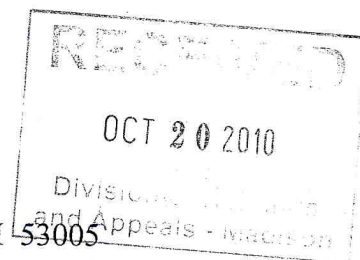


David E. Stewart
Attorney at Law
Stewart Law Offices
150 N. Sunnyslope Road Suite 270 Brookfield, WI 53005
262-432-2240 Fax: 262-432-2243



David H. Schwarz
Executive Director
Waste Facility Siting Board
5005 University Ave., Suite 201
Madison, WI 53705-5400

October 19, 2010

Re: Waste Management of Wisconsin, Inc., Metro Landfill Facility Greenspace Protection
and Limited Landfill Expansion Agreement

Dear Mr. Schwarz:

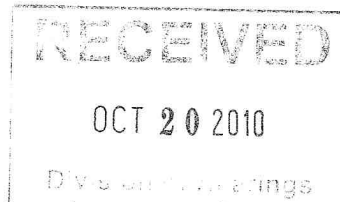
Pursuant to Wis. Stat. sec. 289.33(9)(L), please find enclosed a copy of the above referenced Negotiated Agreement. Waukesha County was the last participating municipality to approve this Agreement pursuant to Wis. Stat. sec. 289.33(9)(k) and did so on October 13, 2010.

Thank you for your consideration of the foregoing.

Sincerely,
Stewart Law Offices

By: 
David E. Stewart

cc: Patrick J. Hudec, Esq. (w/o enc.)
Jesse A. Wesolowski, Esq. (w/o enc.)
Dennis M. Wilt, Esq. (w/o enc.)



**WMWI METRO LANDFILL FACILITY GREENSPACE PROTECTION AND LIMITED
LANDFILL EXPANSION AGREEMENT**

OPERATOR: WASTE MANAGEMENT OF WISCONSIN, INC.

Affected Municipalities:

**CITY OF FRANKLIN
TOWN OF RAYMOND
TOWN OF NORWAY
CITY OF MUSKEGO
WAUKESHA COUNTY
RACINE COUNTY
MILWAUKEE COUNTY**

Mr. Jesse A. Wesolowski
Mr. Patrick J. Hudec
Attorneys for Negotiating Committee

Mr. Dennis M. Wilt
Mr. David E. Stewart
Attorneys for Operator
Waste Management of Wisconsin, Inc.

Table of Contents

	<u>Page</u>
TITLE AND INTRODUCTION	6
OPERATOR OBLIGATION TERM SUMMARY	11
ARTICLE I	13
<u>DEFINITIONS</u>	13
ARTICLE II	19
<u>BACKGROUND INFORMATION</u>	19
1. <u>SITE NAME</u>	19
2. <u>ADDRESS OF SOLID WASTE FACILITY</u>	19
3. <u>OWNER</u>	19
4. <u>DEPARTMENT OF NATURAL RESOURCE'S PERMIT</u>	20
5. <u>CURRENT ZONING</u>	20
6. <u>ACCEPTABLE WASTE TYPES</u>	20
7. <u>ESTIMATED WASTE QUANTITIES</u>	21
8. <u>NOTICES</u>	21
ARTICLE III	22
<u>TRANSPORTATION</u>	22
1. <u>DESIGNATED ROADWAYS</u>	22
A. <u>Designated Authority</u>	22
B. <u>Primary Roadways</u>	22
C. <u>Maintenance of Local Roads</u>	23
2. <u>VEHICLE REQUIREMENTS</u>	23
3. <u>LITTER AND DISCHARGE BEYOND THE SOLID WASTE FACILITY</u>	23
A. <u>Solid Waste, Recyclable Material and Hazardous Waste Discharge Reports</u>	23
B. <u>Discharge Removal on Roadways</u>	24
4. <u>TRANSPORTERS OF SOLID WASTE</u>	24
A. <u>List of Transporters</u>	24
B. <u>Persons Authorized</u>	25
ARTICLE IV	26
<u>OPERATIONS AT OR NEAR THE SOLID WASTE FACILITY</u>	26
1. <u>REPORTS TO THE AFFECTED MUNICIPALITIES</u>	26
A. <u>Notice of Reports from the Operator</u>	26
B. <u>Notice of Reports from Government Agencies</u>	26
C. <u>Residential Concerns of the Affected Municipalities</u>	26
D. <u>Operator Responsibility to the Affected Municipalities</u>	26
E. <u>Notice of Agreement</u>	27
2. <u>HOURS AND DAYS OF OPERATIONS</u>	27
3. <u>DUST, DIRT AND DEBRIS CONTROL AT THE SOLID WASTE FACILITY</u>	27

4.	<u>GROUNDWATER MONITORING</u>	28
5.	<u>NOISE AND AIR QUALITY</u>	28
6.	<u>RODENT, INSECT, BIRD AND VECTOR CONTROL AT THE SOLID WASTE FACILITY</u>	30
	A. <u>Prevention of Rodents and Insects</u>	30
	B. <u>Control of Rodents and Insects</u>	30
	C. <u>Birds and Vector Monitoring</u>	30
7.	<u>FIRE, DISASTER AND HAZARD CONTROL</u>	31
	A. <u>Landfill Fires</u>	31
	B. <u>Creation of Fire Hazards</u>	31
	C. <u>Public Nuisance</u>	31
	D. <u>Private Nuisance</u>	32
	E. <u>Hazardous Waste</u>	32
	F. <u>Security</u>	32
8.	<u>COURT ACTION BY THE AFFECTED MUNICIPALITIES OR MONITORING COMMITTEE</u>	32
9.	<u>ADMINISTRATIVE ACTION</u>	34
10.	<u>TEMPORARY/EMERGENCY CLOSURE OF ACTIVE FILL AREA</u>	34
11.	<u>ACCESS TO THE SOLID WASTE FACILITY</u>	35
12.	<u>REPAIR, MAINTENANCE AND RECONSTRUCTION OF THE NORTHERN FOOTING ACTIVE FILLING AREA AND THE ACTIVE FILL AREA</u>	36
13.	<u>HAZARDOUS WASTE DISPOSAL NOTICE</u>	36
14.	<u>HAZARDS NOTICE</u>	36
15.	<u>RESPONSIBLE MANAGERS</u>	37
16.	<u>HEIGHT RESTRICTION</u>	37
17.	<u>EROSION AND RUN-OFF</u>	37
	A. <u>Erosion Restrictions</u>	37
	B. <u>Abatement of Erosion</u>	37
18.	<u>STANDING OPEN WATER AND WETLANDS</u>	37
19.	<u>SURFACE WATER</u>	38
20.	<u>POST CLOSURE ALIENATION</u>	38
21.	<u>POST CLOSURE SITE PLAN</u>	38
22.	<u>CHANGE IN OWNERSHIP</u>	39
23.	<u>OPERATION TERMS</u>	39
	A. <u>Disposal Operation, Storage Operations and Treatment Operations</u>	39
	B. <u>Initial Operations, Closure Operations and Post-Closure Operations</u>	41
	C. <u>Local Approvals</u>	41
24.	<u>MONITORING COMMITTEE AND COMPLIANCE OFFICER</u>	42
	A. <u>Monitoring Committee</u>	42
	B. <u>Compliance Officer</u>	42
25.	<u>LANDFILL REVIEW ACTIVITIES</u>	43
	A. <u>Monitoring and Enforcement Responsibility</u>	43

B.	<u>Inspections, Records and Access</u>	43
C.	<u>Inspections, Solid Waste Facility</u>	43
26.	<u>EXISTING AGREEMENTS</u>	43
ARTICLE V		45
<u>FINANCIAL OPERATIONS RELATED TO THE SOLID WASTE FACILITY</u>		45
1.	<u>INDEMNIFICATION TO THE AFFECTED MUNICIPALITIES</u>	45
2.	<u>REIMBURSEMENT FOR NEGOTIATION EXPENSES</u>	45
ARTICLE VI		46
<u>COMPENSATION TO THE AFFECTED MUNICIPALITIES</u>		46
1.	<u>DIRECT PAYMENT</u>	46
2.	<u>PREMIUM FOR OUT-OF-STATE WASTE</u>	47
3.	<u>PREMIUM FOR MAXIMUM EXCEEDANCE CAPACITIES APPROVED FOR TRANSPORTERS</u>	48
4.	<u>RESIDENTIAL AND MUNICIPAL WASTE</u>	48
A.	<u>Tipping Fee Rebate</u>	48
B.	<u>Free Disposal of Self-Hauled Residential Waste by Franklin, Raymond and Norway Residents</u>	48
C.	<u>Free Disposal of Solid Waste from City/Town Departments of Public Works</u>	49
5.	<u>PROPERTY VALUE PROTECTION PLAN</u>	49
6.	<u>SOCIOLOGICAL PAYMENTS</u>	50
7.	<u>OPERATOR RESPONSIBILITY FOR PROTECTION OF NEIGHBORING WELLS</u>	50
8.	<u>SOLID WASTE FACILITY BUFFER AREA</u>	50
ARTICLE VII		52
<u>MISCELLANEOUS PROVISIONS</u>		52
1.	<u>EXPANSION</u>	52
2.	<u>ENVIRONMENTAL IMPAIRMENT LIABILITY INSURANCE</u>	52
3.	<u>RAYMOND BORROW PIT</u>	52
4.	<u>POST CLOSURE SITE PLAN</u>	52
5.	<u>ANNUAL ADJUSTMENTS IN RATES, PAYMENTS AND OTHER FINANCIAL PROVISIONS OF THIS AGREEMENT</u>	53
6.	<u>NO IMPACT ON SEWER CAPACITY</u>	53
7.	<u>SUPPORT FOR CONSERVATION GREENBELT</u>	53
ARTICLE VIII		54
<u>GENERAL PROVISIONS</u>		54
1.	<u>NOTICE TO PARTIES</u>	54
2.	<u>HEADINGS</u>	55
3.	<u>GOVERNING LAW</u>	55
4.	<u>WAIVER</u>	55

5.	<u>COMPLETE AGREEMENT</u>	55
6.	<u>AMENDMENT</u>	55
7.	<u>BINDING EFFECT</u>	56
8.	<u>EXECUTION IN COUNTERPARTS</u>	56

EXHIBITS

Exhibit "A" - Active Fill Area

Exhibit "A-1" – Northern Footing Active Filling Area

Exhibit "A-2" – Anchor Properties for Conservation Greenbelt

Exhibit "B" - Metro Landfill - Solid Waste Facility Description

Exhibit "C" - Monitoring Committee (Monitoring Committee)

Exhibit "D" - Air Quality Standards

Exhibit "E" - Well Testing

Addendum to Exhibit "E" - Access and Well Sampling Agreement

Exhibit "F" - Property Value Protection Plan and Purchase Agreement

Exhibit "F-1" – Zone A

Exhibit "F-2" – Zone B

Exhibit "F-3" – Zone C

Exhibit "F-4" – Agreement to Guarantee Property Value

Exhibit "G" - Sociological Payments

Exhibit "G-1" - Sociological Payments – Northern Footing Active Filling Area

Exhibit "G-2" - Sociological Payments – Active Fill Area

Exhibit "H" - Zoning Permits, Conditional Use Permits and Summary of Existing, Permitted Uses

Exhibit "I" - Tire Shredding and Storage Regulations

Exhibit "J" - Post Closure Site Plan

Exhibit "K" – Solid Waste Facility Buffer Area

Exhibit "L" – Conservation Easement

Exhibit "M" - Operator's Limited Use of Area East of 112th Street

Exhibit "N" - Siting Procedure for Future Expansions

TITLE AND INTRODUCTION

This Agreement ("Agreement") is made and entered into by, between and among Waste Management of Wisconsin, Inc., a Wisconsin corporation (hereinafter referred to as "Operator"), and the City of Franklin, Town of Raymond, Town of Norway, City of Muskego, Waukesha County, Milwaukee County, and Racine County, Wisconsin municipal corporations (hereinafter referred to as the "Affected Municipalities"), unless otherwise specified.

This Final Negotiated Agreement is the final product of the negotiating process provided for under Wis. Stat. § 289.33. This Agreement between the Waste Facility Siting Committee and the Operator shall be deemed a final agreement upon approval thereof by the Negotiating Committee, the host Affected Municipality and the Operator.

This Agreement shall be known as the "WMWI Metro Landfill Facility Greenspace Protection and Limited Landfill Expansion Agreement". As will be more fully set forth in the body of this Agreement, this Agreement shall apply to any expansions of the Metro Recycling and Disposal Facility within the boundaries of: West Oakwood Road to the north; South 112th Street to the east; West County Line Road (a/k/a 8 Mile Road) to the south; and State Trunk Highway 45 to the west.

The negotiations that resulted in this Agreement commenced in 2003 and proceeded through four primary stages, each of which will be discussed below.

Eastern Expansion Negotiations

1. On February 28, 2003, the Operator sent to the Affected Municipalities a notice which commenced these negotiations under Wis. Stat. § 289.33, seeking an agreement that would allow for expansions within the Active Fill Area within the above described boundaries, and on approximately 100 acres to the east of South 112th Street (the "Frey Property").

2. The Negotiating Committee required Operator to identify the specific location and size for the next expansion as the initial step in the negotiation process, as the lands described in the commencement notice exceeded those necessary to support an anticipated site life as set forth under NR 504.05(3), Wis. Administrative Code. In response, Operator identified a 12,000,000 ton expansion on the Frey Property that had received a favorable Initial Site Report response from the Wisconsin Department of Natural Resources ("DNR") due to its favorable geology and the absence of any significant wetland areas (though Negotiating Committee experts later identified significant hydric soils on that site).

3. The City of Franklin, supported by other Affected Municipalities, informed Operator that landfill disposal on the Frey Property to the east of South 112th Street was inconsistent with the City's land use planning and that any expansion should be within the Active Fill Area within the above described boundaries.

4. Operator advised the Affected Municipalities that any expansion within the Active Fill Area could be limited in scope, potentially yielding considerably less airspace than

the 12,000,000 tons the DNR had commented favorably on in response to Operator's Initial Site Report for the Frey Property. The Operator advised the Affected Municipalities that foregoing any opportunity to expand on the Frey Property would require Operator to assume a significant business risk and could result in the closure of Metro within 5-10 years ("Business Risk"). Ruekert & Mielke, Inc., a municipal engineering planning and financial consulting firm which provided such services to those affected municipalities involved in the siting of the Emerald Park Landfill across the street from Metro, at Operator's request, estimated and calculated Operator's lost profit resulting from an inability to expand upon the Frey Property at \$107,994,488, with a net present value of \$57,589,161.

5. Operator also advised the Affected Municipalities, if any expansions within the Active Fill Area were approved by the DNR, those expansions would be considerably more costly than the expansion on the Frey Property ("Extraordinary Expenses"). Operator's Extraordinary Expenses include: (i) the costs of the application process with the DNR to seek approval to develop certain wetlands; (ii) the costs of constructing and operating irregular-sized disposal areas likely required to avoid any wetland areas the DNR does not approve for development; and (iii) the costs of mitigating and developing new wetlands required for any wetlands filled within the Active Fill Area the DNR approved for development. Operator estimated the Extraordinary Expenses to be \$7,800,000.

6. After considerable discussions, Operator agreed to forego any legal claim that it is entitled to expand onto the Frey Property, if the Affected Municipalities agreed in principle that: (i) the final negotiated agreement would apply to any expansions approved by the DNR within the Active Fill Area; (ii) the Affected Municipalities would support Operator's efforts to expand within the Active Fill Area, including the taking and mitigation of certain wetlands; and (iii) the Affected Municipalities would consider Operator's Business Risk and Extraordinary Costs in the negotiation of host benefits for any expansions in the Active Fill Area.

