

# **Superior Emerald Park Landfill, Inc.**

# **Southeast Expansion Agreement**

With the following affected municipalities:

City of Franklin, City of Muskego, Town of Norway, Racine County & Waukesha County

Arbitration Award September 1, 1999

Court Ordered Settlement March 21, 2000

# **AGREEMENT EXPLANATION**

**CITY OF MUSKEGO/SUPERIOR EMERALD PARK LANDFILL INC.**  
**EXPLANATION REGARDING MULTIPLE AGREEMENTS**

The City of Muskego and Superior Emerald Park Landfill Inc., in conjunction with the local siting committee, ultimately reached agreement with regard to all issues pertaining to the expansion of the Superior Emerald Park Landfill on March 13, 2000. The resolution followed approximately two years of contentious litigation. The agreement, as a whole, involves five separate documents: the Interim Construction Agreement, Stipulation as to Agreed Upon Issues as to Negotiated Agreement, the Arbitration Award of the Wisconsin Waste Facilities Siting Board, the Settlement Agreement and mutual Release in Case No. 99 CV 1476, and the January 20, 2000, Letter of Understanding. These agreements must be read in conjunction with one another in order to reach a full understanding of the entire agreement.

**INTERIM CONSTRUCTION AGREEMENT**

The Interim Construction Agreement was intended to establish a minimum benchmark for further negotiation between the parties and the terms were to serve as consideration for dismissal of the contested case hearing by the City of Muskego. A disagreement arose between parties relating to paragraph 8 of the agreement with respect to the form of the final offer required of SEPLI in the arbitration process. SEPLI filed a final offer with the WFSB for purposes of arbitration which did not, in the opinion of the local committee, provide for the minimum benefits set forth in the attachment to the Interim Construction Agreement. This issue was raised before the WFSB during the arbitration proceedings, and the WFSB rejected the local committee's arguments in this regard.

**STIPULATION AS TO AGREED UPON ISSUES AS TO NEGOTIATED AGREEMENT**

The "Negotiated Agreement" was the document presented to the WFSB, by stipulation of SEPLI and the local committee. This document covered the vast majority of issues involved during the negotiation process, and represents the agreement between those parties as to those issues. With regard to the remaining issues, detailed below, parties submitted separate final offers.

## **ARBITRATION AWARD**

Based upon the submissions of the parties, as well as the evidence presented at the arbitration hearing, the WFSB approved the stipulated Negotiated Agreement, and with regard to the remaining issues, adopted the final offer of SEPLI. The five issues of contention were:

1. Direct Payments.
2. Sociological Payments.
3. Out Of State Waste Premium.
4. Waste Volume Surcharge.
5. Plan of Operation Enforcement.

The arbitration award did not address certain other issues between the City and SEPLI, which were dealt with in the Interim Construction Agreement. Due to the fact that SEPLI submitted a final offer inconsistent with the terms of the Interim Construction Agreement, the City commenced an action in the Circuit Court seeking to enforce the terms of the ICA.

## **SETTLEMENT AGREEMENT**

Negotiations occurred between parties with regard to resolution of the Circuit Court action commenced by the City. These negotiations resulted in the final settlement of all issues effective March 13, 2000.

## **LETTER OF UNDERSTANDING**

It was recognized by the parties that several issues were not addressed specifically in the Settlement Agreement. Therefore, the drafters of the Settlement Agreement prepared a Letter of Understanding dated January 20, 2000.

## **EXPLANATION OF TOTAL AGREEMENT**

An understanding of the entirety of the agreement involves piecing together portions of the various documents. As stated above, the Negotiated Agreement deals with most of the issues and is

enforceable in its entirety. The Settlement Agreement resolves the five issues in contention in the Arbitration Award as follows:

1. Direct Payments. The issues pertaining to the amount of direct payment due to the Affected Municipalities involve two factors. The first factor is dollars per ton. The second factor is number of tons of Beneficially Reused Materials (BRM's) exempted from the direct payment. The provisions of the Settlement Agreement supersede all previous documents (ICA and Arbitration Award) with regard to the issue of direct payment. The Settlement Agreement, in sum, provides for total direct payment of \$2.57 per ton, exclusive of 68,750 tons per year of BRM'S. The direct payment is to be increased at the rate of 5.2 percent compounded annually.

2. Sociological Payments. The Arbitration Award adopted the final offer of SEPLI. Therefore, the provisions of the final offer regarding sociological payments, is binding. The final offer provides an annual payment of \$3,000.00 to certain Residential Properties included in the Stipulation As To Agreed Upon Issues For a Final Negotiated Agreement in Exhibit P as Attachment 1. This direct payment will increase each year by 5.2% beginning in 2001. This provision was not superseded by the Settlement Agreement.

3. Out Of State Waste Premium. The WFSB, in its Arbitration Award, determined that this issue does not constitute an arbitrable item under Wisconsin siting law. Therefore, there is no out of state waste premium.

4. Waste Volume Surcharge. The WFSB determined that this issue, likewise, is not arbitrable and therefore there is no waste volume surcharge.

5. Plan of Operation Enforcement. The WFSB adopted SEPLI's final offer, which incorporated the provisions of paragraph 5 of the ICA. This paragraph provided for plan of operation review by the City only, rather than additional review by the local committee. By the time the Settlement Agreement was achieved, this issue was moot, in that the plan of operation had already been reviewed by the City and approved by the DNR.

6. Other Issues.

a. Continuation of Free Waste Disposal. The parties recognized that the arbitration award did not address this issue, which was agreed to in the ICA (per attachment-"Final Negotiated Agreement"). Therefore, the settlement agreement provides for free waste disposal in the event the expansion capacity is consumed prior to 10 years.

b. Landfill Compliance Officer. The parties also recognized that neither the Arbitration Award nor the Stipulated Agreement addressed this provision of the ICA. Therefore, the Letter of Understanding acknowledges the parties' intent that this provision of the ICA survives all of the subsequent documents.

c. Lump Sum Payment. The ICA provided that SEPLI would make the lump sum payment to the City of \$1,296,000 on or before January 15, 2000. The Letter of Understanding acknowledges this obligation. This payment has now been made.

d. Standing Committee Expenses. An ambiguity existed in the documents with regard to the number of years SEPLI would be required to pay the annual \$10,000 installment towards the Standing Committee's expenses. The Letter of Understanding confirms the intent that this payment be made for a sum of 15 years, unless the negotiated agreement is superseded by a future agreement for further expansion.

**INTERIM  
CONSTRUCTION  
AGREEMENT**

## INTERIM CONSTRUCTION AGREEMENT

This Interim Construction Agreement (hereinafter "Agreement") is made and entered into on the \_\_\_\_\_ day of April, 1999, by and between Superior Emerald Park Landfill, Inc. ("SEPLI"), a Wisconsin corporation, the SEPLI Landfill Siting Committee (the "Local Committee"), a committee organized and existing pursuant to Section 289.33, Wis Stats., and the City of Muskego (the "City"), a municipality.

WHEREAS, SEPLI is in the process of attempting to site a landfill expansion of the Emerald Park Landfill (the "Landfill Expansion") in the City, on the property described on Exhibit 1, attached hereto and made a part hereof; and

WHEREAS, pursuant to §§ 289.21 and 289.23, Wis. Stats., SEPLI submitted an Initial Site Report and Feasibility Report to the Wisconsin Department of Natural Resources (the "WDNR") in support of the proposed Landfill Expansion; and

WHEREAS, the City requested and was granted a contested case hearing regarding the Landfill Expansion pursuant to § 289.27, Wis. Stats., Case No. IH-98-02, which resulted in substantial expense being incurred by the City and SEPLI in the development and presentation of evidence over the course of fifteen (15) days of hearings; and

WHEREAS, the Local Committee and SEPLI are in the process of negotiating the terms of a Local Agreement pursuant to § 289.33, Wis. Stats., regarding many of the concerns raised and addressed by the City in the contested case hearing; and

WHEREAS, the Local Committee, the City and SEPLI are desirous of avoiding further cost and expense, amicably resolving their disputes, and completing negotiation of a Local Agreement that will protect the public health, safety and welfare, as well as protect the public interest in providing adequate solid waste disposal capacity;

NOW, THEREFORE, for good and valuable consideration, acknowledged by each party hereto, the City, the Local Committee and SEPLI mutually covenant and agree as follows:

1. Except as specifically provided herein, this contract is the entire Interim Construction Agreement between the City, the Local Committee and SEPLI. This Agreement

includes certain items as to which SEPLI and the City have reached an interim agreement, except those issues which remain subject to negotiation and arbitration pursuant to § 289.33, Wis. Stats.

2. SEPLI, the Local Committee and the City have previously entered into an agreement known as the Final Negotiated Agreement between SEPLI and Affected Municipalities filed with the Waste Facility Siting Board on April 30, 1991, regarding the existing Emerald Park Landfill. Pursuant to said agreement, SEPLI is obligated to make direct payment to the Affected Municipalities, in the sum of \$0.76 per ton of waste received during 1999. As of January 1, 1999, SEPLI estimates that there is approximately 839,000 cubic yards of capacity remaining in the existing Emerald Park Landfill. Of this capacity, eight (8%) percent shall be consumed by daily cover.

