosures

EXHIBIT G

VERMIN CONTROL LETTER



PEST CONTROL
Commercial Division

EXHIBIT G

PARKVIEW LANDFILL

Scope of Service

Monitoring Bldg. - serviced monthly/insect control. Inspected and treated as needed.

Waste Recycling - rodent control performed during winter months. insect control during summer months.

Midland Bldg. - rodent control performed monthly/year round.

Office Bldg. - rodent control during winter months. insect control during summer months.

Trailer - rodent control done on an as needed basis.

Ground Maintenance - rodent control performed monthly/year round

Equipment Repair Bldg. - rodent control done year round/monthly. insect control done on an as needed basis.

EXHIBIT H

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

EXHIBIT H

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").

RECITALS:

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: Donald D. Otte
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								Oct 4 - 10
April 19 - 25	Village of Menomonee Falls Yard Waste Disposal Permit								Sep 27 - Oct 3
Apr 26 - May 2	Menomonee Falls Address: _____ _____ _____								Sep 20 - 26
May 3 - 9	_____, 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.								Sep 13 - 19
May 10 - 16	Permittees must be prepared to present a driver's license at Parkview Composting Facility to prove identification.								Sep 6 - 12
May 17 - 23	Authorized Signature _____ Date _____ Hours: Mon - Fri 8:00am - 5:00pm Sat 8:00am - Noon								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

EXHIBIT I

ORCHARD RIDGE LANDFILL PURPOSES AND FORMULA
FOR DISTRIBUTION OF HOST PAYMENTS

EXHIBIT I

Landfill Agreement - Orchard Ridge Landfill Purposes and Formula for Distribution of Host Payment

All host Payments paid by the Operator to the Village of Menomonee Falls pursuant to Section 11.1 of the Landfill Agreement - Orchard Ridge Landfill shall be used by the Village of Menomonee Falls exclusively for the following purposes and according to the following formula:

- a) The Village of Menomonee Falls shall pay the sum of \$100,000.00 to the Village of Germantown as compensation for the assistance and participation of the Village of Germantown on the Menomonee Falls/Germantown Local Committee and for other reasons, said sum to be paid out of the host Payments paid by the Operator to the Village of Menomonee Falls during the first year that host Payments are paid to the Village of Menomonee Falls pursuant to Section 11.1 of the Landfill Agreement. Notwithstanding the foregoing, the Village of Menomonee Falls shall not be obligated to make any such payment to the Village of Germantown unless and until the Village of Germantown shall have approved the Landfill Agreement by resolution and executed the Landfill Agreement, or unless and until the Village of Germantown shall have agreed in writing to be bound by and comply with Section 15.0 of the Landfill Agreement.
- b) Not more than thirty-five percent (35%) of the host Payments to be paid by the Operator to the Village of Menomonee Falls (after the deduction of any payments to the Village of Germantown pursuant to Part (a) above) pursuant to Section 11.1 of the Landfill Agreement shall be used for land acquisition for, and development, capital improvements and expansion of, parks and recreational facilities in the Village of Menomonee Falls, including for example and not by way of limitation, bike/multi-purpose trails, tennis courts, baseball diamonds, park lighting, expansion and development of Willowood Parkway, and park structures.
- c) Not more than seventy-five percent (75%) of the host Payments to be paid by the Operator to the Village of Menomonee Falls (after the deduction of any payments to the Village of Germantown pursuant to Part (a) above) pursuant to Section 11.1 of the Landfill Agreement shall be placed in a Capital Expenditure Fund to be administered solely by the Village of Menomonee Falls, for the purpose of funding capital projects of general benefit to the Village of Menomonee Falls costing in excess of \$100,000.00 and having a minimum life of ten years, including for example and not by way of limitation, a new library and/or library automation, and a community center.
- d) No revenues from host Payments shall ever be expended in the form of surplus or general funds in order to reduce the tax levy.
- e) Any use of the funds as described herein must be approved annually by a three-fourths vote of the Village Board.