Conservation Greenbelt Negotiations with Affected Municipalities

7. At the instance of the Affected Municipalities, in 2005 Waste Management began exploring potential alternative uses of the Frey Property and other property it owned outside of the Active Fill Area, compatible with the City of Franklin's land use and green space objectives. Those explorations included input from experts representing The Conservation Fund, the Milwaukee County Department of Parks, Recreation & Culture, the Milwaukee Metropolitan Sewerage District, the Root-Pike Watershed Initiative Network, the U.S. Fish and Wildlife Service and the DNR, among others.

8. Those discussions led to a conceptual proposal to create a new conservation greenbelt to the east of South 112th Street and to the south of West County Line Road that would rely on the Frey Property and other properties owned by Operator to link crucial natural resources and form a buffer between the land and properties to the east and south of the Metro Recycling and Disposal Facility ("Conservation Greenbelt").

9. As indicated on Exhibit "A-2", Waste Management and the Negotiating Committee anticipated that the Conservation Greenbelt would include four "anchor" properties: (i) Franklin Woods, a natural area owned by Milwaukee County to the north of West Oakwood Road (which is also a State of Wisconsin "Natural Area," being one of the last

remnants of Oak Savannah) (Parcel 1); (ii) the Frey Property (Parcel 2); (iii) additional property to the east of South 112th Street owned by Operator (Parcel 3); and (iv) 113 acres of restored and enhanced wetlands to the south of West County Line Road (Parcel 4).

10. Reviews conducted by Operator and its consultants, the City of Franklin, the U.S. Fish and Wildlife Service, the Milwaukee Metropolitan Sewerage District, The Conservation Fund and other interested parties, resulted in confirmation that these four anchor properties are already connected by existing waterways, and protection of those waterways and surrounding properties will provide valuable wildlife habitat and ecological diversity, as well as be consistent with the flood management purposes of the Milwaukee Metropolitan Sewerage District Greenseams Program.

11. In order to facilitate the Conservation Greenbelt becoming a reality, Operator agreed to transfer to the City of Franklin, or to The Conservation Fund or to the DNR (or to a similar entity selected by the City), the Frey Property (Parcel 2 – 99.5 acres), other property Operator owns to the east of South 112th Street (Parcel 3 – 68.6 acres) and the 112.6 acres Operator owns to the south of County Line Road (Parcel 4), provided that: (i) it retains certain rights to use a portion of Parcels 2 and 3 for soil and water management purposes; and (ii) the DNR confirmed that it would allow the taking of certain wetlands within the Active Fill Area so that the landfill could add 10,000,000 or more tons of disposal capacity beyond that provided in the Northern Footing Active Filling Area.

Conservation Greenbelt Negotiations with the DNR

12. The Operator, with the City's support and assistance, sought and obtained the support for the Conservation Greenbelt from the Milwaukee Metropolitan Sewerage District, The Conservation Fund, the U.S. Fish and Wildlife Service, the Milwaukee County Department of Parks, Recreation & Culture and other organizations.

13. On October 1, 2008, the Negotiating Committee adopted a resolution of support, reciting its historical efforts working with and the support of other State of Wisconsin, County and local government representatives, and conservation associations and agencies, in connection with the Operator's efforts to obtain approval from the DNR to take limited wetlands in the Active Fill Area so that the landfill could further expand within the Active Fill Area to allow for the establishment of the Conservation Greenbelt.

14. On November 10, 2008, the Milwaukee County Intergovernmental Cooperation Council adopted a resolution of support in connection with Operator's efforts to obtain approval from the DNR to take limited wetlands so that the landfill could further expand within the Active Fill Area to allow for the establishment of the Conservation Greenbelt.

15. The Operator, supported by the Negotiating Committee and others, in consideration of the establishment of the Conservation Greenbelt, undertook a considerable effort to obtain DNR's approval for the taking of certain wetlands within the Active Fill Area. On two occasions, on December 21, 2006 and on August 13, 2009, representatives from the Operator, the Negotiating Committee, the City of Franklin (including Mayor Thomas M. Taylor), The Conservation Fund and the Milwaukee County Department of Parks, Recreation & Culture met with the Secretary of the DNR and members of his staff to review the

Conservation Greenbelt plans in an effort to obtain support from the DNR for a limited wetland taking within the Active Fill Area so that the anchor properties owned by the Operator could be transferred to become part of the Conservation Greenbelt in connection with these negotiations.

16. Notwithstanding the Secretary commenting favorably on the development of a Conservation Greenbelt on December 21, 2006 and on August 13, 2009, the DNR has steadfastly refused to provide any indication that it would allow any wetland taking within the Active Fill Area at any time.

Final Negotiations with the Affected Municipalities

17. In response to the DNR's refusal to provide any agreement that it would approve any future wetland taking within the Active Fill Area, Operator has indicated it cannot transfer fee ownership of any property it owns to the east of South 112th Street to the City of Franklin, The Conservation Fund, the DNR or any other entity identified by the City.

18. The Negotiating Committee responded to Waste Management's refusal to transfer fee ownership by requesting that: (i) the property owned by Waste Management to the east of South 112th Street be subject to a deed covenant restricting those properties from being used for sanitary landfilling in the future; and (ii) these properties be transferred to become part of the Conservation Greenbelt if the DNR ever approves a further expansion within the Active Fill Area beyond the Northern Footing Active Fill Area. After considerable discussion, Waste Management agreed to do so, provided that the further expansion yields 5,200,000 or more tons of new disposal capacity.

19. The Affected Municipalities also reiterated to the Operator the Negotiating Committee's October 2007 position that the Agreement had to provide benefits comparable to those provided under the agreement for the development of the Emerald Park Landfill immediately west of Metro. To insure that the per ton value of the current benefits provided by Emerald Park was properly determined, the Affected Municipalities retained Ruekert & Mielke, Inc., whose evaluation concluded that the total value of benefits being provided by Emerald Park, as of January 1, 2010, was \$6.05 per net ton.

20. After considerable negotiations and the history of the efforts recited above, the Affected Municipalities and Operator have agreed to all of the terms and provisions of this Agreement.

Summary

The Affected Municipalities and the Operator acknowledge that these negotiations, which continued over more than a seven-year period, not including a prior one and one-half year negotiating upon Operator's proposed East only establishment/expansion, involved significant concessions on both sides. The Affected Municipalities believe that this Agreement is in the best interest of the 1,700,000 persons who reside within their borders and the some 50 governmental communities therein. This Agreement prohibits any expansion of landfilling to the east of South 112th Street and limits the future landfilling at the Metro Recycling and Disposal Facility to an identified geographic area in which landfilling is now conducted and which has been previously designated by the Affected Municipalities for that purpose. This Agreement results in Operator

agreeing to never expand to the east of South 112th Street and the properties it owns east of South 112th Street being immediately subject to a restrictive covenant prohibiting landfilling. The Operator also agrees to transfer the anchor properties it owns east of South 112th Street to become part of a Conservation Greenbelt in the event the DNR approves a further expansion within the Active Fill Area, facilitating the development of green space for future generations, as well as providing for an effective buffer between current and future landfilling operations and the nearby residents. Finally, this Agreement results in enhanced environmental safeguards for the benefit of the Affected Municipalities and the nearby residents and overall direct and indirect economic and environmental protection and future generations' use benefits which the Affected Municipalities believe exceed those being provided by the Emerald Park Landfill across the street.

OPERATOR OBLIGATION TERM SUMMARY

The Operator's obligations and requirements under this Agreement shall commence as provided in this Agreement and the summary of the terms of those obligations is noted below as follows; but in the event of a conflict, the specific provision of the Agreement and not this summary shall control.

1. The following obligations and requirements terminate when and upon the Operator ceasing to accept Solid Waste for Disposal at the Active Fill Area:

- A. Emergency Disposal limitations
- B. Hours of operation for disposal of Solid Waste in the Active Fill Area
- C. Drop off and Disposal of residential waste; but not less than 3 years
- D. Drop off and Disposal of municipal waste; but not less than 3 years
- E. Waste restrictions on type of waste which may be disposed of in the Active Fill Area
- F. Purchase agreements with residential and agricultural property owners, subject to the notice provisions therein
- G. Tipping rebates; but not less than 3 years
- H. Compensation paid pursuant to this Agreement to Affected Municipalities
- I. Litter control

2. The following obligations and requirements terminate upon expiration of the Operator's Long-Term Care obligation for the expansion as currently defined in Wis. Stat. ch. 289:

- A. Existence of the Monitoring Committee
- B. Annual sampling of the wells selected by the Monitoring Committee
- C. Continuation of well testing requirements by DNR
- D. Maintenance of clay cap including vegetative cover
- E. Maintenance of surface water diversions, erosion and runoff controls
- F. Landscaping
- G. Roadway designation and use
- H. Vehicle requirements
- I. Operator notification and reporting to Affected Municipalities
- J. Hours and days of operation for all activities except for Solid Waste Disposal
- K. Dust, dirt and debris control
- L. Groundwater monitoring
- M. Noise, air quality, rodent, insect, fire disasters and hazard controls
- N. Disposal, Storage and Treatment Operations

3. **Perpetuity.** Operator and its successors and assigns shall be responsible for the following in perpetuity:

- A. Indemnity and related obligations under Article V. of this Agreement
- B. Final use
- C. Maintenance of any bond or other proof of financial responsibility if required by any state agency or by this Agreement

- D. Continuation of air quality monitoring if required by a state agency or by this Agreement
- E. Compliance with all applicable laws and regulations except as waived herein
- F. Municipal access to facility
- G. Solid Waste Facility repair, maintenance and reconstruction
- H. Hazardous Waste prohibitions and requirements
- I. Surface water, standing open water, wetland and green space controls
- J. Post closure alienation and change in ownership
- K. Post closure site plan

4. **Recording.** The Operator shall record at the Milwaukee County Register of Deeds Office, within fifteen (15) days of the Effective Date of this Agreement, either the entire Agreement with all Exhibits or, in the alternative, shall record a notice of this Agreement which, shall be approved by the attorney for the City of Franklin.

ARTICLE I

DEFINITIONS

Active Fill Area means the total capacity approved in the future by the Department of Natural Resources as the Disposal capacity for the Disposal of Solid Waste by the Operator at the Solid Waste Facility, in the area depicted and described in Exhibit "A", herein incorporated by reference in this Agreement. This approved area shall not include or permit any future expansion of the Active Fill Area or any expansion of the Solid Waste Facility for the purpose of providing additional Disposal capacity area at the Solid Waste Facility or at the Active Fill Area. The term Landfill shall mean the Active Fill Area and the Northern Footing Active Filling Area as defined herein.

Acknowledged Transporter means any person who at any time transports Solid Waste or Recyclable Materials to or from the Solid Waste Facility. Acknowledged Transporters do not include the City of Franklin or the residents of the City of Franklin, Towns of Norway and Raymond who are authorized by this Agreement to Dispose of Solid Waste or Recyclable Materials at the Solid Waste Facility.

Affected Municipality or Affected Municipalities shall mean the Cities of Franklin and Muskego, Town of Raymond, Town of Norway (as hereinafter specifically provided), Waukesha, Milwaukee and Racine Counties.

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

Days shall refer to calendar days and shall not be affected by holidays or interpreted to mean business days.

Department or "DNR" means the Wisconsin Department of Natural Resources or any successor agency or agencies that may be assigned its current or similar responsibilities.

Design Capacity means the in-place volume, in cubic yards, of the Solid Waste (including all Daily Cover) as described and approved in the Feasibility Reports or the Final Plans of Operation by the DNR for disposal at the Landfill, for the Active Fill Area and for the Northern Footing Active Filling Area, respectively. The Operator has estimated a design capacity of between 5 and 28 million cubic yards for the Active Fill Area and 2.8 million cubic yards for the Northern Footing Active Filling Area, respectively. The parties acknowledge that the approval of Design Capacity may occur pursuant to more than one application submitted by the Operator to the DNR. The final Design Capacity is subject to Operator's receipt of permits to fill wetlands in the Active Fill Area.

Discharge means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Solid Waste, Recyclable Materials or Hazardous Waste at the Solid Waste Facility, or the dissemination of such wastes or materials by Acknowledged Transporters bringing such wastes to the Solid Waste Facility, the foregoing specifically including wind-blown paper, plastic, debris and waste and what is commonly known as "litter"; and any discharge and all discharges being prohibited under this Agreement, by way of this definition as well as may otherwise be set forth in this Agreement, except as legally permitted in connection with Disposal

Operations, Storage Operations or Treatment Operations at the Northern Footing Active Filling Area and the Active Fill Area.

Disposal or Dispose means the Discharge, deposit, injection, dumping or placing of Solid Waste. This term does not include the Storage or the Treatment of Waste at the Solid Waste Facility.

Disposal Operations means any activities at the Solid Waste Facility related to or associated with the Disposal of Solid Waste, including the constructing, surveying, environmental monitoring, environmental testing, repairing, maintaining and closing of the Solid Waste Facility, including the Waste covering at the Solid Waste Facility, where all of the above-noted activities occur any time during the term of this Agreement.

Effective Date of this Agreement shall be the date as of which this Agreement has been signed and approved by the Waste Facility Siting Committee, the City of Franklin and the Operator.

Emergency means any circumstance at any time arising from or pertaining to the Solid Waste Facility that threatens to, adversely impacts or otherwise jeopardizes the public health, safety and/or welfare of persons or property.

Final Closure means the date at which time no further Solid Waste is Disposed of in the Active Fill Area, or the Northern Footing Active Filling Area, if Design Capacity within the Active Fill Area is not approved by DNR or commenced within three years of closure of the Northern Footing Active Filling Area by the Operator or by any other person, unless Operator is diligently pursuing Design Capacity within the Active Fill Area (including appeal of any denials), as authorized by this Agreement based on a bona fide application submitted and pending with the DNR which shall be the earliest of the following:

- A. The prospective date that the Operator, in a written notice to the Affected Municipalities, states it will no longer Dispose of and will no longer allow any other person to Dispose of Solid Waste in the Active Fill Area; or
- B. The date ordered by the DNR or a court having jurisdiction that the Operator, cease Disposing of and no longer allow any other person to Dispose of Solid Waste in the Active Fill Area; or
- C. The date the Operator has Disposed of or has allowed the Disposal in the Active Fill Area of a number of in-place cubic yards of both Solid Waste and daily and intermediate cover materials in the Active Fill Area initially approved for Disposal by the DNR.

Hazardous Waste means any waste identified as a Hazardous Waste by the DNR, under Wis. Stat. ch. 291, or its successor statute, or under regulations adopted by the DNR in Chapter NR-600 *et seq.*, Wis. Administrative 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 the Effective Date until Final Closure and shall apply to the Northern Footing Active Filling Area and the Active Fill Area, as set forth in this Agreement.

Landfill means that portion of the Solid Waste Facility depicted and described in Exhibits "A" and "A-1" and identified as "Landfill" at which Solid Waste Disposal will occur. The Parties acknowledge that the Landfill as identified will be located North of the current landfill activity known as the Metro Recycling and Disposal Facility and to a limited extent will lay over on the same.

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 Wis. Stat. § 289.33(3)(d), or its successor provisions.

Local Committee or Negotiating Committee shall mean the Waste Facility Siting Committee created under Wis. Stat. § 289.33.

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 as it applies to both the Northern Footing Active Filling Area and the Active Fill Area, including but not limited to: 1) pumping, storage and pretreatment of leachate; and 2) extraction, processing and beneficial use of landfill gas.

Monitoring Committee means the Monitoring Committee ("Committee") established under Exhibit "C".

Municipality or Municipalities means the City of Franklin, Milwaukee County, the City of Muskego, Waukesha County, the Towns of Norway and Raymond, and Racine County, their officers, employees and agents.