With respect to the proposed Landfill Expansion, SEPLI and the City have agreed upon terms which, if accepted by the Local Committee, would result in the negotiating and waiver of local approvals by the City under § 289.33, Wis. Stats. These terms are set forth in Exhibit 2 (hereinafter referred to as the "Expansion Agreement"), attached hereto and incorporated herein by reference.

3. With regard to solid waste disposed of in the proposed Landfill Expansion, under Article VI of the Expansion Agreement, SEPLI shall be obligated to make direct payments at a rate equivalent to \$2.41 per ton of solid waste received for 1999, and increased by 5.2% per year thereafter. The estimated calculation of the direct payment amount associated with this provision is more fully set forth on Exhibit 3, which is attached hereto and incorporated herein by reference. All terms and conditions regarding payment, collection and verification associated with the direct payment under the Expansion Agreement are incorporated herein and shall govern the payments required herein. The payments contemplated under this paragraph shall be exclusive of and inapplicable to up to fifteen thousand (15,000) tons per year of shredder fluff that is beneficially reused as alternative daily cover. In consideration of the City's issuance of the conditional use permit for clay extraction, SEPLI agrees to pay to the City of Muskego the sum of One Million Two Hundred Ninety-Six Thousand (\$1,296,000.00) Dollars, either within thirty (30) days from the date that the currently permitted waste disposal capacity is consumed, or by no later than January 15, 2000, whichever occurs first. Such funds shall be held by the City for disbursement

pursuant to the division of direct payment specified in the Final Negotiated Agreement between SEPLI and Affected Municipalities filed with the Waste Facility Siting Board on April 30, 1991.

4. SEPLI agrees that the maximum height of the landfill expansion shall be determined by the side slopes of the expansion proceeding at a 4:1 ratio to 944 feet M.S.L., and then proceeding at a ten percent (10%) slope to the point of maximum elevation, not to exceed 960 feet M.S.L. SEPLI further agrees that the maximum depth of the waste in the landfill expansion shall not exceed 712 feet M.S.L., with no depth to be greater than 70 feet below the natural, pre-construction, pre-clay extraction grade.

5. SEPLI has not yet submitted the Plan of Operation required under § 289.30, Wis. Stats., with regard to the Landfill Expansion. The parties recognize that the contents of the Plan of Operation may have substantial impact upon the City. The Parties further recognize that § 289.30, Wis. Stats., provides for no formal or informal review by the City. Accordingly SEPLI agrees to the following:

a. SEPLI shall submit the proposed Plan of Operation to the City simultaneously with or prior to the submission to WDNR.

b. Within thirty (30) days of receipt, City shall submit to SEPLI proposed revisions, if any, to the proposed Plan of Operation.

c. Thereafter, the City and SEPLI shall attempt to resolve any differences with respect to the Plan of Operation. In the event that the parties are unable to reach agreement with regard to all issues within thirty (30) days following submission of the City's proposed revisions, any disputed issue or issues shall be decided by binding arbitration under the procedure set forth below.

d. In the event either party requests arbitration, within ten (10) days from the date of the request the parties shall mutually agree on a list of three (3) neutral, third-party arbitrators, that are qualified to arbitrate the matter(s) in dispute. In the event the parties are unable to agree upon a list of so qualified arbitrators, the list shall be provided upon application to the Waukesha County Circuit Court. Within five (5) days from the date that the list of arbitrators is received by the City and SEPLI, the City and SEPLI shall meet to select an arbitrator. From the list of three (3) arbitrators, SEPLI and the City shall each strike one name (with the party initiating the arbitration making the first strike), until one

name remains. The remaining person shall act as arbitrator. The arbitration proceedings shall be governed by Chapter 788, Wis. Stats. The fee for the arbitrator shall be shared equally by the parties, and each party shall bear their own costs, disbursements, witness fees and attorneys' fees. The arbitration proceeding shall be completed within not more than thirty (30) days from the date of selection of the arbitrator, and the selected arbitrator shall agree to issue a decision within the thirty (30) day time frame. The City and SEPLI mutually covenant and agree to submit a joint letter to the WDNR, requesting that the terms of the Plan of Operation, determined in accordance with this paragraph, be included in the final Plan of Operation for the landfill expansion.

e. Nothing in paragraph 5 shall in any way affect the limitations, protections and controls negotiated in the Final Agreement and shall not affect the jurisdiction and review authority of the Standing Committee. It is the intent of paragraph 5 to permit the City of Muskego an opportunity to review the technical aspects of the Plan of Operation that have not been specifically dealt with in the Final Negotiated Agreement, nor is this paragraph intended to give the City of Muskego any authority to waive, eliminate or reduce any limitation, protection or control that would be included in the Final Agreement.

6. SEPLI shall make the following payments to the City:

a. SEPLI agrees to pay the City, within 30 days of execution of this Agreement, the sum of Two Hundred Thousand (\$200,000) Dollars, as and for partial reimbursement of City's costs associated with this Agreement and the Contested Case Hearing.

b. SEPLI agrees to pay City, within thirty (30) days of payment due under Article V.2 of the Expansion Agreement, the difference between Two Hundred Thousand (\$200,000) Dollars and the actual amount of reimbursement paid to the Local Committee, as and for partial reimbursement of City's costs associated with this Agreement. SEPLI agrees to reimburse the Local Committee for all costs associated with the siting of the Emerald Park Landfill Expansion, including engineering expenses, attorneys fees, Committee per diems and other costs, reimbursing the Committee on the schedule as heretofore agreed, and continuing forward until a Final Agreement is negotiated and

approved by a majority of the Local Committee, or the matter is referred to binding arbitration under § 289.33, Wis. Stats.

c. SEPLI agrees to pay City, within thirty (30) days of each annual payment due under Article IV.24 of the Expansion Agreement, the difference between Ten Thousand (\$10,000) Dollars and the actual annual Standing Committee reimbursement, should any remainder exist. This obligation shall continue until final closure of the Landfill Expansion, or for a period of fifteen (15) years, whichever is greater.

d. Within thirty (30) days following execution of this Agreement, SEPLI shall pay to the City the sum of Twenty Five Thousand (\$25,000) Dollars (the "Liaison Contribution"), which sum may be used by the City for purposes of hiring or retaining the services of a Landfill Liaison/Compliance Officer. Thereafter, on or before January 1 of each subsequent year for fifteen (15) years or Final Closure of the Active Fill Area, whichever is later, SEPLI shall pay the City the Liaison Contribution together with an increase of four (4%) percent per year. The Landfill Liaison/Compliance Officer shall have all rights of access to the premises afforded any person having special rights of entry under any provision of the Expansion Agreement, except the Landfill Liaison/Compliance Officer shall be permitted access to any area of the Solid Waste Facility upon reasonable request during normal operating hours.

7. So long as leachate generated at the landfill is acceptable for disposal at the Milwaukee Metropolitan Sewerage District ("MMSD"), after pretreatment, all leachate disposal, exclusive of leachate that is recycled at the landfill, shall be accomplished through the use of a sewer connected to the City sewer system. All costs associated with the planning, design and construction of the sewer connection shall be the responsibility of SEPLI. If necessary or required by the MMSD, at the time of the initial hook up of the landfill to the sewer, all costs associated with the negotiations and acquisition of approval for a service area amendment and sufficient flow capacity from the MMSD for the landfill shall be the responsibility of SEPLI. This paragraph shall also be included as a part of the Expansion Agreement attached hereto.

8. SEPLI agrees with the City and the Local Committee that the Expansion Agreement attached hereto and made a part hereof (Exhibit 2) shall be the minimum level of benefits and protections provided for in a Final Negotiated Agreement or Arbitration Award, as provided under

§ 289.33, Wis. Stats., or in the event of a finding of default against the Local Committee or Affected Municipalities for any reason, the Final Negotiated Agreement attached hereto shall be independently enforceable by the Affected Municipalities as the Final Negotiated Agreement, as if it were the subject of the Arbitration Award or Final Negotiated Agreement. If this siting proceeds to arbitration pursuant to Wis. Stats. § 289.33(10), SEPLI shall submit as a "final offer", in the form of the Final Negotiated Agreement (Exhibit 2), as attached hereto and made a part hereof. In any event, should SEPLI receive an operating license for the landfill expansion, and SEPLI's final offer is not the arbitrator's award, or if said award is in any way overturned by any Court, in addition to the obligations herein, SEPLI shall provide the Affected Municipalities and affected residents all the benefits set forth in the Final Negotiated Agreement (Exhibit 2) which would have otherwise accrued to the benefit of the Affected Municipalities and affected residents, as if said Expansion Agreement was directly between SEPLI and the Affected Municipalities, under § 289.33, Wis. Stats.