Northern Footing Active Filling Area means the total capacity approved by the DNR as the Disposal capacity for the Disposal of Solid Waste by the Operator at the Solid Waste Facility, in the area depicted and described in Exhibit "A-1", herein incorporated by reference in this Agreement. This approved area shall not include or permit any future expansion of the Northern Footing Active Filling Area for the purpose of providing additional Disposal capacity area at the Solid Waste Facility or at the Northern Footing Active Filling Area, except that it shall not prevent the Operator's Disposal of Solid Waste in the Active Fill Area upon obtaining all necessary DNR approvals to do so. Operator shall commence Disposing of Solid Waste in the Northern Footing Active Filling Area prior to any Disposing of Solid Waste in the Active Fill Area. All of the terms and provisions of this Agreement shall apply to the Northern Footing Active Filling Area (hereinafter, for such application colloquially referred to as the "Northern Footing") as if it were a separate expansion from the Active Fill Area of the North Expansion, whether or not Operator receives DNR approval to or commences Disposal of Solid Waste in the Active Fill Area.

Operating License means the license issued by the DNR for the Landfill pursuant to Wis. Stat. § 289.31.

Operator means Waste Management of Wisconsin, Inc. (WMWI), its officers, employees, agents, successors or assigns. The term Operator shall also extend the obligations under this Agreement to affiliated or subsidiary corporations or a parent corporation in the absence of any solvent Operator or other legal entities in which WMWI has or is an ownership interest or has or is subject to any control as it relates to its responsibilities under this Agreement.

PCBs means polychlorinated biphenyls in a concentration greater than 50 parts per million or any more restrictive standard established by the USEPA or DNR, as such respective federal and state regulations may be amended from time to time.

Pre-existing Local Approvals means any Pre-Existing Local Approvals as "Pre-Existing Local Approvals" are defined in Wis. Stat. § 289.33(3)(fm), or its successor provisions. Pre-existing Local Approvals shall include, but not be limited to, zoning and conditional use permits, unless otherwise specifically provided for in this Agreement.

Prohibited Expansion means the expansion of the Design Capacity outside of the Active Fill Area or the Northern Footing Active Filling Area as set forth in this Agreement. Any increase in height of Design Capacity within the Active Fill Area or the Northern Footing Active Filling Area beyond nine hundred sixty (960) feet above sea level shall also be deemed to be a Prohibited Expansion unless added height is approved by the City of Franklin. This Agreement defines the Northern Footing Active Filling Area and the Active Fill Area of the WMWI Metro Landfill Facility, which the parties hereto specifically agree shall be the final use of any property in the Solid Waste Facility for waste disposal, landfill or related operations, as defined in and subject to the terms of this Agreement. As such, while the term Prohibited Expansion is herein defined, no such expansion shall be permitted at any time in the future.

Radioactive Waste means any source of radiation as defined by the U.S. Nuclear Regulatory Commission or its successor agency.

Recyclable Materials means those materials which are designated Recyclable Materials pursuant to Wis. Stat. ch. 287, subject to any waivers granted by the DNR.

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 waste, but not to include melting, smelting, or any process involving the actual reuse or remanufacture of recyclable materials.

Remedial Actions means any remedy instead of or in addition to Removal Actions to prevent or minimize any threat to the public health or welfare.

Removal Action means the clean-up action or removal of any pollutants or contaminants from the environment that are a result or related in any way from the Solid Waste Facility or operations relating thereto.

Solid Waste means Solid Waste as defined in Wis. Stat. § 289.01(33), and shall also include Yard Waste if Wis. Stat. ch. 287, is amended to permit and if the Operator elects to dispose of Yard Waste in the Northern Footing Active Filling Area and/or the Active Fill Area; however, "Solid

Waste" shall include stumps, roots, shrubs with intact root balls, sod and stones, if not otherwise accepted by the Operator as Yard Waste.

Solid Waste Facility means the Solid Waste Disposal facility in the City of Franklin specifically depicted and described in Exhibit "B". It includes both the Northern Footing Active Filling Area and the Active Fill Area and the other land described in Exhibit "B". It shall include the clay borrow areas. Solid Waste Facility shall include all property owned or controlled by the Operator or at any time during the term of this Agreement is hereafter acquired, placed under option, controlled by or leased by the Operator or any of its affiliated corporations or other legal entities, agents, representative, proxies or successor entities. This section shall be broadly interpreted in favor of presuming that property that the Operator has any rights in or ability to use such property is to be included in the definition of the Solid Waste Facility. For the purpose of this subsection, acquired property shall refer to any property that is located within the area described in Exhibit "A".

Southeast Expansion means the expansion approved in the Metro Recycling and Disposal Facility: Southeast Expansion Negotiated Agreement signed by the Operator on March 24, 1998, as subsequently amended by the parties and executed by the City of Franklin on April 27, 1998.

Special Waste shall be that waste classified as "Special Waste" by the DNR, Wisconsin Statutes or Administrative Code regulations defining the same as such by the DNR and such additional Solid Waste designated as such by Operator's corporate policy.

Storage or Store means the holding of Solid Waste or Recyclable Materials at the Solid Waste Facility, at the end of which period the Solid Waste or Recyclable Materials are to be then Treated, transported away from the Solid Waste Facility, or in the case of Solid Waste, ultimately disposed of in the Northern Footing Active Filling Area and/or the Active Fill Area.

Storage Operations means any activities at the Solid Waste Facility related to the Storage of Solid Waste or Recyclable Materials as permitted by this Agreement.

Town of Norway shall mean the 36 square mile area currently constituting the Town of Norway at the time of the execution of this Agreement. In the event that all or a portion of said Town should become incorporated or consolidated into a Village or City, then such new Village or City would be deemed an Affected Municipality for all purposes under this Agreement, (except Article VII), as this Agreement applies to the Town of Norway; except that any benefit, compensation, right, or privilege afforded such new city or village shall derive from and be limited to a part of and thereby reduce such Town of Norway benefit, compensation, right or privilege. However, in the event a portion of the Town is annexed into the City of Muskego or another municipality that currently lies outside the jurisdictional limits of the Town of Norway, or in the event that the new village or city also incorporates territory located outside of the Town of Norway, then, for the purposes of this Agreement that portion so annexed or incorporated will be deemed to no longer be a part of the Town of Norway and shall not result in any additional benefit, compensation, right, or privilege which may be available to the new city or village under 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 or Recyclable Materials. Treatment includes incineration.

Treatment Operations means any activities at the Solid Waste Facility directly related to the Treatment of Solid Waste or Recyclable Materials as permitted by this Agreement.

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

Wisconsin Administrative Code means the Wisconsin Administrative Code and any reference to the Wisconsin Administrative Code in this Agreement means the Wisconsin Administrative Code as amended from time to time.

Wisconsin Statutes means the Wisconsin Statutes and any reference to the Wisconsin Statutes in this Agreement means the statutes as amended, from time to time.

Yard Waste shall mean Yard Waste as defined in Wis. Stat. § 287.01(17), or its successor provisions.

ARTICLE II

BACKGROUND INFORMATION

1. SITE NAME

The name of the Solid Waste Facility is the WMWI Metro Recycling and Disposal Facility. The Northern Footing Active Filling Area is described as the Clear Water Pond Expansion in the Initial Site Report submitted to the DNR by the Operator; and the Active Fill Area shall be described as the "Metro Landfill, North Expansion" in any Initial Site Report to be submitted to the DNR by the Operator (hereinafter "Metro North").

2. ADDRESS OF SOLID WASTE FACILITY

The location and mailing address of this Solid Waste Facility is:

Metro Recycling and Disposal Facility
Waste Management of Wisconsin, Inc.
10712 South 124th Street
Franklin, WI 53132

Attention: Site Manager

The legal description of the Solid Waste Facility is set forth in Exhibit "B".

3. OWNER

The current owner of the Solid Waste Facility is Waste Management of Wisconsin, Inc. The term owner shall include Waste Management of Wisconsin, Inc., and any of its successors or assigns. Such corporation is also the Operator and is referred to as "Operator" or "Applicant" in this Agreement and the term "Operator" shall also refer to the corporation's officers, employees, agents, successors or assigns. All of the Operator's responsibilities herein shall be guaranteed by and assumed by Waste Management, Inc. and all successors or assigns in the event that the current Operator is unable to complete or comply with its obligations under this Agreement during the term of this Agreement.

A. Northern Footing Active Filling Area.

- i. Design Concept: The Northern Footing Active Filling Area is proposed as a zone of saturation, composite lined landfill meeting all Subtitle D (RCRA) [42 USC 6911, *et seq.*] requirements.
- ii. Total Proposed Design Capacity: 2.8 million cubic yards of in-place Solid Waste.
- iii. Expected Site Life: 5 to 7 years.
- iv. Proposed Year of Closure: 2017 - 2019.
- v. Total Acreage Currently Owned by the Operator in, or in proximity to, the Solid Waste Facility: at least 610 acres.
- vi. Proposed Licensed Acreage: 16 acres
- vii. Tonnage, Licensed Volume Used and Anticipated Remaining Licensed

Volume shall be reported to the City of Franklin and the other Affected Municipalities annually.

B. Active Fill Area.

The gross acreage in the Active Fill Area is approximately 260 acres, which in a vacuum would allow for a total potential Design Capacity of 28 million cubic yards; however the presence of wetlands and high voltage transmission lines in the Active Fill Area makes the potential proposed Design Capacity and licensed acreage of the Active Fill Area difficult to estimate. In addition, the Operator does not currently own all of the property in the Active Fill Area and may not be able to acquire it. Accordingly, the Operator provides the following good faith estimates subject to these foregoing uncertainties.

- i. Design Concept: The Active Fill Area is proposed as a zone of saturation, composite lined landfill meeting all Subtitle D (RCRA) [42 USC 6911, *et seq.*] requirements.
- ii. Total Anticipated Design Capacity: 14 million cubic yards of in-place Solid Waste.
- iii. Expected Site Life: 30 years.
- iv. Proposed Year of Closure: 2047-2049.
- v. Total Acreage Currently Owned by the Operator in, or in proximity to, the Solid Waste Facility: at least 610 acres.
- vi. Proposed Licensed Acreage: 130 acres
- vii. Tonnage, Licensed Volume Used and Anticipated Remaining Licensed Volume shall be reported to the City of Franklin and the other Affected Municipalities annually.

4. **DEPARTMENT OF NATURAL RESOURCE'S PERMIT**

The DNR's Operating Licenses, conditions of these licenses, permits, and any other conditions, approvals, amendments or future modifications approved by DNR shall be deemed to be incorporated into this Agreement by reference and may be separately enforced by the Affected Municipalities, the Monitoring Committee or any other of their authorized designees as if the same were a part of this Agreement. The same shall be deemed to be supplemental or additional obligations of this Agreement and shall not in any way, if conflicting, be deemed or interpreted to reduce the Operator's duties, responsibilities, obligations and liabilities under this Agreement.

5. **CURRENT ZONING**

The parcel of property described in Exhibit "B" is comprised of the following zoning districts: M-1 Limited Industrial District, M-2 General Industrial District, C-1 Conservancy District, and R-2 Estate Single-Family Residence District.

6. **ACCEPTABLE WASTE TYPES**

The acceptable waste types shall be non-hazardous municipal, institutional, commercial and industrial Solid Waste including refuse, garbage and combustible and noncombustible demolition waste. All Special Waste shall be accepted under the conditions of the Operator's Special Waste

Program as currently approved by DNR or as may be amended by the Operator and approved by DNR.

7. **ESTIMATED WASTE QUANTITIES**

The Northern Footing Active Filling Area is proposed to average 8,200 tons per week, which is the equivalent of 8,200 cubic yards of in-place Solid Waste per week. Total waste quantities are estimated to be 2.8 million tons, which equates to 430,000 tons per year for 6 years.

The Active Fill Area the Operator proposes to average 8,200 tons per week, which is the equivalent of 8,200 cubic yards of in-place Solid Waste per week. Total waste quantities are estimated to be 14 million tons, which equates to 430,000 tons per year for 30 years.

8. **NOTICES**

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

Metro Recycling and Disposal Facility
Waste Management of Wisconsin, Inc.
10712 South 124th Street
Franklin, WI 53132

Attention: Site Manager

The Operator shall provide contact persons with current telephone numbers available to the Affected Municipalities and Monitoring Committee at all times who will be available for immediate response. Furthermore, a twenty-four (24) hour emergency telephone number shall be provided at all times.

ARTICLE III

TRANSPORTATION

1. DESIGNATED ROADWAYS

A. Designated Authority.

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall not use and shall inform its agents and Acknowledged Transporters in writing, not to use any roadways located in the Affected Municipalities as a route for vehicle access to and from the Solid Waste Facility for purposes related to any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations in the Active Fill Area or at any other location at the Solid Waste Facility, unless those roadways located in the Affected Municipalities are established and authorized by this Agreement as one of the designated primary roadway routes for purposes of vehicle access to and from the Solid Waste Facility. The Operator agrees not to knowingly accept any Solid Waste or Recyclable Materials transported to the Solid Waste Facility on roadways in the Affected Municipalities other than the designated primary roadway routes. The foregoing shall not apply to the Operator, its agents, its Acknowledged Transporters, the Affected Municipalities and to any residents of the Affected Municipalities when they are collecting Solid Waste or Recyclable Materials in the Affected Municipalities in vehicles and then transporting such Solid Waste or Recyclable Materials in vehicles to the Solid Waste Facility for Disposal, Storage, or Treatment.

This subsection shall not apply if the Affected Municipality or Municipalities through which any alternate route or routes would traverse and the Operator, at any time, mutually agree in writing to establish any alternative routes or any additional routes in the Affected Municipalities for vehicle traffic access to and from the Solid Waste Facility for any Disposal Operations, Storage Operations, Treatment Operations or for any Long-Term Care Operations in the Northern Footing Active Filling Area and/or the Active Fill Area or at any other location at the Solid Waste Facility. This subsection shall also apply to the Operator, its agents or its employees when these above-noted parties are transporting to or from the Solid Waste Facility construction materials to be used in the construction, maintenance, closure or Long-Term Care of the Solid Waste Facility.

B. Primary Roadways.

The Affected Municipalities, from the Effective Date and extending until forty (40) years after Final Closure, shall permit and designate Primary Roadway Routes and shall authorize, pursuant to subsection "A", vehicle access to and from the Solid Waste Facility by the Operator, its agents and its Acknowledged Transporters, the following roadway routes located in the Affected Municipalities for vehicle access and traffic flow to and from the Solid Waste Facility: State Trunk Highway 45 and Eight Mile Road.

The Operator and its agents shall only use, and shall notify its Authorized Transporters in writing to only use, the above-noted Primary Roadways for vehicle access to and from the Solid Waste Facility for Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations except as otherwise provided herein.

C. **Maintenance of Local Roads.**

The Operator agrees to contribute Fifty Six Thousand Two Hundred and Fifty Dollars (\$56,250) to the City of Franklin to be applied toward the cost of reconstruction of that portion of Eight Mile Road from its juncture with Highway 45 eastward to a point 1,350 feet therefrom. Said contribution shall be paid to the City of Franklin at the time of such reconstruction. This amount shall be adjusted annually on the anniversary of the Effective Date by the changes in the Consumer Price Index (US City Average – All Urban Consumers – All Items). The Operator shall receive credit in the amount paid to the City of Franklin to be applied toward any special assessment imposed on the Operator, as a property owner of property having frontage on that 1,350 foot portion of Eight Mile Road.

2. **VEHICLE REQUIREMENTS**

From the Effective Date and extending until forty (40) years after Final Closure, regarding the transporting of Solid Waste or Recyclable Materials to or from the Solid Waste Facility, the Operator shall use transport vehicles and shall require its agents to use transport vehicles that are designed, constructed, loaded and maintained in such a manner and that are equipped with proper covers in such a manner as to prevent or substantially eliminate any portion of any Solid Waste or Recyclable Materials in such transport vehicles from discharging, leaking, spilling, falling or blowing out of such vehicles onto any public or private lands in the Affected Municipalities, excluding the Solid Waste Facility.

The Operator shall cooperate with the Affected Municipalities in connection with their enforcement of any local ordinances designed to prevent or substantially eliminate any discharge of any portion of any Solid Waste or Hazardous Waste in such transport vehicles onto any public or private lands in the Affected Municipalities, excluding the Solid Waste Facility.

3. **LITTER AND DISCHARGE BEYOND THE SOLID WASTE FACILITY**

A. **Solid Waste, Recyclable Material and Hazardous Waste Discharge Reports.**

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall report any Solid Waste, Recyclable Materials or Hazardous Waste Discharge to the Clerks of the Affected Municipalities and to the Monitoring Committee in writing within forty eight (48) hours of the Operator receiving any information related to any Discharge if such Discharge occurred when the Operator, its agents or Acknowledged Transporters were transporting authorized or unauthorized Solid Waste, Recyclable Materials or Hazardous Waste to or from the Solid Waste Facility and if the Discharge occurrence was caused by the Operator or by its agents or Acknowledged Transporters. This provision does not apply to any Solid Waste Disposed of by Operator or by its agents or by any other parties in the Northern Footing Active Filling Area, the Active Fill Area or Recyclable Materials processed at the Solid Waste Facility. In addition to the written reporting requirements, the Operator shall immediately transmit oral notice to the City of Franklin and the Monitoring Committee of such Discharge, providing all relevant information known at that time to the Operator, and the Operator's intended response to such Discharge. These oral and written notices shall be in addition to any State or Federal Reporting requirements, copies of which shall simultaneously be transmitted to the City of Franklin and the Monitoring Committee.

The Operator, upon oral or written knowledge of any Discharge by Operator or by its agents onto any public or private lands in the Affected Municipalities, other than any Solid Waste Disposed of in the Northern Footing Active Filling Area, the Active Fill Area or Recyclable Materials processed at the Solid Waste Facility, shall immediately take all efforts to contain and then to remove the Discharge from these lands.

The Operator, upon oral or written knowledge of any Hazardous Waste Discharge onto any public or private lands in the Affected Municipalities by the Operator or its agents, shall immediately take, all actions to: (a) contain and remove the Hazardous Waste, (b) protect the public health and safety of persons in the Affected Municipalities, and (c) protect the natural resources in the Affected Municipalities.

The Operator shall, in its written notice describe the location of the Discharge, the date of the occurrence, if known, the type and amount of the Solid Waste, Recyclable Materials or Hazardous Waste Discharge, if known, and the suspected cause of the Discharge, if known.

B. Discharge Removal on Roadways.

The Operator, from the Effective Date shall police and remove any Discharge by the Operator or its agents, including litter, from any public road or public right-of-way that is within one mile of the entrance of the Solid Waste Facility, subject to limitations approved by the Monitoring Committee, such as the establishment of the current requirement that the Operator remove Discharge only on the east side of Highway 45. This discharge removal obligation shall include cleaning sweeps of such roads and right-of-ways by Operator, by way of motorized vehicle street sweepers and such manual labor as necessary, so that all such areas are free from discharge debris on not less than a bi-weekly schedule, and forthwith as otherwise required upon notification by the City of Franklin City Engineer or designee, of the occurrence of a discharge which in the determination of the City Engineer or designee is beyond that which may otherwise occur on an average day despite efforts to prevent discharges, and which reasonably requires immediate removal. The Operator shall complete the foregoing as soon as reasonably practicable and shall commence removal within two (2) hours of becoming aware of such discharge by oral or written notice from the Monitoring Committee, the Landfill Compliance Officer or any authorized representative of the Affected Municipalities.

4. TRANSPORTERS OF SOLID WASTE

A. List of Transporters.

Within thirty (30) days after beginning to accept Solid Waste for Disposal at the Northern Footing Active Filling Area, the Operator shall prepare a list of its Acknowledged Transporters. The list shall contain the names and addresses of the Acknowledged Transporters. The initial list shall be filed with the Monitoring Committee and shall be updated annually. Such updates shall be submitted to the Monitoring Committee.

This provision, requiring names, and addresses of Acknowledged Transporters shall not apply to the hauler(s) of the Affected Municipalities authorized by this Agreement to Store Solid Waste at the Solid Waste Facility or dispose of Solid Waste at the Northern Footing Active Filling

Area and thereafter, at the Active Fill Area.

B. Persons Authorized.

No party, including the Operator, shall transport Solid Waste to the Northern Footing Active Filling Area or the Active Fill Area, respectively, unless a license and approval to Dispose in such area have been issued by the DNR, and the Operator has complied with all applicable Solid Waste statutes and regulations related to the operation of the Northern Footing Active Filling Area and/or the Active Fill Area. The Operator shall not Store or Treat Solid Waste or authorize any other parties to Store or Treat Solid Waste in the Northern Footing Active Filling Area or the Active Fill Area, or at any location at the Solid Waste Facility, unless such activity has been approved by the DNR and then only if the Operator has complied, or will comply, with any existing federal and state Solid Waste Disposal Facility laws and regulations, and any municipal ordinances that are not made inapplicable by this Agreement.

ARTICLE IV
OPERATIONS AT OR NEAR THE SOLID WASTE FACILITY

1. **REPORTS TO THE AFFECTED MUNICIPALITIES**

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

From the Effective Date and extending until forty (40) years after Final Closure, the Operator, at its cost, shall provide the Monitoring Committee, within seven (7) days of their distribution, copies of all written reports and written correspondence provided by the Operator to the DNR or to any other state or federal environmental agency or to any state or federal court, provided said reports and correspondence are associated with the Solid Waste Facility, including, but not limited to, letters, court documents, technical reports, testing data, recording data, monitoring data, and any recycling information that any Affected Municipality requests that is needed for reporting requirements.

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

From the Effective Date and extending until forty (40) years after Final Closure, the Operator, at its cost, shall provide the Monitoring Committee within seven (7) days of receipt by the Operator, copies of all written reports and written correspondence received by the Operator from the DNR or from any other state or federal environmental agency or from any state or federal court, provided said reports and correspondence are associated with the Solid Waste Facility, including but not limited to, letters, court documents, technical reports, testing data, recording data and monitoring data.

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

From the Effective Date and extending until forty (40) years after Final Closure, the Operator, at its cost, shall provide the Monitoring Committee, within seven (7) days of receipt by the Operator, copies of all written letters, written reports and other written correspondence received by the Operator from any public official of any of the Affected Municipalities or from any resident of the Affected Municipalities, provided said letters, reports or correspondence are associated in any way with the Solid Waste Facility. These letters, reports or correspondence shall include but are not limited to, complaint letters, court documents, technical reports, testing data, recording data and monitoring data.

D. **Operator Responsibility to the Affected Municipalities.**

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall be fully responsible to the Affected Municipalities to take reasonable steps to insure that the Operator, its agents and the Acknowledged Transporters and their employees and agents transport Solid Waste and Recyclable Materials to and from the Solid Waste Facility and conduct any other Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations related to or at the Solid Waste Facility, in full compliance with the applicable provisions of this Agreement, including but not limited to, the following sections:

- i. Article III, Section 1 - Designated Roadways
- ii. Article III, Section 2 - Vehicle Requirements
- iii. Article III, Section 3 - Litter and Discharge Beyond the Solid Waste Facility
- iv. Article III, Section 4 - Transporters of Solid Waste
- v. Article IV, Section 2 - Hours and Days of Operation
- vi. Article IV, Section 7 - Fire, Disaster and Hazard Control
- vii. Article IV, Section 13 - Hazardous Waste Disposal Notice

E. **Notice of Agreement.**

The Operator, from the Effective Date shall notify in writing its agents and the Acknowledged Transporters who are allowed by the Operator to transport Solid Waste and Recyclable Materials to and from the Solid Waste Facility of the applicable provisions of this Agreement. Such written notice shall be provided to such agents and Acknowledged Transporters before they commence transporting Solid Waste or Recyclable Materials.

2. **HOURS AND DAYS OF OPERATIONS**

The Operator shall not engage in or allow any construction, Disposal, Storage, Treatment or Long-Term Care Operations by its agents, Acknowledged Transporters or any other party at the Solid Waste Facility, before 7:00 a.m., Monday through Saturday. The Operator will be permitted to warm up its own equipment and vehicles at 6:30 a.m. Monday through Saturday. The Operator shall terminate and not allow any and all construction, Disposal, Storage, Treatment and Long-Term Care Operations by its agents, Acknowledged Transporters or any other party at the Solid Waste Facility, after 6:00 p.m., Monday through Friday, and 1:00 p.m. on Saturday. However, residential drop-off by residents of the City of Franklin and the Towns of Raymond and Norway shall be permitted through 3:00 p.m. on Saturdays. Covering operations may continue for 30 minutes after the Northern Footing Active Filling Area or the Active Fill Area is no longer open for receipt of Solid Waste on each such day. The Operator shall not conduct or allow any construction, Disposal, Storage, Treatment or Long-Term Care Operations, by its agents, Acknowledged Transporters or any other party at the Solid Waste Facility on Sundays or on the following holidays: Christmas Day, Thanksgiving, Labor Day, New Year's Day, Memorial Day and Independence Day. Any "operation" herein shall be deemed to include the operation of any vehicles, machinery or equipment, but shall exclude bio-remediation, landfill gas control currently being conducted, leachate pretreatment and any other operations inside closed buildings.

In addition, the above-noted hours and days of operation may be temporarily adjusted by written approval of the Monitoring Committee upon application and good cause shown by the Operator. Such requests and approvals shall only relate to emergency or extraordinary circumstances under which additional hours are justified and which shall only be permitted for the minimum time necessary to deal with the same.

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

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall take appropriate and necessary actions to control the blowing of dust and debris from the Solid Waste Facility and shall take appropriate or necessary actions to control the Discharging of other Solid Waste or pollutants or contaminants from the Solid Waste Facility onto any lands outside the Solid Waste Facility. The Operator shall Dispose Solid Waste in the Northern Footing Active Filling Area and the Active Fill Area and shall conduct any construction, Disposal Operations, Storage Operations, Treatment Operations, clay extraction and Long-Term Care Operations at the Solid Waste Facility in such a manner that utilizes available technology, equipment and manpower to minimize odors, litter, dust, dirt, debris or other materials or any substance that might be carried by wind or other means across the boundary of the Solid Waste Facility onto any lands outside the Solid Waste Facility. The Operator shall apply all appropriate or necessary cover materials on the Solid Waste Disposed in the Northern Footing Active Filling Area and the Active Fill Area to limit the blowing of litter and debris.

The Operator shall utilize screens and other devices to the maximum extent possible and to minimize landfilling on areas most affected by winds on days when wind speed is in excess of an average of 15 miles per hour.

4. GROUNDWATER MONITORING

The Operator shall undertake the groundwater monitoring program (including private wells) required by the DNR, imposed as a condition of its finding of feasibility, or any subsequent requirement made by the DNR to test groundwater by sampling monitoring wells or private wells. The Operator shall undertake the water monitoring described in Exhibit "E".

5. NOISE AND AIR QUALITY

The Operator shall comply with all reasonable noise control measures as requested by the Monitoring Committee. In no event shall the noise created by the Operator violate the City of Franklin noise ordinance. The Operator shall also meet all air quality standards as set forth in Exhibit "D".

In addition, the Operator shall design the landfill gas collection system to maximize the collection of landfill gas generated and thereby minimize the potential for odorous emissions. The gas collection system shall utilize the best available technology, including, but not limited to, horizontal collectors, vertical wells, and passive vent flares, and/or other system(s) or techniques approved by DNR and i) utilized at other similar facilities in Wisconsin or (ii) utilized by the Operator or Operator's affiliates outside of Wisconsin but within Region 5 of the United States Environmental Protection Agency (hereinafter "Best Available Technology"). The system shall be designed to collect landfill gas in both complete and incomplete cells, and shall be designed with redundancy to minimize shutdown due to failure of a single element of the system. The Operator shall comply with all design requirements pertaining to the same as approved by DNR. At all stages of design or future modifications, the Operator shall be under a continuing obligation to use Best Available Technology.

The Operator shall maintain at all times during the operation of the landfill an odor

suppression system to neutralize odors that are released from the landfill and similar noxious conditions at the site, to minimize and prevent the same from emanating beyond the Northern Footing Active Filling Area and the Active Fill Area or existing at any other area. The system shall utilize Best Available Technology for odor neutralization and shall be strategically deployed with consideration given to the source and nature of odor, the prevailing wind direction, and the location of odor complaints. Failure to deploy the system within two (2) hours of notification of complaints by the Affected Municipalities, Monitoring Committee, the Landfill Compliance Officer or any other authorized representative, including municipal officials and their attorneys, that are attributable to the landfill will result in a penalty of \$3,000.00 per day of non-compliance and double that amount for each consecutive day of non-compliance and payable to the City of Franklin. Such amount shall be doubled for every day that non-compliance continues thereafter. Notice shall be broadly construed to include written notice, notice by facsimile or e-mail transmission, or orally in person or by phone. The foregoing fine shall be deemed to be non-exclusive and in addition to any other remedy authorized by law, Agreement, ordinance, statute, Administrative Code provision or equitable relief. In the event that odorous releases from the Solid Waste Facility occur, Operator shall modify operations to eliminate the release of odors and shall not rely entirely on the use of odor suppression to remedy the condition.

The Operator agrees not to use highly permeable materials (i.e. alternate daily covers) as daily cover over materials that present increased risks of noxious odors. The Operator shall comply with Wis. Stat. ch. 285, Chapters NR 400 – 499, Wis. Administrative Code, all local and municipal ordinances regarding air quality, odors and other pollution in addition to any other legal requirement.

Operator agrees to utilize the Best Available Technology in all of its operations, and additionally, upon the entirety of the Solid Waste Facility, from the Effective Date of this Agreement, through the time for the termination of the Operator's long-term care responsibility, pursuant to Wis. Stat. § 289.41(1m), and in perpetuity thereafter, so as to prevent the creation of and/or the escape of any noxious odor from any part of the Solid Waste Facility so that such noxious odor shall not be detectable beyond the boundaries of the Solid Waste Facility. The Operator agrees that the escape of any noxious odor from any part of the Solid Waste Facility so that such noxious odor shall be detectable beyond the boundaries of the Solid Waste Facility constitutes a violation of this Agreement. For the purposes of this Section and any enforcement actions arising hereunder, in addition to the foregoing provisions of this Section, a "noxious" odor shall mean any odor which interferes substantially with the comfortable enjoyment of life, health or safety of a reasonable person. The application of this Section to the entirety of the Solid Waste Facility includes all areas located therein, whether such areas include closed active fill areas or areas supporting any other uses existing prior to, in addition to or outside of the expansion contemplated by this Agreement; Operator agrees to the terms of this Section; Operator agrees that the terms of this Section supersede any prior agreement; and Operator agrees to waive and hereby waives the application of any law or defense which would be contrary to the terms of this Section or which would prevent the application of the terms of this Section for the benefit of the nearby residents and the Affected Municipalities. Operator agrees that upon repeated, continuing and unreasonable violations of the terms of this Section, Final Closure is an appropriate remedy, in addition to all other legal and equitable remedies.

The Operator shall monitor surface concentrations of methane along the entire perimeter of

the landfill area and along a serpentine pattern over the landfill footprint as approved by DNR. The monitoring shall be performed on a quarterly basis using an organic vapor analyzer, flame ionization detector or other portable monitor meeting DNR specifications. Any reading of 500 parts per million or more above ground at any location shall be recorded as a monitored exceedence and the actions specified by the air pollution control permit shall be taken. As long as the specified actions are taken, the exceedence is not a violation. In addition to the surface monitoring, the Operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

6. **RODENT, INSECT, BIRD AND VECTOR CONTROL AT THE SOLID WASTE FACILITY**

A. **Prevention of Rodents and Insects.**

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in the Northern Footing Active Filling Area and the Active Fill Area and shall conduct any Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations at the Solid Waste Facility in such a manner as to eliminate rodent and minimize insect harborage, pursuant to a plan which shall be subject to the reasonable approval of the Monitoring Committee. The Monitoring Committee shall specify such plan upon any failure of the Operator to provide such plan or plan component as may be requested by the Monitoring Committee.