9. In consideration of the foregoing, the Local Committee and the City covenant and agree as follows:

a. Immediately upon execution of this Agreement, the City shall forthwith move to voluntarily dismiss its petition for a contested case hearing in Case No. IH-98-02, and thereafter, the City shall not institute or participate in any further legal proceedings regarding the proposed Landfill Expansion or provide any assistance or information to any other party to any legal proceedings related to the proposed Landfill Expansion. The terms of this paragraph shall not be interpreted to preclude the City from properly responding to appropriate requests for records under the Wisconsin Public Records Law or the federal Freedom of Information Act. Nor shall this paragraph preclude the City from properly responding to lawfully issued legal process or court order; however, the City shall provide SEPLI written notice of the request of the City's need to respond to such process request or court order, within two business days of receipt of such request, in order to allow SEPLI time to seek protection from or quash such process or order. The terms of this subparagraph are exclusive of any proceedings to enforce this Agreement or the terms of the clay extraction permit, Conditional Use Permit or other Local Approval issued for the proposed Landfill Expansion.

b. If the Local Committee and SEPLI have not concluded negotiations on or before May 15, 1999, on a Final Agreement for the proposed Landfill Expansion, SEPLI reserves the right to petition the Waste Facility Siting Board ("WFSB") to submit this matter to binding arbitration under § 289.33, Wis. Stats. In the event SEPLI petitions the WFSB for binding arbitration after May 15, 1999, the Local Committee and the City covenant that neither they nor anyone under their direction or control, will assert an objection to the granting of such a petition for arbitration by the WFSB, or directly or indirectly seek or request mediation from the WFSB. The parties agree that negotiations will continue during the arbitration process. Either party may seek the appointment of a mediator from Resolute Systems, Inc. to assist negotiations during the period following a Petition for Arbitration and up and through the date of an Arbitration Award. Both parties agree that, in the event a Final Negotiated Agreement is reached between the Negotiating Committee and SEPLI, at any time before an Arbitration Award is granted, the parties will so advise the Waste Facility Siting Board of the same, and the Affected Municipalities will thereafter have sixty (60) days to approve the Final Negotiated Agreement, and during such period of time the parties stipulate that if an Arbitration Award is rendered, the Final Negotiated Agreement will supersede the Arbitration Award.

c. If, after May 15, 1999, a petition for arbitration is granted by the WFSB, the Local Committee and SEPLI mutually covenant and agree that they shall each submit their final offers to the WFSB, under § 289.33(10)(f), Wis. Stats., within thirty (30) days of any decision by the WFSB granting the petition for arbitration, or waive the right to submit a final offer if one is not submitted within said thirty (30) days. The Local Committee and SEPLI further covenant and agree to enter into such stipulations or jointly move for the entry of any order necessary in the proceedings before the WFSB to effectuate the terms of this paragraph. The Local Committee covenants and agrees that any final offer it submits in an arbitration proceeding before the WFSB shall contain a waiver of all local approvals applicable to the construction and operation of the Landfill Expansion and specify that no such local approvals are applicable to the construction or operation of the Landfill Expansion. SEPLI hereby waives any objection to the Local

Committee's failure to comply with the procedural requirement of having the Local Committee's final offer being approved by all participating municipalities.

d. In the event that a Final Agreement has not been negotiated with, or approved by, all the Affected Municipalities, or binding arbitration proceedings have not yet been completed before the WFSB, upon approval of the Plan of Operation for the proposed Landfill Expansion by the WDNR, and the City of Muskego, the Local Committee covenants that it shall forthwith, and in no event not more than fifteen (15) calendar days after the approval of the Plan of Operation, will issue a letter of approval to the City of Muskego Planning Commission to proceed under paragraph (f). SEPLI will not receive, Dispose, Treat or Store any solid waste outside of the existing landfill until such time as a Final Negotiated Agreement is reached or an Arbitration Award is issued. This prohibition shall apply to both the vertical and horizontal expansion currently being sought by SEPLI.

e. Upon execution of this Agreement, the Local Committee shall immediately request the Plan Commission of the City, in writing, to issue a clay extraction permit to SEPLI for the extraction of clay up to a depth of twenty-five (25) feet.

f. Upon submission of SEPLI's Petition for Arbitration, the City covenants and agrees that it shall promptly process and not unreasonably withhold any local approval, permit or authorization required for the construction of the Landfill Expansion.

10. Notwithstanding their execution of this Agreement, SEPLI and the Local Committee mutually covenant and agree to diligently continue to negotiate in good faith on the terms of a Final Agreement.

11. Until such time as a Final Agreement has been approved by the participating municipalities or the WFSB has rendered a binding Arbitration Award for the proposed Landfill Expansion under § 289.33, Wis. Stats., SEPLI covenants and agrees that it shall not dispose of any solid waste in the Landfill Expansion.

12. This Interim Agreement will be binding upon the City, the Local Committee and SEPLI, their respective legal heirs, their respective legal representatives, their respective legal successors and their respective legal assigns. SEPLI may not assign this Interim Agreement without the express written consent of the City, which consent shall not be unreasonably withheld.

This Interim Agreement is a covenant running with the land described on Exhibit 1, and shall impose the obligations of this Interim Agreement upon any future owners of said lands, and a short form of this document shall be executed and recorded upon execution of this contract in the form attached hereto, made a part hereof and marked as Exhibit 4. Once a Final Agreement is executed or an Arbitration Award is issued and becomes binding upon the parties, a new short form recording notice will be recorded to supersede the restrictions of the Interim Construction Agreement and replace it with the restrictions under the Final Agreement or Arbitration Award. Neither of these restrictions shall be released or amended without approval of all the Affected Municipalities, which approval shall not be unreasonably withheld.

13. SEPLI represents and warrants to the City and the Local Committee that the person executing this Agreement on behalf of SEPLI is legally authorized to do so, and thereby legally bind SEPLI to the terms of this Agreement.

14. Attached hereto is the resolution of the Local Committee authorizing the execution of this agreement.

15. Attached hereto is the resolution of the Common Council of the City authorizing the execution of this agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first above written.

THE CITY OF MUSKEGO

BY: [Document signed -Signature not scanned]  
[David L. DeAngelis 4/14/99]

SUPERIOR EMERALD PARK LANDFILL, INC.

BY: [Document signed -Signature not scanned]  
[Larry Goswick 4/10/99]

SEPLI LANDFILL SITING COMMITTEE

BY: [Document signed –Signature not scanned]  
[Jacqeiline Schweitzer 4/10/99]

**Exhibit 1**

**SUPERIOR EMERALD PARK LANDFILL  
TOTAL FACILITY DESCRIPTION  
WAUKESHA COUNTY, WISCONSIN**

LEGAL DESCRIPTION OF ENTIRE SUPERIOR EMERALD PARK LANDFILL

Parcels of land located in the NE. 1/4, SE. 1/4, NW. 1/4 and SW. 1/4 of Section 36, T.5N., R.20E. and also the NE. 1/4 of Section 35, T.5N., R.20E., all in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the East 1/4 corner of Section 36, T.5N., R.20E., thence S88°04'17"W along the South line of the NE. 1/4 of said section 36, 50.02 feet to a point on the west right-of-way line of S.T.H. "45" (S. 124th St.), said point also being the point of beginning of the parcel to be described; thence continuing S88°04'17"W along said south line, 379.98 feet; thence S1°26'12"E and parallel with the east line of the SE. 1/4 of said Section 36, 227.00 feet; thence N83°49'06"E, 431.46 feet to a point on the east line of said SE. 1/4; thence S1°26'12"E along said east line, 2310.38 feet; thence S88°38'39"W and parallel with the south line of said SE. 1/4 455.50 feet; thence S1°26'12"E and parallel with the east line of said SE. 1/4 207.00 feet to a point on the south line of said SE. 1/4; thence S88°38'39"W along said south line 865.31 feet; thence N1°21'21"W, 8.25 feet; thence S88°38'39"W on a line parallel with and 8.25 feet north of said south line, 1320.81 feet; thence S88°38'44"W on a line parallel with and 8.25 feet north of the south line of the SW. 1/4 of Section 36, T.5N., R.20E., 1990.98 feet; thence N1°09'57"W. 2658.13 feet to a point on the North line of said SW. 1/4; thence S88°04'17"W along said north line, 665.06 feet to the West 1/4 corner of said Section 36; thence N1°12'10"W along the west line of the NW. 1/4 of said Section 36, 2625.29 feet; thence S88°59'36"W and parallel with the north line of the NE. 1/4 of Section 35, T.5N., R.20E., 297.00 feet; thence N1°12'10"W and parallel to the east line of said NE. 1/4, 33.00 feet to the north line of said NE. 1/4; thence N88°59'36"E along said north line, 297.00 feet to the NE. corner of said NE. 1/4; thence N87°28'33"E along the north line of the NW. 1/4 of Section 36, 1333.01 feet to the NE. corner of the NW. 1/4 of the NW. 1/4 of said Section 36; thence S1°08'35"E along the east line of the NW. 1/4 of said NW. 1/4, 1336.09 feet; thence N87°46'24"E, 1331.47 feet; thence N87°49'03"E, 2309.21 feet; thence S0°29'55"E, 132.00 feet; thence N87°49'03"E, 279.98 feet to a point on the west right-of-way line of S.T.H. "45" (S. 124th St.); thence S0°29'55"E along said west line, 1222.78 feet to the point of begining.

EXHIBIT 2 TO INTERIM CONSTRUCTION AGREEMENT

SUPERIOR EMERALD PARK LANDFILL, INC.: SOUTHERN EXPANSION

NEGOTIATED AGREEMENT

OPERATOR: SUPERIOR EMERALD PARK LANDFILL, INC.