B. **Control of Rodents and Insects.**

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall take appropriate and necessary actions to control any rodents and any insects at the Northern Footing Active Filling Area and the Active Fill Area, pursuant to a plan which shall be subject to the reasonable approval of the Monitoring Committee. The Monitoring Committee shall specify such plan upon any failure of the Operator to provide such plan or plan component as may be requested by the Monitoring Committee. If necessary, for public health reasons, the Operator shall attempt to exterminate, any rodents or insects at the Northern Footing Active Filling Area and the Active Fill Area. The Operator shall apply at the Northern Footing Active Filling Area and the Active Fill Area, the pesticides or rodent control measures at levels acceptable to the Monitoring Committee to prevent any damage to public or private property or injury to any persons in the Affected Municipalities and to prevent damage to the natural resources in the Affected Municipalities. At a minimum, the Operator shall employ vermin, rodent and insect control practices consistent with NR 500, et. seq., Wis. Administrative Code.

C. **Birds and Vector Monitoring.**

The Operator shall employ Best Available Technology methods to minimize the concentration of gulls, geese and other birds at and in the vicinity of the Solid Waste Facility and to minimize the attractiveness of the landfill to gulls, geese and other birds. The Operator shall annually meet with the Monitoring Committee and/or the Landfill Compliance Officer to update, provide current literature and results of investigations and proposed changes to its landfill methods regarding birds, rodents, insects and other vectors. Such meeting shall occur no later than March 1

of each year and the Operator shall, within thirty (30) days thereafter, provide an annual written report to the Monitoring Committee and the Affected Municipalities summarizing the foregoing and the Operator's proposed steps for implementation of Best Available Technology under paragraphs A., B. and C. of this Section.

7. **FIRE, DISASTER AND HAZARD CONTROL**

A. **Landfill Fires.**

The Operator shall prepare a written plan for responding to landfill fires. The plan shall include decision criteria for when evacuation of the neighborhood is to occur. In the event that residents are evacuated, residents shall be compensated by the Operator for lodging, food and other direct costs resulting from such evacuation and compensation shall continue until the fire is under control, emissions are no longer a concern and residents are permitted to reoccupy their residences. During any fire that continues for more than 24 hours, the Operator shall collect air samples on a daily basis at two downwind locations along the property line and have the samples tested for the parameters listed in the air testing section of this agreement. In the event that there is any significant change in wind after said 24 hour period, additional testing shall occur at two downwind locations as soon as practicable. The Operator shall submit the plan to the Monitoring Committee for review and approval, upon the advice and recommendations of the City of Franklin Fire Chief and Public Health Officer or City designees. The City of Franklin, together with any entity providing intergovernmental mutual aid, shall be responsible for providing fire protection to the Operator for fires involving equipment or buildings at the Solid Waste Facility, provided however, that the Operator shall reimburse the City of Franklin and any such mutual aid responders for their actual labor, equipment and other costs in responding to calls for such reasons. The Operator shall have sole responsibility for all fire protection otherwise relating to the Solid Waste Facility, including any active fill area, closed active fill area and vegetation at the Solid Waste Facility, and the Operator shall fully reimburse, release, indemnify and hold harmless the City of Franklin for all loss, damage or expense incurred by the City of Franklin in responding or failing to respond to fires involving the Solid Waste Facility, including any active fill area, closed active fill area and/or vegetation at the Solid Waste Facility.

B. **Creation of Fire Hazards.**

The Operator, from the Effective Date and extending in perpetuity, shall Dispose of Solid Waste in the Active Fill Area and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent fires and explosions from occurring at the Solid Waste Facility and to prevent or eliminate any fire hazards or any potentially explosive hazards from occurring at the Solid Waste Facility.

C. **Public Nuisance.**

The Operator, from the Effective Date and extending in perpetuity, shall dispose of Solid Waste in the Northern Footing Active Filling Area and the Active Fill Area and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent any public nuisance in

the Affected Municipalities from occurring relating to the Solid Waste Facility or its operations, including public nuisances associated with polluted groundwater, polluted air and polluted surface water from the Effective Date.

D. **Private Nuisance.**

The Operator, from the Effective Date and extending in perpetuity, shall dispose of Solid Waste in the Northern Footing Active Filling Area and the Active Fill Area and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations, and any Long-Term care operations at the Solid Waste Facility, in such a manner as to prevent any private nuisance in the Affected Municipalities from occurring as a result of the Solid Waste Facility or its operations, including any private nuisances associated with polluted ground water, polluted air, or polluted surface water. In the event that a private nuisance occurs, or in the event that the Operator causes any individual property owner damages or other harm which form the basis of a cause of action, including trespass, negligence, or any other violation of this Agreement for which an individual is aggrieved, such individual or individuals may bring an action against the Operator for appropriate relief.

E. **Hazardous Waste.**

The Operator, from the Effective Date and extending in perpetuity, shall not, at any time, transport to or accept any Hazardous Waste for Disposal, Storage or Treatment, (except Storage and Treatment of site generated Hazardous Waste) in the Northern Footing Active Filling Area and the Active Fill Area or at any other location at the Solid Waste Facility nor shall it allow its agents, the Acknowledged Transporters, or any other party to Dispose of Hazardous Waste in the Northern Footing Active Filling Area and the Active Fill Area or at any other location at the Solid Waste Facility.

F. **Security.**

The Operator, from the Effective Date and extending in perpetuity, shall maintain a six foot high chain link fence and locked gates that enclose the Solid Waste Facility unless such requirements are waived by the City of Franklin. From the Effective Date until Final Closure, the Operator shall monitor access to the Northern Footing Active Filling Area and the Active Fill Area by 24 hour per day closed circuit television cameras for the purpose of determining who has had physical access to the Solid Waste Facility. Such video records shall be maintained for one year for inspection and/or copying by the Monitoring Committee or authorized representatives of the Affected Municipalities.

8. **COURT ACTION BY THE AFFECTED MUNICIPALITIES OR
MONITORING COMMITTEE**

Notwithstanding any other provision of this Agreement, any Affected Municipality or the Monitoring Committee, from the Effective Date and extending until forty (40) years after Final Closure, may commence and maintain, jointly or severally, legal actions against the Operator under the common law of public nuisance, trespass, negligence, strict liability, breach of contract, agency or under any applicable state or federal statutory or common laws, for damages and costs suffered by the Affected Municipality, related to or associated with any public nuisance or physical injury to any party or any property caused by or alleged to have been caused by the Operator arising in any way as a result of any anticipated or unanticipated occurrences in the Affected Municipalities related to or associated with the Solid Waste Facility which are caused by the Operator or its agents, including but not limited to, occurrences related to or associated with Disposal, Storage or Treatment of Solid Waste, Recyclable Materials or Hazardous Waste in the Northern Footing Active Filling Area and the Active Fill Area or at any other location at the Solid Waste Facility, occurrences related to or associated with the transportation of Solid Waste, Recyclable Materials or Hazardous Waste to and from the Solid Waste Facility by the Operator or by its agents and any occurrences related to or associated with any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility.

The Affected Municipalities and Monitoring Committee are hereby entitled to seek and receive abatement of any public nuisance that may be related to or associated with the Solid Waste Facility which is proved to be caused by the Operator or its agents.

The Operator agrees that any ordinance incorporating the terms of this Agreement with respect to landfill operation, may be the basis for a separate and independent action filed by the City of Franklin, with general penalty provisions of the City of Franklin Municipal Code, in addition to all other legal and equitable remedies being applicable to any violation of this Agreement. Further, the Operator, and the Affected Municipalities agree that this Agreement shall have the same legal force and effect as a municipal ordinance, as between the Operator, the City of Franklin and the Monitoring Committee. In the event an alleged violation of this Agreement cannot be resolved with the Monitoring Committee, pursuant to the procedures set forth in paragraph 10. of Exhibit "C", the Monitoring Committee may issue a citation to the Operator for such violation. The City of Franklin may also issue a citation for an alleged violation of this Agreement; however, upon and following such City issuance, any citation issued by the Monitoring Committee upon the same subject matter, shall be stayed and held in abeyance until completion of the proceedings upon the City citation. The City shall proceed pursuant to the procedures in paragraph 10. of Exhibit "C", unless such procedures have already been completed without resolution by the Monitoring Committee; any such procedures commenced by the Monitoring Committee shall be stayed and held in abeyance until completion of the procedures initiated by the City. Any resolution of the alleged violation by the City and the Operator, pursuant to such procedures initiated by the City, shall also be binding and determinative as between the Operator and the Monitoring Committee. Any resolution of the alleged violation by the Monitoring Committee, pursuant to such procedures initiated by it, shall be binding and determinative as between the Operator and the City, upon the approval by the City, which approval shall not be unreasonably withheld. The Municipal Court for the City of Franklin shall have jurisdiction to hear and determine any citations issued under this Section and may assess penalties against the Operator according to the following schedule:

- i. First Violation of any provision of this Agreement in any 12 month period: \$500.00, plus court costs, including reasonable

- attorney fees.
- ii. Second Violation of the same provision of this Agreement in any 12 month period: \$2,500.00, plus court costs, including reasonable attorney fees.
- iii. Third Violation of the same provision of this Agreement in any 12 month period: \$10,000.00, plus court costs, including reasonable attorney fees.

Each day or part of a day of violation or during which a violation continues shall be considered a separate violation for purposes of the penalty provisions of this Section, and the penalty provisions of the Municipal Code of the City of Franklin. However, a violation shall not be considered to be a continuing violation from such date forward, if any, that the Operator has commenced remediation and is continuing to diligently pursue the same.

The parties hereto understand that currently, municipal ordinance violations are processed through the Franklin Municipal Court, but the parties as litigants may be entitled to a trial de novo before the Milwaukee County Circuit Court and under some circumstances upon ordinance violations, and as such, here, the City or the Monitoring Committee may bring an original action before the Circuit Court. The parties stipulate that the penalty provisions set forth in this Section shall be binding upon them before the Milwaukee County Circuit Court with respect to any action commenced by the City of Franklin or the Monitoring Committee under this Section. The issuance of a citation under this Section shall not preclude the Monitoring Committee, the City of Franklin or any Affected Municipality from seeking other or additional legal or equitable relief with respect to any alleged violation of this Agreement.

The foregoing penalties shall apply for Agreement violations not covered by the penalty provisions of Article IV, Section 5. The fines set forth herein shall be deemed non-exclusive of and/or in addition to all other remedies, whether equitable, injunctive, remedial or otherwise.

The listing of remedies within this Section available to the Affected Municipalities and the Monitoring Committee, shall not in any way be construed to be exclusive, or to in any way preempt, bar, limit or otherwise foreclose the availability of any other legal or equitable remedy not so listed, to an Affected Municipality or the Monitoring Committee.

9. ADMINISTRATIVE ACTION

Notwithstanding any other provision in this Agreement, any Affected Municipality or the Monitoring Committee, from the Effective Date and extending until forty (40) years after Final Closure, may petition the DNR under Wis. Stat. § 289.92, or Wis. Stat. §291.89, or their successor provisions, to initiate action by the DNR against the Operator for a violation or alleged violation by the Operator of any rule promulgated or special order, plan approval, license or any term or condition of a license established by or issued by the DNR wherein any such violation or alleged violation is related to or associated with the Solid Waste Facility.

10. TEMPORARY/EMERGENCY CLOSURE OF ACTIVE FILL AREA

From the Effective Date, the Operator shall notify in writing within forty eight (48) hours,

the Clerks for the Affected Municipalities and Monitoring Committee of any temporary, Emergency or Final Closure of the Northern Footing Active Filling Area and/or the Active Fill Area, including any ordered temporary, Emergency or Final Closure of the Northern Footing Active Filling Area and/or the Active Fill Area wherein such order is made by the DNR, or by any other state or federal agency or by any state or federal court. The Operator shall provide in its written notice to the Affected Municipalities and Monitoring Committee the specific reasons, if known, for a temporary, Emergency or Final Closure of the Northern Footing Active Filling Area and/or the Active Fill Area, and such notice shall include a copy of all written orders or directives of such agencies or court(s).

11. ACCESS TO THE SOLID WASTE FACILITY

The Operator, from the Effective Date and extending in perpetuity, shall allow the Affected Municipalities, their governing councils or boards or their designees, the Landfill Compliance Officer and the Monitoring Committee and their officers, employees or agents, the right to immediately obtain access to and enter the Solid Waste Facility during any Emergencies provided they are accompanied by an employee or agent of the Operator and provided they comply with the Operator's reasonable safety rules. They shall also have the right to obtain access and to enter the Solid Waste Facility during all other times after giving the Operator twelve (12) hours advance oral or written notice or upon the Operator resuming any on-site operation including equipment warm-up or under any circumstance where access to the site can be provided by any employee of the Operator. The purposes of such access may include, but not be limited to:

- A. To observe Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility;
- B. To sample and test groundwater, leachate and air quality at the Solid Waste Facility (provided that any sampling or testing must be performed by a licensed professional engineer or qualified representatives acting on their behalf using methods and materials approved by the DNR), and further provided that access to the monitoring wells shall be available only when an authorized employee of the Operator is present;
- C. To sample and test characteristics of the Solid Waste at the Solid Waste Facility;
- D. To take any appropriate and necessary action at the Solid Waste Facility during any Emergency to protect the public health, safety and welfare of the residents of the Affected Municipalities and/or to take any appropriate and necessary action to protect the natural resources of the Affected Municipalities; and/or
- E. To investigate complaints and otherwise monitor compliance of the Operator with this Agreement.

During Emergencies, all designated officers, employees or agents of Affected Municipalities or the Monitoring Committee except for police, fire, and emergency medical personnel and city health officers, must be accompanied by one or more authorized employees or agents of the Operator, except for police, fire, and emergency medical personnel and city health officers. In addition, the activities of the Monitoring Committee or Affected Municipalities and their designated officers, employees and agents shall be conducted so as to not interfere with the normal business

operations at the Solid Waste Facility except during Emergencies. This section shall not prohibit police, fire, emergency medical personnel or health officials from entering the Solid Waste Facility at any time during an emergency situation, without an authorized employee or agent of the Operator.

12. **REPAIR, MAINTENANCE AND RECONSTRUCTION OF THE NORTHERN FOOTING ACTIVE FILLING AREA AND THE ACTIVE FILL AREA**

The Operator, from the Effective Date and extending in perpetuity, shall have the responsibility and duty to the Affected Municipalities to properly and timely maintain, repair, reconstruct and to properly and timely provide Long-Term Care of the Northern Footing Active Filling Area and the Active Fill Area.

13. **HAZARDOUS WASTE DISPOSAL NOTICE**

The Operator, from the Effective Date and extending in perpetuity upon its receipt of any information that any Hazardous Waste has been transported to the Solid Waste Facility or that any Hazardous Waste has been Disposed by the Operator, by its agents, by the Acknowledged Transporters or by any other parties in the Northern Footing Active Filling Area and/or the Active Fill Area or any other location at the Solid Waste Facility, shall then give notice orally within twenty-four (24) hours of its receipt of the information to the Affected Municipalities and Monitoring Committee. The Operator shall, in addition, notify the above-noted parties in writing within forty-eight (48) hours of the receipt of this information. Such notice shall describe the date of the occurrence and the type, amount and source of Hazardous Waste. The Operator shall, upon receipt of such information, immediately commence any appropriate and necessary action to properly remove or to properly contain the Hazardous Waste at the Solid Waste Facility.

14. **HAZARDS NOTICE**

The Operator, from the Effective Date and extending in perpetuity, shall orally notify the Affected Municipalities and Monitoring Committee within twenty-four (24) hours of the receipt of information by the Operator of the following known or suspected hazards or known or suspected occurrences in the Northern Footing Active Filling Area and/or the Active Fill Area or at any other location at the Solid Waste Facility: fires that are not immediately extinguished by the Operator without outside assistance, explosions, contaminated or polluted surface water, contaminated or polluted groundwater, explosive or combustible gases that are not controlled through Operator's methane gas system and hazardous gases or hazardous dust. The Operator shall, in addition, report in writing within forty-eight (48) hours of the receipt of the information by the Operator regarding the above-noted known or suspected hazards and known or suspected occurrences, describing in detail the above-noted known or suspected hazards or known or suspected occurrences, the location of such hazards or occurrences, any incidents of damages to persons or property that may have occurred as a result of the above-noted known or suspected hazards or occurrences and any actions taken or actions to be taken in the future by the Operator regarding the above-noted known or suspected hazards or known or suspected occurrences.

15. **RESPONSIBLE MANAGERS**

The Operator, from the Effective Date and extending in perpetuity, shall provide to the Affected Municipalities and Monitoring Committee, the names, titles, addresses and telephone numbers of any responsible manager or responsible managers retained by or employed by the Operator whose responsibilities to the Operator and whose authority from the Operator shall be to manage, control and administer the Disposal of Solid Waste in the Northern Footing Active Filling Area and/or the Active Fill Area and to manage, control and administer any Disposal Operations, Storage Operations, site construction operations, Treatment Operations and Long-Term Care Operations at or related to the Solid Waste Facility. The names or titles, addresses and telephone numbers of the responsible managers shall be provided within twenty (20) days after the after the Effective Date and shall be updated whenever necessary thereafter, in writing, to provide the most current names or titles, addresses and telephone numbers of the current responsible manager or responsible managers.

16. **HEIGHT RESTRICTION**

The maximum height of the proposed Northern Footing Active Filling Area and the Active Fill Area shall not exceed 960 feet above mean sea level unless added height is approved by the City of Franklin. The Operator will annually provide a statement certifying the height of the Northern Footing Active Filling Area and the Active Fill Area.

17. **EROSION AND RUN-OFF**

A. **Erosion Restrictions.**

The Operator, from the Effective Date and extending in perpetuity, will control surface water runoff and erosion by compliance with surface water control provisions of the Plan of Operation for the Solid Waste Facility on file with the DNR.

B. **Abatement of Erosion.**

The Operator, from the Effective Date and extending in perpetuity, upon written notice by any Affected Municipality or the Monitoring Committee describing to the Operator the location of any surface water run-off or erosion Discharged from the Northern Footing Active Filling Area and the Active Fill Area onto any other lands located in the Affected Municipalities which violates the Plan of Operation on file with the DNR shall, within three (3) days of receipt of the written notice, begin to take appropriate and necessary actions to abate or remove the described run-off or erosion from such other lands, subject to the Operator's rights to challenge the same.

18. **STANDING OPEN WATER AND WETLANDS**

The Operator, from the Effective Date and extending in perpetuity, shall take appropriate action to prevent the standing of water at the Solid Waste Facility, except for those sedimentation basins and ponds approved by the DNR and legally regulated wetland areas within the Solid Waste Facility.

19. **SURFACE WATER**

The Operator, from the Effective Date and extending in perpetuity, shall take the appropriate and necessary actions to direct all surface water coming in contact with any Solid Waste at the Northern Footing Active Filling Area and the Active Fill Area into an appropriately-maintained leachate collection system. The Operator shall take the appropriate and necessary actions to direct all surface water not coming into contact with the Solid Waste into the appropriately maintained sedimentation basin located at the Solid Waste Facility. The Operator shall not Discharge water nor shall it allow the Discharge of water from any sedimentation basin at the Solid Waste Facility unless the surface water discharge complies with the approved Plan of Operation and the appropriate regulations and requirements of the DNR.

20. **POST CLOSURE ALIENATION**

After Final Closure, the Operator agrees not to sell, transfer, or convey any interest in either the property upon which the Northern Footing Active Filling Area and/or the Active Fill Area is proposed to be located or any interest in the post closure operation itself (including the sale or assignment to a third party of the right to collect, transport, sell or make other use of the by-products generated by the Active Fill Area) without the written approval of the City of Franklin, which approval shall not be unreasonably withheld. Gas extraction and the sale thereof shall be exempted from this prohibition against alienation. The terms and conditions of this paragraph shall apply from the Effective Date in perpetuity.

21. **POST CLOSURE SITE PLAN**

Five (5) years before Final Closure, the Operator shall prepare and submit to the City of Franklin for its review and approval, such approval not to be unreasonably withheld, a post closure plan for the Solid Waste Facility. The post closure plan shall propose recreational uses consistent with Exhibit "J", attached hereto. However, the City of Franklin agrees that the Operator shall retain the right to develop and use, consistent with City zoning, Operator's property which fronts on Highway 45 (property between State Trunk Highway 45 and the western limits of the area used for Disposal) and shall not be required to include this property in the post closure plan.

The Operator agrees that, at the termination of all landfilling at the Site (which means the current landfill, and the Active Fill Area or the Northern Footing Active Filling Area as the case may be, as defined by this Agreement) it shall implement, the post closure plan approved by the City of Franklin. For the purpose of this Section, termination of landfilling shall be deemed to occur eighteen (18) months after Final Closure. In the event the Operator fails to timely submit and/or implement this plan, the City of Franklin, upon giving 60 days written notice, may develop or have developed a plan and implement the same. The City of Franklin and its designees are hereby granted all rights of entry and access to the Solid Waste Facility and such rights as are necessary to implement the plan. The expenses for the same shall be billed to the Operator and if not paid shall be placed as a special assessment or a special charge upon the tax bills for all of Operator's property within the Solid Waste Facility, without further notice or hearing.

22. **CHANGE IN OWNERSHIP**

A. This Agreement shall be applicable to the present Operator, Waste Management of Wisconsin, Inc., its successors and assigns, and to all parties to which the Operator may transfer any or all of its ownership interests or contracts or subcontracts concerning its operations in and responsibilities concerning the Solid Waste Facility. Waste Management, Inc. shall obtain a separate release of its responsibilities from the Affected Municipalities in guaranteeing the performance of the Operator. The terms and conditions of this paragraph shall apply from the Effective Date in perpetuity.

B. In conjunction with Subsection A, the Operator, shall notify the Affected Municipalities and the DNR of any and all changes in ownership or operation of the Solid Waste Facility, and provide proof that any such successor or assign has notice and acknowledges this Agreement and the duties and obligations hereunder.

C. In conjunction with the foregoing provisions of this Section, the Operator shall not transfer any of its interest in the operation of the Solid Waste Facility or of its property interests in the Solid Waste Facility unless such party or entity can be demonstrated by the Operator to have the ability, both financial and operational, to comply with the terms of this Agreement, the DNR and/or the landfill license, and State law. The Operator shall provide documentation sufficient to demonstrate the same prior to transferring any such interests. The Affected Municipalities shall have standing to challenge such transfer if the transferee is not found to be financially able or otherwise able to comply with the requirements of this Agreement, the DNR landfill license and State law. The Affected Municipalities shall have sixty (60) days from receipt of the aforementioned documentation in which to bring action in circuit court to prevent or avoid such transfer, unless such deadline is extended by mutual agreement of the Affected Municipalities and the Operator.

D. This Agreement shall be further guaranteed by Waste Management, Inc., which shall remain responsible for all obligations set forth under this Agreement unless released by all of the Affected Municipalities.

23. **OPERATION TERMS**

A. **Disposal Operations, Storage Operations and Treatment Operations.**

From the Effective Date, in consideration of the terms and provisions of this Agreement and subject to Operator obtaining any required applicable DNR permits or approvals, the Operator shall be allowed to:

1. Use the area described in Exhibit "A" and Exhibit "A-1" of this Agreement and any remaining area of the "expansion" (hereinafter "currently - licensed facility") as authorized and defined under the Final Negotiated Agreement between the Operator and the Affected Municipalities executed by Operator on July 17, 1992, and a second Negotiated Agreement as approved by the Negotiating Committee on June 23, 1998, to construct, operate, repair, and maintain, the Northern Footing Active

Filling Area and the Active Fill Area and the currently licensed facility until Final Closure of the Northern Footing Active Filling Area and the Active Fill Area and to dispose of Solid Waste in the same.

2. Use the area described in Exhibit "B" of this Agreement for the repair, maintenance, closure, and long term care of the currently licensed facility and the Northern Footing Active Filling Area and the Active Fill Area for forty (40) years after Final Closure of the Northern Footing Active Filling Area and the Active Fill Area, respectively.
3. Continue the following existing uses located at the Solid Waste Facility:
 - A. The recycling facility for Recyclable Materials authorized under existing special use permits, zoning permits, and applicable regulations of the City of Franklin; copies of existing Zoning Permits from the City of Franklin are attached hereto as Exhibit "H".
 - B. The tire Storage and shredding facility authorized in compliance with the regulations attached hereto as Exhibit "I".
 - C. The composting facility authorized under existing zoning permit from the City of Franklin, a copy of which is attached hereto as Exhibit "H".
 - D. The accessory facilities to such uses under existing zoning permits from the City of Franklin, copies of which are attached as Exhibit "H".
 - E. Pretreatment of leachate.
 - F. Treatment operations currently conducted on site including Bioremediation Activities.
 - G. Extraction, processing and beneficial use of landfill gas.

The use permissions granted under the aforesaid zoning, special use permits, and applicable regulations shall terminate, as to the Tire Storage and Shredding Facility, Bioremediation Activities, and Composting Facility, upon Final Closure of the Active Fill Area and/or the Northern Footing Active Filling Area.

The Operator may undertake and conduct only the above enumerated uses at the Solid Waste Facility without the further issuance of any licenses, approvals, permits or further conditions, except as specifically provided for in this Agreement and within the terms of the aforesaid zoning, special use permits, and applicable regulations. It is the intent of the parties that this Agreement supersedes any local licenses, approvals and permits imposed by each Affected Municipality's ordinances which are required to authorize the above enumerated uses, except that the terms of the aforesaid zoning, special use permits, and applicable regulations shall remain in full force and effect where such terms are in addition to or do not conflict with the terms of this Agreement. Where the terms of this Agreement and the terms of zoning, special use permits, and applicable regulations

conflict, the more restrictive terms to the Operator shall apply.

The Operator shall be subject to all criminal and civil laws or ordinances enforceable by the Affected Municipalities pertaining to the public health, safety, and welfare, including, but not limited to: any criminal statutes, any ordinance affecting the public health, safety, or welfare, traffic laws and regulations, equipment safety regulations, or any other law or regulation applicable to any activity affecting the Operator's or its agent's conduct or operations off of, or outside of, the Solid Waste Facility.

Until Final Closure of the Active Fill Area and/or the Northern Footing Active Filling Area, the Operator shall conduct Solid Waste Disposal and it shall only allow Solid Waste Disposal Operations by its agents at the Solid Waste Facility subject to the requirements and specific provisions established in this Agreement.

B. Initial Operations, Closure Operations And Post-Closure Operations.

The Operator shall be fully responsible to the Affected Municipalities to properly maintain, construct, repair and to close the Northern Footing Active Filling Area and the Active Fill Area and to conduct the Disposal Operations and authorized Storage and Treatment Operations at the Solid Waste Facility.

The Operator, after the date of Final Closure and extending in perpetuity, shall be responsible to the Affected Municipalities to provide the proper Long-Term Care Operations at the Northern Footing Active Filling Area and the Active Fill Area.

The Operator, from the Effective Date and extending in perpetuity, shall be responsible to the Affected Municipalities to take any appropriate and necessary Removal or Remedial Actions at the Northern Footing Active Filling Area and the Active Fill Area.

The Operator, upon the date of Final Closure, shall cease transportation of Solid Waste to the Northern Footing Active Filling Area and the Active Fill Area, respectively; shall prevent any further transportation of Solid Waste to the Northern Footing Active Filling Area and the Active Fill Area; shall cease Disposal of any Solid Waste at the Northern Footing Active Filling Area and the Active Fill Area; shall prevent any further Disposal of Solid Waste at the Northern Footing Active Filling Area and the Active Fill Area; shall not conduct any Disposal Operations, Storage Operations or Treatment Operations at the Northern Footing Active Filling Area and the Active Fill Area, Tire Storage Area and Shredding Facility Area, Bioremediation Facilities, and Compost Facility Area; and shall not allow any Solid Waste Disposal at the Solid Waste Facility.

C. Local Approvals.

Operator shall not be required to obtain any of the Pre-existing Local Approvals listed by the City of Franklin in response to the Operator's request for the same dated February 28, 2003, which are applicable to the Northern Footing Active Filling Area and the Active Fill Area. It is the intent of the parties that the terms and conditions of this Agreement shall be imposed upon all expansions within the Northern Footing Active Filling Area and the Active Fill Area even though at the time of execution of this Agreement not all of these expansions have been fully identified and

described. The Affected Municipalities and Operator agree to follow the procedure set out in Exhibit "N" for any expansion proposed within the Northern Footing Active Filling Area and the Active Fill Area. The Affected Municipalities and Operator further agree to take any reasonable actions requested by the other to confirm that any expansions within the Northern Footing Active Filling Area and the Active Fill Area are approved subject to the terms and conditions of this Agreement. The Affected Municipalities and Operator also agree that this Section shall still control if there are subsequent statutory changes to the Wisconsin Statutes pertaining to the siting process, even if these changes benefit the Affected Municipalities or Operator.

24. MONITORING COMMITTEE AND COMPLIANCE OFFICER

A. **Monitoring Committee.** The Operator and the Local Committee hereby agree to the formation of a Monitoring Committee ("Committee") which shall consist of eight (8) representatives of the City of Franklin appointed by the Mayor, and one representative appointed by each of the other Affected Municipalities, if they desire to participate in the Monitoring Committee. Two (2) ad hoc non-voting attendees shall be appointed representatives appointed by the Operator. The Committee shall have the functions and powers described in Exhibit "C". Annually, beginning with the first Direct Payment (as that term is subsequently defined in this Agreement), the Operator shall advance Fifteen Thousand and no/100 per year (\$15,000.00) to cover the Committee's expenses, such sum to be adjusted annually by the consumer price index adjustments as provided for under the Direct Payment provisions of this Agreement. Any portion of this sum not used by the Committee that year shall be credited to the Operator and may be used as an offset against the Operator's obligation for the succeeding year. The remainder of the Committee's expenses, in excess of the amount paid by the Operator, shall be borne by the Affected Municipalities in proportion to their representation on the Committee. This obligation shall end upon the termination of the Operator's Long-Term Care Obligations.

B. **Compliance Officer.** The City of Franklin shall appoint a Landfill Compliance Officer who will conduct routine inspections of landfill operations during its construction, operation and closure. The inspections may occur at any time during normal operating hours. The Operator agrees to permit access to the inspector, including all areas of the landfill facility, unless such access can be demonstrated to be unsafe by the Operator. The Operator agrees to reimburse the City of Franklin for the fees charged by the Compliance Officer to perform his/her/its duties as directed from time to time, by the City of Franklin, not to exceed Twenty Thousand and no/100th Dollars (\$20,000.00) per year. Such amount shall be adjusted annually by the consumer price index adjustments as provided for under the Direct Payment provisions of this Agreement on January 1, 2011 and on each January 1 thereafter. The inspector shall be permitted to take photographs and the Operator shall respond to all inquiries regarding operational practices. At the end of each inspection, the Compliance Officer shall review his/her/its notes and/or report with a designated representative from the Operator. The Operator shall address all concerns immediately. All notes and reports of the Compliance Officer shall be immediately reported to the City of Franklin and the Monitoring Committee. The Compliance Officer shall also have access to all records and reports, including those related to the types and amounts of Solid Waste, recyclables, daily cover or any other materials brought into the site. The Landfill Compliance Officer shall also be permitted to inspect vehicles, to test waste and/or take samples thereof and to inspect the certified weight scale and all records applicable thereto.

25. **LANDFILL REVIEW ACTIVITIES**

A. **Monitoring and Enforcement Responsibility.** The Municipalities' governing councils or boards 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 councils or boards of any of the Municipalities may request the Landfill Monitoring Committee to assist with or take over any of their responsibilities or undertake any other function related to the operation of the Landfill as the councils or board of the Municipalities may deem appropriate.