Affected Municipalities:

CITY OF MUSKEGO  
WAUKESHA COUNTY  
CITY OF FRANKLIN  
TOWN OF NORWAY  
RACINE COUNTY

Attorney Patrick J. Hudec  
HUDEC LAW OFFICES, S.C.  
Attorneys for Landfill Negotiating  
Committee  
2100 Church Street  
P.O. Box 167  
East Troy, WI 53120  
Phone: (414) 642-3000  
Fax: (414) 642-7737  
E-Mail:

Mr. Scott S. Cramer, General Counsel  
Attorneys for Operator  
Superior Services, Inc.  
One Honey Creek Corporate Center  
125 South 84th Street  
Suite 200  
Milwaukee, WI 53214  
Phone: (414) 479-7800  
Fax: (414) 479-7400  
E-Mail: SSCRAMER@SUPERIORSERV.COM

Mr. Gene Kramer, General Manager  
Superior Emerald Park Landfill, Inc.  
W124 S10629 South 124th Street  
Muskego, WI 53150

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## TITLE AND INTRODUCTION

This Agreement ("Agreement") is made and entered into by and between Superior Emerald Park Landfill, Inc. (SEPLI), a Wisconsin corporation (hereinafter referred to as "Operator") and the City of Muskego, City of Franklin, Racine County, Waukesha County, and the Town of Norway, 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 § 289.33, Wis. Stats. This Agreement between the SEPLI Landfill Siting Committee [Superior Emerald Park Landfill, Inc.: Southern Expansion) and the Operator shall be deemed a Final Agreement upon approval thereof by the Negotiating Committee, the Affected Municipalities and the Operator.

This Agreement shall be known as the "SEPLI Landfill: Southern Expansion) Final Negotiated Agreement".

## OPERATOR OBLIGATION TERM SUMMARY

The Operator's obligations and requirements under this Agreement shall commence upon the date this Agreement is approved and executed by all parties. A summary of those obligations are set forth below and shall be deemed to be obligations of the Operator for the term indicated below, unless a greater length of time is specifically noted elsewhere in this Agreement.

1. The following obligations and requirements terminate when and upon the Operator completing its Final Closure of the Active Fill Area, as approved by the DNR:

- A. Emergency Disposal limitations.
- B. Hours of operation of Solid Waste Facility and authorized uses, excluding construction, closure and post-closure activities.
- C. Drop off and Disposal of municipal and residential waste.
- D. Waste restrictions on type of waste which may be disposed of in the Active Fill Area.

- E. Purchase agreements with residential property owners, subject to the notice provisions therein.
- F. Tipping rebates.
- G. Compensation paid pursuant to this Agreement to Affected Municipalities.
- H. Litter control.
- I. Sociological Payments.

2. The following obligations and requirements terminate upon expiration of the Operator's Long-Term Care obligation for the Expansion as currently defined in Ch. 289, Wis. Stats. (1997-1998):

- A. Existence of the Standing Committee.
- B. Sampling of the wells required in the Agreement, by the DNR and by the Monitoring Committee.
- C. Continuation of well testing requirements.
- D. Maintenance of clay cap including vegetative cover.
- E. Maintenance of surface water diversions, erosion and runoff controls.
- F. Landscaping.
- G. Final use.
- H. Maintenance of any bond or other proof of financial responsibility if required by any state agency or by this Agreement.
- I. Continuation of air quality monitoring if required by a state agency or by this Agreement.
- J. Compliance with all applicable laws and regulations except as waived herein.
- K. Roadway designation and use.
- L. Vehicle requirements.

- M. Operator notification and reporting to Affected Municipalities.
- N. Hours and days of operation.
- O. Dust, dirt and debris control.
- P. Groundwater monitoring.
- Q. Noise, air quality, rodent, insect, fire disasters and hazard controls.
- R. Municipal access to facility.
- S. Active Fill Area repair, maintenance and reconstruction.
- T. Hazardous Waste prohibitions and requirements.
- U. Surface water, standing open water, wetland and green space controls.
- V. Post-closure alienation and change in ownership.
- W. Disposal, Storage and Treatment Operations.
- X. Post-Closure Site Plan.

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. Post-Closure Site Plan and maintenance obligations.

**ARTICLE I**  
**DEFINITIONS**

**Active Fill Area** means the total capacity approved by the Department of Natural Resources as the Disposal capacity for the Disposal of Solid Waste by 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 any Expansion of the Active Fill Area or any Expansion of the Solid Waste Facility for the purpose of providing additional Disposal capacity area at the Solid Waste Facility or at the Active Fill Area.

**Acknowledged Transporter** means any person who is identified orally or in writing by the Operator at any time as a transporter of Solid Waste to or from the Solid Waste Facility and/or any person who disposes Solid Waste in the Active Fill Area at the Solid Waste Facility.

**Affected Municipality or Affected Municipalities** shall mean the Cities of Muskego and Franklin, Waukesha and Racine Counties, and the Town of Norway.

**Commencement Date or Effective Date.** The Commencement Date or Effective Date of this Agreement, except for any pick-up or disposal services, shall begin as of the date that this Agreement is signed and approved by the Negotiating Committee, and the Affected Municipalities, and the Operator.

**Counties.** Counties, unless specifically indicated, shall mean Racine and Waukesha Counties.

**Department or "DNR"** means the Wisconsin Department of Natural Resources or its successor agency. This also includes multiple agencies to the extent that the existing responsibilities of the Department of Natural Resource are divided amongst new or additional agencies.

**Design Management Zone or "DMZ"** means the area defined by NR 140.22(3), Wis. Administrative Code.

**Discharge** means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Solid Waste or Hazardous Waste at the Solid Waste Facility, or the dissemination of such wastes or materials by Acknowledged Transporters bringing such wastes to the Solid Waste Facility; except as legally

permitted in connection with Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area. The term "Discharge" shall not include the placement of materials for construction of the Solid Waste Facility, the recirculation or recycling of leachate at the Solid Waste Facility in compliance with permits or approvals issued by the Department, or the release of air emissions from the landfill gas extraction system in compliance with permits or approvals issued by the Department.

Disposal or Dispose means the Discharge, deposit, injection, dumping or placing of Solid Waste within the Active Fill Area. This term does not include the Storage or the Treatment of Waste at the Solid Waste Facility. The terms "Disposal" and "Dispose" shall not include the placement of materials for construction of the Solid Waste Facility, the recirculation or recycling of leachate at the Solid Waste Facility in compliance with permits or approvals issued by the Department, or the release of air emissions from the landfill gas extraction system in compliance with permits or approvals issued by the Department.

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.

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

Expansion means the Expansion at any time by any means by the Operator of the design capacity to be set forth in the Plan of Operation approval for the Active Fill Area but, in no event, greater than 9,500,000 cubic yards of in-place Solid Waste. Any increase in the height of the Active Fill Area beyond 960 feet above mean sea level shall be deemed an expansion.

Final Closure means the date at which time no further Solid Waste is Disposed in the Active Fill Area by the Operator or by any other person which shall be the earliest of the following:

- A. the date the Operator notifies the Affected Municipalities in writing that the Operator no longer will Dispose of and will no longer allow any other person to Dispose of Solid Waste in the Active Fill Area;
- B. the date the Department orders the Operator, in writing, to no longer dispose of and to 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 Department.

**Hazardous Waste** means any waste identified or defined as a Hazardous Waste by the Department, under § 289.01(12) or § 291.05(2), Wis. Stats., or regulations adopted by the Department in Chapter NR 600 through 690, Wis. Admin. Code, or its successor chapters, or Subtitle C of the Resource Conservation and Recovery Act or regulations promulgated thereunder, whichever is more stringent.

**Household Hazardous Waste** shall have such meaning as defined by the Wisconsin Statutes, as amended, the Wisconsin Administrative Code or in rules and regulations promulgated by the Department of Natural Resources, or Subtitle C of the Resource Conservation and Recovery Act and regulations promulgated thereunder, whichever is more stringent.

**Initial Term** shall mean the date on which this Agreement is signed by all the parties and shall continue through the date upon which the DNR approves Final Closure, but does not apply to the Operator's obligations which continue after Final Closure.

**Local Approvals** means any local approval as defined in § 289.33(3)(d), Wis. Stats., or its successor provisions. Local Approvals shall include zoning and conditional use permits, except as otherwise specifically provided for in this Agreement.

**Local Committee or Negotiating Committee** shall mean the Negotiating Committee created under Chapter 289.33(7), Wis. Stats., which consists of seven (7) City of Muskego members, two (2) County of Waukesha members, one (1) City of Franklin member, one (1) Town of Norway member, and one (1) Racine County Member. Also included

is one (1) Town of Raymond ad hoc member, who is not entitled to a vote.

**Long-term Care or Long-term Care Operations** means any activities at the Solid Waste Facility, including routine care, maintenance and monitoring in the Active Fill Area where all the above-noted activities occur any time following the Final Closure of the Active Fill Area. Long-term Care Operations by the Operator and by its agents shall not be considered Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area for purposes of this Agreement.

**Operator** means Superior Emerald Park Landfill, Inc., Superior Services, Inc., its officers, employees, subcontractors successors or assigns. The transfer of any or all of the Operators responsibilities under this Agreement shall not affect the continuing guarantee of Superior Services, Inc. under this Agreement unless such transfer is approved as provided for in this Agreement.