B. **Inspections, Records and Access.** The Municipalities' governing councils or boards or their designees shall have a right from the Effective Date 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.

C. **Inspections, Solid Waste Facility.** From the date of this Agreement and extending in perpetuity, the Municipalities' governing councils or boards or their designees may inspect any part of the Landfill and Solid Waste Facility, for the purposes stated in preceding paragraphs. Such inspection shall be upon a reasonable notice during the hours of operation of the Landfill or Solid Waste Facility and in a manner so as not to interfere unreasonably with landfill operations, or at any time thereafter following Final Closure.

26. **EXISTING AGREEMENTS**

The proposed landfill expansion is deemed to be a separate facility subject to negotiation under Wis. Stat. § 289.33(9). The Metro Recycling and Disposal Facility: Southeast Expansion Negotiated Agreement is in no way affected by this Agreement, and remains applicable, together with all local approvals, conditions and other requirements that exist independent of this Agreement. However, this Agreement is intended to apply in all respects to the expansions, and related operations as are dealt with in this Agreement. The Negotiated Agreement dealing with the Southeast Expansion is to be superseded by this Agreement only to the extent that this Agreement addresses identical or concurrent responsibilities, such as Property Value Protection and the prevention of odor originating from anywhere in the Solid Waste Facility. The Affected Municipalities and the Operator agree that the payments payable to the City of Franklin in the form of direct compensation and tipping rebates and the residential drop off privileges afforded its residents that otherwise are due under the pre-existing paragraphs 5, 6 and 7 of the Restated Landfill Use Restoration Agreement dated June 23, 1982 (1982 Agreement), as amended by General Provision 21 of the Agreement between the Operator and the City of Franklin executed by the City on April 7, 1989 (Leachate Agreement) shall continue to be paid only from the payments provided for and the benefits afforded in Article VI of this Agreement. This Agreement shall supersede paragraphs 5, 6 and 7 of the 1982 Agreement and General Provision 21 of the Leachate Agreement and paragraphs 2, 3, 9, 10 and 12 of the 1982 Agreement pertaining to City of Franklin approvals granted, at all times and only during such time as this Agreement and its aforesaid provisions for

direct compensation, tipping rebates and residential drop off remain in effect and not fully performed and prior, during, and thereafter for such time as Wis. Stat. § 289.33, as amended from time to time, or an applicable law similar in substance in its provision for municipal regulation and negotiation of the siting of Solid Waste Disposal facilities, remains in effect. Notwithstanding anything to the contrary set forth within this paragraph, no further expansion of the Solid Waste Facility or establishment of a solid waste facility except as specifically provided in this Agreement shall be permitted, and anything to the contrary in any prior or existing agreement, the existence of such contrary provision being specifically denied or its terms waived, is superseded by this prohibition.

ARTICLE V
FINANCIAL OPERATIONS RELATED TO THE SOLID WASTE FACILITY

1. INDEMNIFICATION TO THE AFFECTED MUNICIPALITIES

Operator agrees to indemnify, defend and hold harmless the Affected Municipalities, their officers, agents, employees, representatives and duly-appointed committees, including the Negotiating Committee established under Wis. Stat. § 289.33, and the Monitoring Committee, and other committees as may be established, for and from any request, demand, order or any other form of obligation to pay clean-up or remediation costs, under any local, state or federal law, rule, order, ordinance, statute, regulation or decision, and for or from any and all liability, loss, costs, attorneys' fees, claims or damages that they might suffer as a result of any claim, demand, cost or judgment by any person or entity at any time against any Affected Municipality, its officers, agents, employees or committees arising in any way or as the result of the Solid Waste Facility, including, but not limited to, the design, siting, construction, transportation to and from, operation, maintenance, control, repair, administration, surveillance, monitoring, closure, Long-Term Care and termination of the Solid Waste Facility and the Treatment, Storage and Disposal of the Solid Waste, Recyclable Materials and other materials at the Solid Waste Facility and the negotiations or terms of this Agreement. The terms and conditions of this paragraph shall apply from the Effective Date in perpetuity.

2. REIMBURSEMENT FOR NEGOTIATION EXPENSES

The Operator shall pay any unreimbursed reasonable expenses of the Affected Municipalities and the Negotiating Committee or its members for their actual attorneys' fees, costs, and expenses, including per diem fees of the members of the Negotiating Committee incurred as a result of the Affected Municipalities participating in the negotiating process as established in Wis. Stat. ch. 289, up to the date of each Affected Municipality's approval of this Agreement. The above-noted expenses shall be paid by the Operator within fifteen (15) days of the execution of this Agreement by the Negotiating Committee, and approval and execution by the City of Franklin and Operator, or within ninety (90) days after Negotiating Committee has accepted the Agreement, whichever occurs sooner.

ARTICLE VI
COMPENSATION TO THE AFFECTED MUNICIPALITIES

1. DIRECT PAYMENT

In consideration of the Affected Municipalities: (1) serving as the host and neighboring municipalities, (2) accepting the responsibilities associated with the location of a sanitary landfill in or in proximity to the municipalities, and (3) in consideration of all other matters as set forth in this Agreement and in compliance with Wis. Stat. § 289.33, the Operator has agreed to provide the following compensation and benefits, together with additional terms in this Agreement, which may be considered compensation benefits, monetary payments which are referred to as "Direct Payments".

Within thirty (30) days of the Effective Date, Operator shall pay \$600,000 to the Affected Municipalities and Operator shall pay an additional \$600,000 to the Affected Municipalities in January 2011 ("Initial Payments").

The Affected Municipalities acknowledge that as of June 9, 2010, Operator had 546,356 tons of capacity remaining in the Southeast Expansion ("Southeast Expansion Capacity") based on a survey provided by the Operator and the assumption of a density of one ton per cubic yard. The parties agree that per ton payments for Disposal in the Northern Footing Active Filling Area will commence when the Solid Waste Facility has received for disposal 546,356 tons measured from June 9, 2010. Beginning with the first ton of Solid Waste accepted for Disposal after the Southeast Expansion Capacity has been exhausted by the receipt of the aforesaid 546,356 tons, Operator shall pay \$3.50 per ton to the Affected Municipalities ("Northern Footing Direct Payment"). However, Operator shall receive a \$1.00 per ton credit for Disposal of the next 1,200,000 tons of Solid Waste in the Southeast Expansion and/or the Northern Footing Active Filling Area.

In the event Operator accepts Solid Waste for Disposal in the Active Fill Area (beyond the Design Capacity previously approved by the DNR for the Northern Footing Active Filling Area), including, but not limited to, in any future DNR approved Design Capacity abutting or on top of the Design Capacity previously approved by the DNR for the Northern Footing Active Fill Area, Operator shall pay \$4.35 per ton to the Affected Municipalities ("Active Fill Direct Payment").

All Northern Footing and Active Fill Direct Payments shall be paid on the 25th day of each month for the previous calendar month. Beginning on January 1, 2011, the amount of the Northern Footing Direct Payment and the Active Fill Direct Payment shall each be subject to the Consumer Price Index (All-Urban Consumer's Index) annual increases. Such annual increases shall be applicable and shall continue to increase until the Northern Footing Active Filling Area and the Active Fill Area actually begin receiving waste. Thereafter, the Northern Footing and the Active Fill Direct Payments shall be made with succeeding annual Consumer Price Index increases until waste is no longer received in the Northern Footing Active Filling Area and Active Fill Area, respectively. It is the intention of the parties that all of the Direct Payments shall be subject to Consumer Price Index annual increases beginning with the first adjustment as of January 1, 2011 and continuing until Final Closure. The Direct Payments shall apply to all solid waste disposed of at the site of any type or nature except for up to 68,750 tons per year of Beneficial Reuse Material that the Operator receives and except for the Solid Waste the Operator receives pursuant to Section

4 of this Article. Tipping fees and/or transportation or hauling payments to any of its subsidiaries or affiliated corporations shall be subject to the per ton Direct Payment fee. A certified weigh scale shall be the basis for the calculation of the tonnages which the Direct Payment is based upon.

The Operator shall provide detailed monthly statements which shall show actual daily tonnage received at the landfill, based upon computer generated information to the Monitoring Committee or a representative of any Affected Municipality, data verifying the amount of tonnage received at the site. The Operator shall be required to provide any information that relates to the source of such waste upon request, specifically identifying all out-of-state waste that is disposed of in the Northern Footing Active Filling Area and the Active Fill Area, as may be applicable. The Operator agrees to permit the Monitoring Committee, the Affected Municipality, any of their representatives or any retained Landfill Compliance Officer to review all records pertaining to the same and shall cooperate in any such effort to verify waste tonnages, the source of waste, the type of waste and the accuracy of the on-site weigh scale, including independent testing or certification of the same. In the event that there is any failure or inability of the Operator's certified weigh scale to weigh trucks, all trucks disposing of waste for any time period which the weigh scale is unable to accurately weigh or report actual weights of Solid Waste received, including the failure of the Operator's computers, software, or other programs, Maximum weights transported by all vehicles disposing of waste in the Northern Footing Active Filling Area and the Active Fill Area, as may be applicable, shall be identified as to the maximum weight of waste that such vehicle is capable of transporting and the Direct Payment shall be based upon such information.

The Initial Payments and all Direct Payments shall be made to the Clerk of the City of Franklin who shall be required to issue payments to the Affected Municipalities within three (3) business days of receipt of the same. The Clerk shall allocate the Initial Payments and all Direct Payments as follows:

City of Franklin	75.0%
Milwaukee County	7.5%
Town of Raymond	7.8%
Racine County	2.5%
Town of Norway	2.0%
City of Muskego	2.7%
Waukesha County	2.5%
TOTAL	100.0%

As an alternative, the Operator agrees to make Direct Payment to the Affected Municipalities or route payments as the Municipalities may agree. The Operator shall not object to, take any action to defeat or impair and expressly waives any claims pertaining to the Direct Payment allocation established at any time between the City of Franklin and the other Affected Municipalities. Similarly, the Operator shall not object to the usage of any such funds as each Municipality may determine. The Operator and Affected Municipalities agree that the amount of the Direct Payment is stipulated to be in compliance with Wis. Stat. § 289.33, with respect to such payments reasonably approximating the direct impacts to the municipalities, as well as the other benefits, protections and other terms of this Agreement as a whole.

2. **PREMIUM FOR OUT-OF-STATE WASTE**

The Operator is permitted to accept out-of-state Solid Waste for Disposal in the Northern Footing Active Filling Area and the Active Fill Area. For the first 25,000 tons of out-of-state Solid Waste Disposed of in the Northern Footing Active Filling Area and/or the Active Fill Area during any calendar year the Operator shall pay the Affected Municipalities the Direct Payment set forth hereinbefore. For all out-of-state Solid Waste Disposed of in the Northern Footing Active Filling Area and/or the Active Fill Area in excess of 25,000 tons in the same calendar year, the Operator shall pay the Affected Municipalities double the prevailing Direct Payment.

3. **PREMIUM FOR MAXIMUM EXCEEDANCE CAPACITIES APPROVED FOR TRANSPORTERS**

Nothing in this Agreement shall prohibit the City of Franklin or any other governmental authority from fully and completely enforcing applicable traffic ordinances including but not limited to weight restrictions.

4. **RESIDENTIAL AND MUNICIPAL WASTE**

A. **Tipping Fee Rebate.**

The City of Franklin, and the Towns of Norway and Raymond shall be entitled to a one hundred percent (100%) rebate for all residential Solid Waste hauled by or on behalf of the municipality for disposal in the Northern Footing Active Filling Area and the Active Fill Area based upon the following formula, or the actual amount paid by the municipality or the municipality's hauler to the Operator for disposal, whichever is elected by the Operator. However, the Operator shall not be required to rebate any taxes, fees, duties or charges it is required to collect from these municipalities as generators or disposers of Solid Waste. The Operator shall have the unlimited right to change its election. The aforesaid formula is:

Number of residences in the municipality according to the latest figures available to it [assuming three and one-half (3-1/2) persons per single family and duplex residential unit located in the municipality, and three (3) persons per condominium unit located in the municipality] times an assumed two and one-half (2-1/2) pounds of waste per person per day for the month in question, times the prevailing municipal Disposal rate charged to haulers not affiliated with the Operator or Waste Management, Inc. or its subsidiaries.

Such monthly rebate shall be paid to each municipality on or before the tenth (10th) day of each succeeding month, commencing on the tenth (10th) day of the month after Solid Waste is first disposed of in the Northern Footing Active Filling Area and the Active Fill Area, respectively. This benefit shall be provided until Final Closure or for a minimum of 3 years whichever occurs later.

B. **Free Disposal of Self-Hauled Residential Waste by Franklin, Raymond and Norway Residents.**

The residents of the City of Franklin and the residents of Towns of Norway and Raymond shall be permitted to dispose of the residential Solid Waste generated by the residents of the City

and the Towns in the Northern Footing Active Filling Area and the Active Fill Area without charge provided that said Solid Waste is not deemed to be a hazardous or Special Waste and provided that the Solid Waste is directly transported to the Solid Waste Facility by the residents of the City and the Towns. In addition, the residents of the City of Franklin and the Towns of Raymond and Norway shall be permitted to transport their residential yard waste and Recyclable Materials to the Solid Waste Facility for processing without charge. The residents shall follow such regulations required by the Operator and approved by the Monitoring Committee pertaining to the disposal of such Solid Waste and the processing of yard waste and Recyclable Materials, subject to: 1) acceptable proof of residency; 2) a per week limitation on the amount of Solid Waste (excluding Yard Waste) of 2 cubic yards; 3) compliance with reasonable safety requirements; 4) a limitation of no more than 4 automobile or pickup truck tires per calendar year per residence, to be accepted for disposal upon presentation of a coupon for same from the municipality of residence (the purpose of which being that the respective municipality of residence shall maintain a list of residents and requests for tire disposal so as to monitor the limit of tires to be disposed as set forth herein); and 5) no white goods. These disposal rights afforded the residents under this provision shall be limited to Saturdays from 7:00 a.m. to 3:00 p.m., and Wednesdays from 8:00 a.m. to 4:30 p.m. In the event that any Wednesday falls on a holiday, this date shall be the next weekday that the site is permitted to accept Solid Waste for Disposal. This right to free disposal of Solid Waste and to free processing of Recyclable Materials shall terminate upon Final Closure or 3 years, whichever occurs later. This right to free processing of yard waste shall terminate upon Final Closure of the Northern Footing Active Filling Area or the Active Fill Area, whichever occurs later.

C. **Free Disposal of Solid Waste from City/Town Departments of Public Works.**

The City of Franklin shall have the right to Dispose of 3,000 tons per year of Solid Waste generated by its DPW free of charge and the Towns of Norway and Raymond DPWs shall each have the right to Dispose of 300 tons per year of Solid Waste delivered by each Town's DPW free of charge in the Northern Footing Active Filling Area and the Active Fill Area. This disposal shall be limited to the operating hours of the Northern Footing Active Filling Area and/or the Active Fill Area and shall terminate upon Final Closure of the same or 3 years, whichever occurs later. However, the City and Towns shall pay for all taxes, fees, duties and charges that the Operator is required to collect from them as generators or disposers of DPW's of Solid Waste.

5. **PROPERTY VALUE PROTECTION PLAN**

Operator agrees to enter into an Agreement to Guarantee Property Value with each of the owners of record of the residential and agricultural properties described in Exhibit "F" to purchase said real property, or to otherwise guarantee the property value, as set forth in that exhibit.

Notwithstanding the foregoing, the Operator shall be given a credit equal to the amount the Operator has already paid the previous owner of any property identified in Exhibit "F" pursuant to an Agreement to Guarantee Property Value that the Operator had entered into with the previous owner of the property. The Agreement to Guarantee Property Value attached as Exhibit "F" for such property owners shall be amended to reflect that the Operator is entitled to and shall receive such a credit.

The Operator shall contribute no less than \$250.00 to the cost of the first appraisal provided for in Exhibit "F".

6. **SOCIOLOGICAL PAYMENTS**

The Affected Municipalities recognize that the Northern Footing Active Filling Area expansion may have an adverse impact on the quality of life of certain residents residing in the residential properties having the tax key numbers listed in Exhibit "G-1", annexed hereto. Further, the Affected Municipalities recognize that the Active Fill Area expansion may have an adverse impact on the quality of life of certain residents residing in the residential properties having the tax key numbers listed in Exhibit "G-2" annexed hereto. For each property listed in Exhibit "G-1", the Operator agrees to pay the sum of \$3,000.00 per year, made payable to the owner(s) of record as of December 31 of any year in which waste is Disposed in the Northern Footing Active Filling Area. Similarly, for each property listed in Exhibit "G-2" the Operator agrees to pay the sum of \$3,000 per year, made payable to the owner(s) of record as of December 31 of any year in which waste is Disposed in the Active Fill Area. The payments shall be deemed to be in 2010 dollars and beginning on January 1, 2011 shall be subject to Consumer Price Index (All-Urban Consumer's Index) annual increases. Such annual increases shall be applicable and shall continue to increase until the Northern Footing Active Filling Area and Active Fill Area actually begin receiving waste. Thereafter the payments shall be made with succeeding annual Consumer Price Index increases through the year in which the permitted air space in the Northern Footing Active Filling Area and the Active Fill Area, respectively, is consumed. Said payments shall be paid no later than January 15 of the next year.

To be eligible, the property must be an owner-occupied dwelling as of December 31 of the year of this program for which payment is sought. Furthermore, only homes that have been constructed and occupied by the owner as of the date of the signing of the Final Negotiated Agreement by Operator shall qualify. "Owner-occupied" shall include properties held in trusts, solely-owned corporations, partnerships or limited liability entities.

The sociological payments are transferable to purchasers or transferees of the qualified property. In the event Operator or another landfill company acquires any interest in the properties that are eligible for the sociological impact payment, those properties shall lose their eligibility to receive payments. The listing of eligible property owners and additional provisions are set forth in Exhibit "G" attached hereto.

7. **OPERATOR RESPONSIBILITY FOR PROTECTION OF NEIGHBORING WELLS**

The Operator shall have the responsibility to comply with the requirements set forth in Exhibit "E" relating to neighboring wells.

8. **SOLID WASTE FACILITY BUFFER AREA**

Operator currently owns those properties adjacent to the Solid Waste Facility as listed upon Exhibit "K" annexed hereto. Upon the Effective Date of this Agreement and to remain in effect for the term of and while the initial direct payments obligation remains in effect, those lands listed upon

Exhibit "K" shall be subject to those covenants and restrictions as are set forth in the Conservation Easement annexed hereto as Exhibit "L", restricting Operator's use and holding of such properties to those set forth therein and prohibiting any expansion or Landfilling Operations thereon of the Solid Waste Facility, in perpetuity. The parties acknowledge that a portion of these properties may be used for sedimentation basins and the placement of excess soil in berms as described in Exhibit "M". Operator acknowledges that the terms of the Conservation Easement are in consideration of the terms of this Agreement, that such covenants and restrictions shall prevail upon any conflict with the Wisconsin Statutes as they may pertain in any way to the siting of expansions or the establishment of a solid waste facility, including, but not limited to any form of application for local approvals; that the covenants and restrictions are not a "local approval" as defined under the Wisconsin Statutes; that the covenants and restrictions shall exist separately and independently from such siting process; that Operator waives any and all legal and equitable rights it may have to contest or otherwise challenge the validity of the Conservation Easement; and that such Conservation Easement may only be amended by the City of Franklin Common Council. Operator shall execute and deliver the Conservation Easement to the City of Franklin in recordable form as may be approved by the City of Franklin City Attorney, together with a title insurance commitment from a reputable title insurance company in the Milwaukee Metropolitan area showing record title of the properties to be free from any and all encumbrances or other matters which would in any way inhibit or interfere with the terms of the Conservation Easement, prior to the Effective Date of this Agreement. The Conservation Easement shall be a condition precedent to the Effective Date of this Agreement in lieu of condemnation therefore by the City of Franklin, without any consideration to Operator beyond or in addition to the considerations given and exchanged in this Agreement; Operator in further consideration hereby waiving any and all rights under Wis. Stat. ch. 32, Comm 202, Wis. Administrative Code and any other applicable law, to any further right to compensation or appeal or challenge to the terms as set forth herein.

With the exception of the construction and maintenance of the Drainage Ditch and the necessary crossing under South 112th Street associated with the same, all of the structures and activities depicted on Exhibit "M" shall comply with all applicable Ordinances and Regulations of the City of Franklin, including, but not limited to stormwater drainage and grading; but approval by the City shall not be unreasonably denied and consideration not untimely delayed.

In the event that DNR approves new Design Capacity within the Active Fill Area, beyond the Northern Footing Active Filling Area, in an amount greater than 5.2 million cubic yards; then the Operator shall, if requested by the City of Franklin, dedicate and convey all of such properties identified in Exhibit "K", to the City of Franklin or its designee(s), including but not limited to DNR; subject to the Operator's rights: (i) to utilize the properties as described in Exhibit "M"; and (ii) to mitigate any wetlands filled in connection with the Active Fill Area on the properties identified in Exhibit "K".

ARTICLE VII
MISCELLANEOUS PROVISIONS

1. **EXPANSION**

No further expansion of the Northern Footing Active Filling Area, Active Fill Area, the Solid Waste Facility or any landfilling, disposal or other operations that currently exist at the Solid Waste Facility shall be permitted, except post-closure operations necessary to comply with the Operator's DNR permit or as otherwise permitted in this Agreement. The Solid Waste Facility shall also not be used as a transfer station or for the temporary storage of any solid waste or other materials after the Northern Footing Active Filling Area or Active Fill Area are no longer receiving waste for disposal. The Prohibited Expansion definition and the definition of Solid Waste Facility shall be deemed to be read broadly to prohibit landfilling, Solid Waste Disposal, transfer stations or other similar operations on any lands within two (2) miles of the Solid Waste Facility that are or may hereafter be acquired, controlled, leased or used by the Operator, as the term Operator is defined elsewhere in this Agreement except: (i) any currently DNR licensed landfill in the City of Muskego which the Operator may subsequently acquire or control; or (ii) any use of the Solid Waste Facility approved, in its sole discretion, by the City of Franklin, considering the best interests of the City of Franklin.

2. **ENVIRONMENTAL IMPAIRMENT LIABILITY INSURANCE**

The Operator shall name and maintain the Affected Municipalities as additional insureds on an environmental impairment liability insurance policy in a face amount of not less than Twenty-Five Million Dollars (\$25,000,000). The adequacy of the policy shall be reviewed and approved by the municipal attorneys for the City of Franklin and the Town of Raymond. The terms and conditions of this paragraph shall apply from the Effective Date in perpetuity.

3. **RAYMOND BORROW PIT**

The Borrow Pit located in the Town of Raymond referred to in the previous Landfill Agreement between the parties executed by the Operator on July 17, 1992, shall be used only for passive recreational or agricultural uses. Neither the Operator nor any successor in interest may use the Borrow Pit as a Clay Borrow Pit or Clay Extraction Source, unless such use is again reapproved by the Town of Raymond and Racine County and unless the Operator or its successor also obtains the approval of the City of Franklin, if required by Wis. Stat. § 62.23(7a). The aforesaid approval shall supersede the requirements previously imposed upon the Operator in Exhibit "J" of the previous 1992 Landfill Agreement.

By approving this Agreement, the Town of Raymond and Racine County are deemed to have consented that when property is transferred according to Section 8 of Article VI, the Borrow Pit may also be transferred to the same entity and they will execute any documents necessary to confirm this transfer.

4. **POST CLOSURE SITE PLAN**

The Operator shall comply with the requirements of Article IV, Section 21., relating to Post-

Closure Site Plan. The terms and conditions of this paragraph shall apply from the Effective Date in perpetuity.

5. **ANNUAL ADJUSTMENTS IN RATES, PAYMENTS AND OTHER FINANCIAL PROVISIONS OF THIS AGREEMENT**

Unless specifically set forth to the contrary, every payment, payment rate, annual compensation or financial provision set forth in this Agreement shall be presumed to be established at a base rate in 2010 dollars and thereafter, beginning January 1, 2011, be increased at a rate to be adjusted by the Consumer Price Index (All-Urban Consumers).

6. **NO IMPACT ON SEWER CAPACITY**

Operator guarantees that the existing sewer infrastructure connecting the Solid Waste Facility to the City of Franklin Central City Sewer has sufficient capacity to carry its load as current in the year 2010, together with any and all leachate from the Solid Waste Facility which may result from the Active Fill Area and the Northern Footing Active Filling Area. Operator guarantees that no leachate shall be transported from the Solid Waste Facility other than by way of sanitary sewer transmission and that no leachate transmission from the Solid Waste Facility shall at any time reduce in any way the right or capacity of the City of Franklin or any public or private property owner to discharge wastewater to the Milwaukee Metropolitan Sewerage District.

7. **SUPPORT FOR CONSERVATION GREENBELT**

The Affected Municipalities reaffirm their support for the development of a Conservation Greenbelt to the east and south of the Active Fill Area and the mitigation of any wetland taking sought by the Operator regarding future expansions within the Active Fill Area, on the properties identified in Exhibit "K".

ARTICLE VIII
GENERAL PROVISIONS

1. **NOTICE TO PARTIES**

Under this Agreement, any notices required by the terms and conditions of this Agreement are, at minimum, to contain the address and names of the parties as noted below, are to be sent by first class mail to such parties and are to be considered by each party as written notice when received, except as otherwise specifically provided herein. It is further understood that the Affected Municipalities, the Operator, the Local Committee, and the Monitoring Committee shall each be responsible to provide to the other parties any appropriate change of address or any appropriate change of name by providing the other parties with a written "Notice of Address Change" or "Notice of Name Change". Such notices shall be sent by certified mail to the addresses noted below. The current names and addresses are:

- A. Metro Recycling and Disposal Facility
10712 South 124th Street
Franklin, WI 53132

with a copy to: Waste Management of Wisconsin, Inc.

W132 N10487 Grant Drive
Germantown, WI 53022

- B. City of Franklin
Attn: City Clerk
9229 West Loomis Road
Franklin, WI 53132
- C. City of Muskego
Attn: City Clerk
P.O. Box 903
Muskego, WI 53150
- D. Town of Raymond
Attn: Town Clerk
2255 South 76th Street
Franksville, WI 53126
- E. Town of Norway
Attn: Town Clerk
6419 Heg Park Road
Wind Lake, WI 53185

- F. County of Waukesha
c/o County Clerk
1320 Pewaukee Road, Room 120
Waukesha, WI 53188
- G. County of Racine
c/o County Clerk
730 Wisconsin Avenue
Racine, WI 53403
- H. County of Milwaukee
Attn: Dept. of Transportation and Public Works
c/o County Clerk
901 N. 9th St., Room 105
Milwaukee, WI 53233

2. **HEADINGS**

The titles to the paragraphs of this Agreement are for informational purposes only.

3. **GOVERNING LAW**

This Agreement and the provisions contained herein shall be construed, enforced and governed, in all respects, in accordance with the laws and statutes of the State of Wisconsin. Any action, suit or proceeding arising out of this Agreement or any transaction contemplated thereby shall be brought in Milwaukee County Circuit Court.

4. **WAIVER**

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

5. **COMPLETE AGREEMENT**

This Agreement is the complete Agreement as to the Northern Footing Active Filling Area and the Active Fill Area pursuant to Wis. Stat. § 289.33, between the Affected Municipalities, the Operator, and the Local Committee.

6. **AMENDMENT**

This Agreement may be amended only by a written agreement between the Affected Municipalities that are signatories to this Agreement and the Operator, except as expressly otherwise provided for herein.

7. BINDING EFFECT

This Agreement will bind the Affected Municipalities, the Operator, the Negotiating Committee, their respective legal heirs, their respective legal representatives, their respective legal successors and their respective legal assigns. However, if any Affected Municipality other than the City of Franklin fails to adopt an approving resolution authorizing officials of said municipality to execute this Agreement or if said authorized officials fail to execute this Agreement within sixty (60) days after the date that the Metro Landfill (North Expansion) Negotiating Committee executes this Agreement; then said municipality shall receive no benefits under this Agreement and said municipality's share of the Direct Payment provided herein shall be divided among the Municipalities that have timely signed the Agreement (Signing Municipalities) in proportion to the share of the Direct Payment that each Signing Municipality would have received under this Agreement if all Affected Municipalities had signed the Agreement. No benefits shall be paid to any municipality until it passes an approving resolution.

8. EXECUTION IN COUNTERPARTS

This Agreement may be executed in separate counterparts, each of which shall be deemed an original. Each party to this Agreement shall execute eight (8) duplicate original counterparts and shall circulate the same to all other parties identified in this Agreement.

DATED: August 16, 2010

WASTE FACILITY SITING COMMITTEE

BY: Timothy C. Solomon
TIMOTHY C. SOLOMON, Vice-Chairman
and authorized signatory by vote
of and on behalf of the Waste
Facility Siting Committee

DATED: _____

WASTE MANAGEMENT OF WISCONSIN, INC.

BY: _____
_____, President

7. BINDING EFFECT

This Agreement will bind the Affected Municipalities, the Operator, the Negotiating Committee, their respective legal heirs, their respective legal representatives, their respective legal successors and their respective legal assigns. However, if any Affected Municipality other than the City of Franklin fails to adopt an approving resolution authorizing officials of said municipality to execute this Agreement or if said authorized officials fail to execute this Agreement within sixty (60) days after the date that the Metro Landfill (North Expansion) Negotiating Committee executes this Agreement; then said municipality shall receive no benefits under this Agreement and said municipality's share of the Direct Payment provided herein shall be divided among the Municipalities that have timely signed the Agreement (Signing Municipalities) in proportion to the share of the Direct Payment that each Signing Municipality would have received under this Agreement if all Affected Municipalities had signed the Agreement. No benefits shall be paid to any municipality until it passes an approving resolution.

8. EXECUTION IN COUNTERPARTS

This Agreement may be executed in separate counterparts, each of which shall be deemed an original. Each party to this Agreement shall execute eight (8) duplicate original counterparts and shall circulate the same to all other parties identified in this Agreement.

DATED: _____

WASTE FACILITY SITING COMMITTEE

BY: _____

_____, Vice-Chairman
and authorized signatory by vote
of and on behalf of the Waste
Facility Siting Committee

DATED: August 16, 2010

WASTE MANAGEMENT OF WISCONSIN, INC.

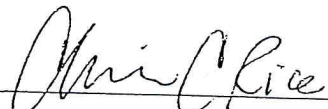
BY: Michael E. Fleming
Michael E. Fleming, Vice President

GUARANTEE

Waste Management, Inc., for valuable consideration, including the mutual covenants and benefits stated in the WMWI Metro Landfill Facility Greenspace Protection and Limited Expansion Agreement signed in August 2010 ("Agreement") to itself and its affiliated corporation Waste Management of Wisconsin, Inc., such consideration and receipt of which is hereby acknowledged, does hereby guarantee the performance of Waste Management of Wisconsin, Inc., in the event that the latter fails to do so. Those obligations shall extend to any obligations provided for in the Agreement, including the operation, closure, post-closure responsibilities, and indemnification responsibilities of Waste Management of Wisconsin, Inc.

Waste Management, Inc. acknowledges receipt of the Agreement and certifies that, by signing below, said officers have the authority to act on behalf of Waste Management, Inc. and agrees to forward a certified copy of such resolution granting such authority to the City of Franklin; the receipt of such corporate resolution shall be deemed to be an integral part of the Agreement. The Agreement shall not be deemed valid until the same is received by the City of Franklin.

WASTE MANAGEMENT, INC.

By: 

Dated: 11-Aug-2010

and

By: 

Dated: August 11, 2010