**Pre-existing Local Approvals** means any Pre-Existing Local Approvals as "Pre-Existing Local Approvals" are defined in § 289.33(3)(fm), Wis. Stats., or its successor provisions. Pre-existing Local Approvals shall include zoning and conditional use permits unless otherwise specifically provided for in this contract.

**Recyclable Materials** means materials listed in § 287.07(1m) through (4), Wis. Stats., as amended from time-to-time, excepting those listed materials for which the Department has granted an exception or variance, for the period such exception or variance remains in effect.

**Remedial Actions** means those actions consistent with a temporary or permanent remedy which are taken instead of or in addition to Removal Actions in the event of a release or threatened release outside the Design Management Zone of the Solid Waste Facility of any pollutant or contaminant into the environment, to prevent or minimize the release of such pollutants or contaminants such that the pollution or contamination does not migrate to cause any danger to the present or future public health or welfare of the residents of the Affected Municipalities or to the environment in the Counties other than at the Solid Waste Facility. The term includes, but is not limited to, actions at the location of the release of the pollutants or contaminants such as Storage, confinement, perimeter protection using dikes, trenches or ditches,

clay cover, neutralization, cleanup of released pollutants or contaminants, recycling or reuse of pollutants or contaminants, diversion of pollutants or contaminants, destruction of pollutants or contaminants, segregation of pollutants or contaminants, dredging or excavations, repair or replacement of leaking containers, collection of leachate and run-off, on-site Treatment or incineration, provision of alternative water supplies to residents in the Affected Municipalities and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment outside the Solid Waste Facility.

**Removal Action** means the clean-up action ("Removal Action") of released pollutants or contaminants from the environment outside of the Design Management Zone of the Solid Waste Facility including such actions as may be reasonably taken in the event of release of pollutants or contaminants into the environment outside the Active Fill Area , such actions as may be necessary to monitor, assess and evaluate the release or threat of release of pollutants or contaminants, the Disposal of removed pollutants or contaminants, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare of the residents of the Affected Municipalities or to the environment in Milwaukee, Waukesha and Racine Counties, which may otherwise result from a release or threat of release of pollutants or contaminants outside the Design Management Zone of the Solid Waste Facility. The term includes, in addition, without being limited to, provision of alternative water supplies to the residents of the Counties, temporary evacuation and housing of threatened residents of the Counties.

**Solid Waste** means garbage, ash, refuse, rubbish, sludge from a waste Treatment plant, water supply Treatment plant or air pollution control facility, and other discarded or salvageable materials, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities. Solid Waste may include, but is not limited to, paper, wood, metal, glass, cloth and products thereof; litter and street rubbish; lumber, concrete, dirt, stone, plastic, bricks, tar, asphalt, plaster, masonry, and other debris resulting from the construction or the demolition of structures, buildings, roads and other manmade structures. Solid Waste does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial Discharges which are point sources subject to permits under Chapter 283, Wis. Stats., or its

successor chapter, or sources, special nuclear or by-product materials as defined in § 254.31, Wis. Stats., or its successor section. Solid Waste shall not include recyclable waste deemed not appropriate for landfilling or Disposal in the Active Fill Area, as may be specifically provided for in this Agreement.

**Solid Waste Facility** means the Solid Waste Disposal facility in the City of Muskego specifically depicted and described in Exhibit "B". It includes both the Active Fill Area and the other land described in Exhibit "B", which includes the existing landfill which is known as the Emerald Park Landfill.

**Special Waste** shall be that waste classified as "Special Waste" by the Department, Wisconsin Statutes or Administrative Code regulations defining the same as such by the Department and such additional Solid Waste designated in Exhibit "M" attached hereto.

**Standing Committee** means the Monitoring Committee established under Exhibit "C".

**Storage or Store** means the holding of Solid Waste at the Solid Waste Facility, at the end of which period the Solid Waste is to be then treated, transported away from the Solid Waste Facility, or ultimately disposed of in the Active Fill Area at the Solid Waste Facility.

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

**Term of Agreement** means the period commencing on the Effective Date and continuing until forty (40) years after final Closure of the Active Fill Area. In addition, Term of Agreement extends into perpetuity regarding Operator, its successors and assigns' responsibility for indemnity and related obligations under Article V of this Agreement and compliance with the Landfill Closure Plan (Exhibit G) and maintenance obligations (Article IV).

**Treat or Treatment** means any method, technique or process at the Solid Waste Facility which is designated to change the physical, chemical or biological character or composition of the Solid Waste. Treatment includes incineration. The terms "Treat" and "Treatment" shall not include the recirculation or recycling of leachate at the Solid Waste Facility in compliance with permits or approvals issued by the Department, the flaring or burning of gas extracted by the landfill gas extraction system in compliance with

permits or approvals issued by the Department, or the extraction of landfill gas for beneficial reuse.

Treatment Operations means any activities at the Solid Waste Facility directly related to the Treatment of Solid Waste, where such activities occur at any time during the Initial Term of 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 as amended from time to time.

Wisconsin Statutes means the Wisconsin Statutes as amended from time to time.

**ARTICLE II**  
**SITE INFORMATION**

The name of the Solid Waste Facility is the Superior Emerald Park Landfill, Inc. The Active Fill Area is described as the "SEPLI Landfill, South Expansion" in the Initial Site Report submitted to the Department by the Operator (hereinafter "SEPLI South Expansion").

1. **Address of Solid Waste Facility.**

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

Superior Emerald Park Landfill, Inc.  
W124 S10629 South 124th Street  
Muskego, WI 53150

Attention: General Manager

2. **Legal Description.**

The legal description of the Active Fill Area is set forth in Exhibit "A".

3. **Owner.**

The current owner of the Solid Waste Facility is Superior Emerald Park Landfill, Inc. All of owner's responsibilities herein shall be guaranteed by Superior Services, Inc. In the event Superior Services, Inc. transfers the controlling interest in the Operator which shall be limited to a transfer of the majority of the shares of stock or a majority of the voting power or effective control or management of Operator. In that event, such successor shall be given written notice of the terms of this Agreement and any such transfer of any interest in the Operator, by Superior Services, Inc. shall be an obligation of the successor. Superior Services, Inc. shall be relieved of any responsibility under this Agreement and its Guarantee in the event such transfer is approved by the City of Muskego and Waukesha County, which approval shall not be unreasonably withheld.

4. Change in Ownership.

A. This Agreement shall be applicable to the present Operator, 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 for the Solid Waste Facility.

B. That in conjunction with Paragraph A, the Operator, shall notify the Standing Committee, and the Department 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. That in conjunction with the foregoing, 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 Department 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 City and/or Standing Committee 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 Department landfill license and State law. The City and/or Standing Committee shall have forty-five (45) 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 City and/or Standing Committee and the Operator.

5. Initial Site Report and Feasibility Reports.

The Operator had an Initial Site Report ("ISR") and Feasibility Reports and Addenda thereto prepared and submitted in April, 1996, to the Department. The ISR, the Feasibility Report and all Addenda thereto and any future amendments and modifications as approved by the Department, are incorporated in their entirety into this Agreement and specific standing is granted to the Affected Municipalities to enforce those terms. Similarly, the Plan of Operation for the Active Fill Area and all future modifications and amendments to such Plan of Operation, as approved by the Department, are also incorporated by reference and may be separately enforced by the Affected Municipalities.

- A. Design Concept: The Active Fill Area shall be a zone of saturation, composite lined landfill meeting all Subtitle D (RCRA) [42 USC § 6911, et seq.] requirements.
- B. Total Design Capacity: Not to exceed 9,500,000 cubic yards (solid waste capacity, including intermediate and daily cover).
- C. Expected Site Life: Approximately 10 years.
- D. Site Closure Deadline: 1/1/2015
- E. Total Acreage Owned by the Operator: 478 acres
- F. Maximum Height: 960 feet above mean sea level
- G. Proposed Licensed Acreage of this Expansion: 65 acres (47.9 acres of horizontal Expansion, 17.1 acres of overlay area). The parties hereto stipulate that the proposed landfill expansion actually constitutes two expansions, one horizontal and one an "overlay" landfill expansion, but both landfills shall be deemed to be the subject matter of this Landfill Agreement. Where applicable, the same shall be referred to as the Superior Emerald Park Landfill, Inc. Horizontal South Expansion ("Horizontal Expansion") and the Superior Emerald Park Landfill, Inc. Overlay Expansion ("Overlay Expansion").
- H. Tonnage, Waste Volume Used and Anticipated Remaining Volume: Shall be reported in writing to the City of Muskego and the other Affected Municipalities annually, with applicable supporting data by way of field surveys, aerial surveys, or both, and supporting engineering data and engineering models. The Operator shall provide all field or aerial survey information to the Standing Committee whenever performed by the Operator, but no less than one flight and one field survey per year.

6. Current Zoning.

The parcel of property described in Exhibit "A" is comprised of the following zoning districts: A-2, I-2, with portions of the

property being denominated as wetlands. This Agreement will call for a waiver of any zoning prohibition against landfilling activities in the area delineated in Exhibit "A" subject to approval under Ch. 289, Wis. Stats. for landfill activities, including active fill, berming, and other current site activities specifically identified in Exhibit "H" .

7. Primary Service Area.

The Primary Service Area shall be Kenosha, Racine, Walworth, Milwaukee, Waukesha, Ozaukee, Washington, Jefferson, Rock and Dodge Counties; however, Solid Waste generated outside of this area may be Disposed of in the Active Fill Area.

8. Acceptable Waste Types.

The acceptable waste types shall be non-Hazardous municipal, institutional, commercial and industrial Solid Waste including but not limited to refuse, garbage, 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. This contract shall specifically prohibit Hazardous Waste and PCB contaminated sediments which do not meet the criteria set forth in Exhibit "Q" attached hereto.

9. Estimated Waste Quantities.

This Active Fill Area is proposed to average 19,000 tons of Solid Waste per week. Total waste quantities are estimated to be 9,500,000 cubic yards which equates to approximately 950,000 tons per year.

10. Notices.

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

Superior Emerald Park Landfill, Inc.  
W124 S10629 South 124th Street  
Muskego, WI 53150

Attention: General Manager

11. Contact Persons.

The Operator shall provide contact persons with current telephone numbers available to the Affected Municipalities and Standing 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 with a required response time of less than 10 minutes.

**ARTICLE III**  
**TRANSPORTATION**

1. **Designated Roadways.**

A. **Designated Authority.**

The Operator, during the Term of this Agreement shall not use and shall inform 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 or Emergency 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 for Disposal any Solid Waste transported to the Solid Waste Facility on roadways in the Affected Municipalities other than the designated primary roadway routes. This subsection establishing the designated primary roadway routes and then restricting the roadway use on other roadways in the Affected Municipalities shall not apply to the Operator, Acknowledged Transporters, the Affected Municipalities and to any residents of the Affected Municipalities when these above-noted parties are collecting Solid Waste in the Affected Municipalities in vehicles and then transporting such Solid Waste in vehicles to the Solid Waste Facility for the purpose of Disposal of the Solid Waste in the Active Fill Area at the Solid Waste Facility or for the purpose of Storage Operations, Treatment Operations, Long-term Care Operations, or Emergency operations at the Solid Waste Facility.

This subsection shall not apply if the Affected Municipality 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 Active Fill Area or at any other location at the Solid Waste Facility. This subsection shall also apply to the Operator, when the Operator is transporting landfill construction materials to or from the Solid Waste Facility to be used in the

construction, maintenance, closure or Long-Term Care of the Solid Waste Facility, except for Emergency operations.

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 Cities of Muskego and Franklin for vehicle access and traffic flow to and from the Solid Waste Facility: Highway 45 (a/k/a 124th Street).

The Operator shall only use, and shall notify the 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 parties recognize that Operator's property abuts Union Church Drive (a/k/a Eight Mile Road), and it is possible that Operator may acquire additional property abutting Loomis Drive, or a future extension thereof. The Operator agrees that none of its vehicles shall use Union Church Drive (a/k/a Eight Mile Road) or Loomis Drive for construction activities, Solid Waste Disposal, leachate removal, or any activity that involves exceeding any local or state weight limitations. In no event will any vehicle be permitted on such roads for landfill construction activities, leachate removal or the hauling of garbage by any trucks from transfer stations or any garbage truck that is not in the process of a local garbage pickup whose usage of Union Church Drive or Loomis Drive is otherwise required.

2. Vehicle Requirements.

During the Initial Term and extending until forty (40) years after Final Closure, regarding (a) the transporting of Solid Waste in the Counties to or from the Solid Waste Facility, (b) the Disposal by the Operator of Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility, and (c) the Disposal by its agents or Acknowledged Transporters of Solid Waste in the Active Fill Area or at any other location at 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 in such transport vehicles from discharging, leaking, spilling, falling or blowing out of such vehicles onto any public or private lands in the Counties, excluding the Active Fill Area.

The Operator shall cooperate with the Affected Municipalities in connection with their enforcement of any local ordinances designed to prevent or substantially eliminate any portion of any Solid Waste or Hazardous Waste in such transport vehicles from Discharging, leaking, spilling, falling, or blowing out of such transport vehicles onto any public or private lands in the Affected Municipalities, excluding the Active Fill Area at the Solid Waste Facility.

The Operator will take all reasonable measures appropriate to prevent any foreign material from being tracked onto Highway 45 and will be responsible for removing any foreign material on Highway 45 as a result of Disposal Operations within 24 hours of being notified of the same by representatives of either the Affected Municipalities or the Standing Committee. The Operator will inspect Highway 45 daily.

The Operator shall adopt the policy and procedures set forth in Exhibit M with respect to Acknowledged Transporters (other than the Operator or any affiliate of Superior Services, Inc., which shall be subject to the provisions set forth above).

3. Litter and Discharge Beyond the Solid Waste Facility.

A. Solid Waste and Hazardous Waste Discharge Reports.

The Operator, during the Term of Agreement shall report any Solid Waste or Hazardous Waste Discharge beyond the Design Management Zone to the Clerks of the Affected Municipalities and the Standing 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 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 by Operator or

by its agents or by any other parties in the Active Fill Area. In addition to the written reporting requirements, immediate notice shall be orally transmitted to the City of Muskego and the Standing 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, which shall simultaneously be transmitted to the City of Muskego and the Standing 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 in the Active Fill Area, shall take, as soon as possible, all reasonable 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 take, as soon as possible, all reasonable actions to: (a) contain and remove the Hazardous Waste, (b) as soon as possible, all reasonable actions to protect the public health and safety of persons in the Affected Municipalities, and (c) as soon as possible, shall take all reasonable actions to 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 or Hazardous Waste Discharge, if known, and the suspected cause of the Discharge, if known.

B. Discharge Removal on Roadways.

The Operator, during the Initial Term, shall police and remove any Discharge by the Operator including litter, from the roadways or from rights-of-way next to the Primary Roadways within the Affected Municipalities within one-half mile of the entrance of the Solid Waste Facility. This one-half mile provision shall apply to any waste that occurs in such area, but shall not in any way limit or waive the Operator's responsibilities or its other obligations under this contract with respect to discharges which are caused by the Operator or its Transporters elsewhere in 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 Active Fill Area, the Operator shall prepare a list of its Acknowledged Transporters. The list shall contain the names, addresses and telephone numbers of the Acknowledged Transporters and their WDNR permit numbers. The initial list shall be filed with the Standing Committee and shall be updated annually and available for inspection by the Standing Committee during regular business hours. All such annual updates shall be mailed to the Standing Committee. This information shall be subject to the confidentiality provision reflected in Article IV, Section 2 below.

B. Persons Authorized.

No Acknowledged Transporter, including the Operator, shall transport Solid Waste to the Active Fill Area, until a license has been issued by the Department, and the Operator has complied with all applicable Solid Waste statutes and regulations related to the operation of 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 Active Fill Area, or at any location at the Solid Waste Facility, unless such activity has been approved by the Department 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. **Reports from the Operator.**

The Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, shall receive from the Operator, written copies, within seven (7) days of distribution by the Operator, written reports and written correspondence provided by the Operator to the Department or to any other state or federal environmental agency or to any state or federal court provided said reports and correspondence are associated with the 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.

The Standing Committee may establish, at its expense, a video taping system which shall have a day and time display. The Standing Committee and Operator shall coordinate such video tape system with a computerized weight-scale system which will permit the Standing Committee to observe all trucks that enter the site, show the truck being weighed and concurrently obtain weight scale information through an identification system which will permit immediate reference and identification to the truck loads being contemporaneously weighed. In the event the Committee elects to have one of its members or a designated representative monitor the system on-site during normal business hours, the Operator will fully cooperate and make such operations available for inspection and observation.

B. **Reports from Government Agencies.**

The Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, shall receive from the Operator written copies, within seven (7) days of receipt by the Operator, of all written reports and written correspondence received by the Operator from the Department or from any other state or federal environmental agency or from any state or federal court provided said reports and correspondence are associated with the Solid Waste Facility, including but not limited to, letters, court documents, technical reports, testing data, recording data

and monitoring data. These copies shall be provided by the Operator at no cost.

C. Residential Concerns of the Affected Municipalities.

The Standing Committee, during the Initial term and extending until forty (40) years after Final Closure, shall each receive from the Operator one set of copies, within seven (7) days of receipt by the Operator, of all written letters, written reports and other written correspondence, except general notifications or general mailings to all residents or property owners, received by the Operator from any public official of any of the Affected Municipalities or from any resident of the Affected Municipalities where the above-noted letters, reports or correspondence are associated 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. These copies shall be provided by the Operator at no cost.

D. Operator Responsibility to the Affected Municipalities.

The Operator, during the Initial Term 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 and Acknowledged Transporters and their employees and agents transport Solid Waste 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 3 - Hours and Days of Operation

vi. Article IV, Section 8 - Fire, Disaster and Hazard Control

vii. Article IV, Section 23 - Prohibition Against Hazardous Waste Disposal

E. Notice of Agreement.

The Operator, during the Initial Term, shall notify in writing its agents and the Acknowledged Transporters who are allowed by the Operator to transport Solid Waste to and from the Solid Waste Facility for Disposal in the Active Fill Area of the applicable provisions of this Agreement. Such written notice shall be provided to such agents and Acknowledged Transporters when they commence transporting Solid Waste with the written notice attached as Exhibit M.

2. Confidentiality Agreement.

The Standing Committee covenants and agrees that for the period commencing on the Commencement Date and extending until 40 years after Final Closure, the Standing Committee shall not, except as explicitly requested by the Operator or as otherwise required by law, disclose to any person (other than its attorneys, who shall have agreed to be bound by the terms of this provision) any confidential information provided for in this Agreement as to the business of the Operator. The Standing Committee further agrees that they will not, individually or collectively, disclose pricing information, cost structure, customer names, addresses or telephone numbers, or the terms or conditions of any customer contracts, bids or proposals, to any person, firm, corporation, association, governmental body, quasi-governmental body, or other entity, except to authorized representatives of an operator or as required by law.

If the Standing Committee becomes legally compelled to disclose such confidential information, the Standing Committee shall provide the Operator with written notice of the Standing Committee's legal obligation to disclose confidential information as soon as possible, but in no event later than within two (2) business days after the Standing Committee receives any request, Court Order or legal process obliging the Standing Committee to release the confidential information, so that the Operator may seek a protective order or other appropriate remedy. For purposes hereof, "confidential information" shall mean and include, without limitation, all trade secrets, rights, customer lists, subcontractor lists and related information as to customers and subcontractors, and all information concerning the business of the Operator's services, clients, customers, subcontractors, costs,

profits, markets, sales, reports, written correspondence, data, trade secrets, processes, programs, products, marketing and distribution methods, which shall exclude any methods which have been or are hereafter independently developed or disclosed by a third party who is not in breach of a confidentiality undertaking with the Operator, or which otherwise is or becomes part of the public domain due to no act or omission of the Standing Committee members thereof. This confidentiality agreement shall not apply to any information pertaining to information as provided to the Standing Committee which relates to the monitoring or protection of public or private health, safety and welfare, such as DNR reports, groundwater monitoring Discharges or other threats to the environment, public or private property. The Standing Committee agrees that the provisions and restrictions contained in this provision are necessary to protect the legitimate continuing interests of the Operator in performing its obligations under this Agreement.

3. Hours and Days of Operations.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct any construction, Disposal Operations, Storage Operations, Treatment Operations or long-term Care Operations at the Solid Waste Facility nor shall it allow any construction, Disposal Operations, Storage Operations, Treatment Operations or long-term Care Operations by its agents, by its Acknowledged Transporters or by any other parties at the Solid Waste Facility, before 7:00 a.m., Monday through Saturday. The Operator will be permitted to warm up the equipment and vehicles at 6:30 a.m., Monday through Saturday. The Operator shall terminate all construction, Disposal Operations, Storage Operations, Treatment Operations and long-term Care Operations and it shall not allow any construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its agents, by its Acknowledged Transporters or by any other parties at the Solid Waste Facility, after 5:00 p.m., Monday through Friday, and Noon on Saturday. The Operator shall not conduct any construction, Disposal Operations, Storage Operations, Treatment Operations or long-term Care Operations, nor shall it allow any construction, Disposal Operations, Storage Operations, Treatment Operations or long-term Care Operations by its agents, by its Acknowledged Transporters or by any other parties 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 or activation of any vehicles weighing more than 8,000 pounds, machinery or equipment, but shall exclude Emergency operations, bio-remediation, passive composting, landfill gas control currently being conducted, and other operations inside closed buildings.

The Operator shall not permit any vehicles to be parked on Highway 45 or in the Highway 45 right-of-way. There shall be no parking on the Operators own property, including its road access (private drive) prior to 6:45 a.m.

In addition, the above-noted hours and days of operation may be amended by written agreement of the Standing Committee.

4. Dust, Dirt and Debris Control at the Solid Waste Facility.

The Operator, during the Initial term and specifically including the construction phase, such phase being considered a part of the Initial Term, and extending until forty (40) years after Final Closure, shall take the 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 of Solid Waste in 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 Active Fill Area to limit the blowing of litter and debris.

5. Groundwater Monitoring.

The Operator shall undertake the groundwater monitoring program (including private wells) required by the Department, imposed as a condition of its Feasibility Approval, or any subsequent requirement made by the Department to test groundwater or private wells.

Private Well Testing shall be performed as described in Exhibit "E".

6. Noise, Odor and Air Quality.

The Operator shall comply with all reasonable noise control measures as requested by the Standing Committee. In no event shall decibel readings created by the Operator violate the City of Muskego noise ordinance, nor shall decibel readings created by the Operator exceed 65 dba at the property line (excluding the Highway 45 entrance to the facility where such noise is caused by vehicular travel, as further set forth in Exhibit "L". The Operator shall also meet all air quality standards as set forth in Exhibit "D".

7. Rodent and Insect Control at the Solid Waste Facility.

A. Prevention of Rodents and Insects.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in 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 substantially control or minimize rodent and insect harborage through an effective vector control program.

B. Control of Rodents and Insects.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take appropriate and necessary actions to control any rodents and any insects at the Active Fill Area. The Operator shall apply at the Active Fill Area, the pesticides or rodent control measures at appropriate levels to prevent any damage to or injury to public property or private property in the Affected Municipalities and to prevent damage or injury to the natural resources in the Affected Municipalities.

8. Fire, Disaster and Hazard Control.

A. Creation of Fire Hazards.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment

Operations and any long-term Care Operations at the Solid Waste Facility in such a manner through an effective fire prevention and control program to minimize and thereafter control fires and explosions at the Solid Waste Facility and to substantially prevent and effectively eliminate any fire hazards or any potentially explosive hazards from occurring at the Solid Waste Facility.

B. Public Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any long-term Care Operations at the Solid Waste Facility in such a manner as to prevent any public nuisance 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.

C. Private Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations, and any long-term care operations at the Solid Waste Facility, in such a manner as to prevent any 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, and polluted surface water.

D. Hazardous Waste.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not, at any time, Dispose, Store or Treat Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility nor shall it allow Disposal, Storage or Treatment of Hazardous Waste by its agents, by its Acknowledged Transporters, or by any other party in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, whenever appropriate and necessary, shall separate, remove, contain, cover or isolate any particular Solid Waste or Hazardous Waste that has been Disposed, Stored or Treated in the Active Fill Area or at any other location at the Solid Waste Facility in such a manner as to substantially prevent a public or

private nuisance in the Affected Municipalities from occurring, and to effectively prevent any liberation of hazardous or poisonous gas from the Solid Waste Facility to any other location in the Affected Municipalities, to effectively prevent any liberation of Hazardous Waste from the Solid Waste Facility to any other location in the Affected Municipalities or to effectively prevent any damage to the natural resources of the Affected Municipalities.

E. Security Personnel.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall have the responsibility and duty to the Affected Municipalities to employ or retain at the Solid Waste Facility the appropriate and necessary employees, personnel, and/or equipment to provide and maintain proper security in the Active Fill Area or at any other location at the Solid Waste Facility for the purpose of preventing or substantially reducing any physical access by unauthorized parties to the Solid Waste Facility.

9. Court Action by the Affected Municipalities or Standing Committee.

A. Contract Enforcement.

The Affected Municipalities or Standing Committee, during the Initial Term, and extending until forty (40) years after Final Closure, notwithstanding any other provisions of this Agreement, may commence and maintain individually or jointly 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 or Hazardous Waste in 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 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 Standing 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 and the Affected Municipalities agree that this Agreement shall have the same legal force and effect as a municipal ordinance, as between the Operator and the Standing Committee formed under Exhibit C to this Agreement. In the event an alleged violation of this Agreement cannot be resolved with the Standing Committee, after following the procedures in paragraph 10 of Exhibit C, the Standing Committee may issue a citation to the Operator for such violation. The Municipal Court for the City of Muskego shall have jurisdiction to hear and determine any citations issued by the Standing Committee and may assess penalties against the Operator according to the following schedule:

- i. First Violation: \$10.00 to \$500.00, plus court costs.
- ii. Second Violation: \$1,000.00 to \$2,500.00, plus court costs.
- iii. Third Violation: \$2,500.00 to \$10,000.00, plus court costs.

Each day of violation shall be considered a separate violation for purposes of this penalty section, as the same also applies to the Municipal Code of the City of Muskego and Waukesha County.

The parties hereto understand that currently municipal ordinance violations are processed through Municipal Court but the parties are entitled to a trial de novo at the Circuit Court level. The parties stipulate that the penalty provisions set forth herein shall be binding upon the Circuit Court of Waukesha County with respect to any action that is commenced in Municipal Court. The issuance of a citation by the Standing Committee under this paragraph shall not preclude the Standing Committee or the Affected Municipalities from seeking other or additional legal or equitable relief with respect to any alleged violation of this Agreement.

**B. Public Nuisance.**

In the event of the occurrence of a public nuisance, any of the Affected Municipalities may bring an action to abate such public nuisance.

**C. Private Nuisance.**

In the event that a private nuisance occurs or in the event that the Operator causes any individual 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.

**10. Administrative Action.**

The Affected Municipalities or Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, notwithstanding any provisions of this Agreement, may petition the Department under § 289.92, Wis. Stats., or § 291.89, Wis. Stats., or their successor provisions, to initiate action by the Department 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 Department wherein any such violation or alleged violation is related to or associated with the Solid Waste Facility. Operator retains the right to assert any defense it may have related to any petition(s).

**11. Temporary/Emergency Closure of Active Fill Area.**

During the Initial Term the Operator shall notify in writing within two (2) business days, the Clerks for the Affected Municipalities and Standing Committee of any temporary, Emergency or Final Closure of the Active Fill Area, including any ordered temporary, Emergency or Final Closure of the Active Fill Area wherein such order is made by the Department, 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 Standing Committee the specific reasons, if known, for a temporary, Emergency or Final Closure of the Active Fill Area.

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

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall allow the Affected

Municipalities or Standing Committee and their officers, employees or agents, the right to immediately obtain access to and enter the Solid Waste Facility during any Emergencies at the Solid Waste Facility. They shall also have the right to obtain access and to enter the Solid Waste Facility during normal operating hours upon twenty-four (24) hours oral or written notice from the Affected Municipalities, Standing Committee or their representatives or members. Physical access to the Solid Waste Facility shall be allowed:

- 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 using methods and materials approved by the Department of Natural Resources), and further provided that access to the monitoring wells shall be available only when an employee of the Operator is present;
- C. To sample and test characteristics of the Solid Waste at the Solid Waste Facility; or
- 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.

Except during Emergencies, the designated officers, employees or agents of Affected Municipalities or the Standing Committee shall be accompanied by one or more employees or agents of the Operator. In addition, the activities of the designated officers, employees or agents shall be conducted so as to not interfere with the normal business operations at the Solid Waste Facility except during Emergencies.

13. Repair, Maintenance and Reconstruction of the Active Fill Area.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, 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 Active Fill Area and/or, if appropriate and necessary, to temporarily or permanently close the Active Fill Area, if at any time the failure by the Operator to properly and timely maintain, repair, reconstruct or to properly and timely provide Long-Term Care of the Active Fill Area and/or its failure to temporarily or permanently close the Active Fill Area for Disposal Operations is likely to present a substantial danger of creating a public or private nuisance in the Affected Municipalities or is likely to create a substantial danger to the public health, safety or welfare of any persons in the Affected Municipalities or is likely to cause substantial damage to the natural resources in the Affected Municipalities. Enforcement of this paragraph shall be as set forth under Section 9, paragraphs B and C of this Article.

14. Hazardous Waste Disposal Notice.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, 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 Stored, Treated, Disposed or handled in any way by the Operator, by its agents, by its Acknowledged Transporters or by any other parties in the Active Fill Area or any other location at the Solid Waste Facility, shall then give notice orally within two (2) business days of its receipt of the information to the Affected Municipalities and Standing 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.

15. Hazards Notice.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall orally notify the

Affected Municipalities and Standing 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 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 landfill gas extraction system and hazardous gases or hazardous dust. The Operator shall, in addition, report in writing within two (2) business days 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.

16. Responsible Managers.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall provide to the Affected Municipalities and Standing 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 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 five (5) business days after the Agreement is executed by the Negotiating Committee, Affected Municipalities and the Operator, 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.

17. Height Restriction.

The maximum height of the proposed Active Fill Area shall not exceed 960 feet above mean sea level.

18. Depth Restriction.

The maximum depth of the Active Fill Area shall not exceed 70 feet below the natural grade existing prior to any clay extraction or construction of any part of the Active Fill Area or below 712 feet above mean sea level.

19. Erosion and Run-off.

A. Erosion Restrictions.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, 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 Department and as set forth in Exhibit "H" and "K".

B. Abatement of Erosion.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, upon written notice by any Affected Municipality or the Standing Committee describing to the Operator the location of any surface water run-off or erosion discharged from the Active Fill Area onto any other lands located in the Affected Municipalities which violates the Plan of Operation on file with the Department shall, within two (2) business of receipt of the written notice, 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.

C. Standing Open Water and Wetlands.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall undertake an effective program to substantially eliminate the standing water at the Solid Waste Facility, except for those sedimentation basins and ponds approved by the Department and wetland areas within the Solid Waste Facility.

D. Storm Water.

The Operator shall comply with all storm water runoff regulations, policies or ordinances of the City of Muskego,

including the draft 1998 Storm Water Ordinance which is attached as Exhibit "K".

20. Surface Water.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take the appropriate and necessary actions to direct all surface water coming in contact with any Solid Waste at 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 into any surface water drainage area at the Solid Waste Facility until the surface water discharge complied with the appropriate regulations and requirements of the Department.

21. Post-Closure Alienation.

After Final Closure, the Operator agrees not to sell, transfer, or convey any interest in either the property upon which 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 Muskego and Waukesha County, which approval shall not be unreasonably withheld. Gas extraction and the sale thereof shall be permitted. Reasonable approval shall be predicated upon the experience and financial wherewithal of any successor corporation or operator. Where these standards are not met, any transfer shall be subject to the new Operator being liable and responsible for compliance with this contract without affecting Superior Services, Inc.'s agreement to comply with the terms of this Agreement.

22. Landfill Closure Plan.

The Operator shall comply with the Landfill Closure Plan set forth in Exhibit "G" attached hereto. The City of Muskego shall specifically approve the same, and shall approve any modification thereof. The Landfill Closure Plan shall be completed as to each cell, phase or area of expansion in the Solid Waste Facility within 18 months after each site is no longer receiving waste. It shall be the intent of this section to promote an aesthetic appearance

reasonably possible for the site and to permit passive recreational uses and other uses that do not conflict with the Closure responsibilities of the Applicant and applicable requirements of the DNR.

Each aspect of the Landfill Closure Plan shall be set forth with sufficient specificity so as to define the minimum and maximum requirements of the Plan proposed. In the event that there is any gap in the Plan due to the Operator's failure to include such details in a Plan, then the City of Muskego shall have the authority, either through its Planning and Zoning Office or to have an independent consultant with professional landscape experience and qualifications sufficient to design Landfill Closure Plan, to provide such details and specific requirements to comply with the intent of this section.

The Landfill Closure Plan will include provisions prohibiting the discharge of surface water off-site at a volume or rate greater than what currently exists or which existed prior to the initial Superior Emerald Park Landfill having been developed, whichever permitted less volume and flow of surface water off of the property.

### 23. Prohibition Against Hazardous Waste Disposal.

The Operator, during the Initial Term and extending until forty (40) years Final Closure, shall not knowingly transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly Dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, in addition, shall not knowingly allow its agents, its Acknowledged Transporters or any other parties to transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly allow the above-noted parties to Dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to be less stringent than any regulations of the Department relating to the Disposal, Storage or Treatment of Hazardous Waste at any location, including the Active Fill Area and at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to mean that the Affect Municipalities authorize or approve in any way of the Disposal, Storage or Treatment or Hazardous Waste at the Solid Waste Facility or at any operations related thereto.

24. Change in Ownership.

A. This Agreement shall be applicable to the present Operator, Superior Emerald Park Landfill, 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 for the Solid Waste Facility. Superior Services, Inc. shall obtain a separate release of its responsibilities from the City of Muskego and Waukesha County in guaranteeing the performance of the Operator.

B. That in conjunction with Paragraph A, the Operator, shall notify the Affected Municipalities and the Department of any and all changes in ownership 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. That in conjunction with the foregoing, 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 Department 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 City of Muskego and Waukesha County 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 Department landfill license and State law. The Affected Municipalities shall have forty-five (45) 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 Superior Services, Inc., which shall remain responsible for all obligations set forth under this Agreement unless released by the City of Muskego and Waukesha County.

25. Operation Terms.

A. Disposal Operations, Storage Operations and Treatment Operations.

In consideration of the terms and provisions of this Agreement, from the Effective Date hereof and until Final Closure of the Active Fill Area, subject to Operator obtaining any required applicable DNR permits or approvals, the Operator shall be allowed to:

- i. Use the area described in Exhibit "A" and any remaining area of the "Expansion" (hereinafter "currently - licensed facility") as authorized and defined under the Final Negotiated Agreement between Operator and the Affected Municipalities executed by Operator on July 17, 1992, to construct, operate, repair, maintain, and close the Solid Waste Facility.
- ii. To continue the following existing uses located at the Solid Waste Facility:
  - (a) the composting facility authorized under existing zoning permit from the City of Muskego;
  - (b) the accessory facilities to such uses under existing zoning permits from the City of Muskego.
  - (c) Perform bioremediation activities in the Active Fill Area involving contaminated soils in the Solid Waste Facility, which shall in all ways qualify as Solid Waste under this Agreement, including the direct payment section of this Agreement.
  - (d) Operate a Recycling and Residential Waste Disposal Convenience Center for the residents of the City of Muskego, as set forth in the Conditional Use Permit attached in Exhibit "H".

Copies of the foregoing zoning and special use permits are attached hereto and incorporated herein as Exhibit "H". 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 special use permits and zoning permits. 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 special use permits and zoning permits 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 special use permits conflict, the more restrictive terms to the Operator shall apply. No uses other than as enumerated above shall be allowed at the Solid Waste Facility.

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.

This Agreement is intended to waive and replace those Local Approvals for the siting, construction and operation of a Solid Waste Facility within which the Active Fill Area shall be located and shall be limited to those other activities specifically agreed to in this Agreement.

Until Final Closure of the Active Fill 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, properly construct, properly repair and to properly close the Active Fill Area at the Solid Waste Facility and to properly 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 until forty (40) years after Final Closure, shall be responsible to the Affected Municipalities to provide the proper Long-Term Care Operations at the Active Fill Area.

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall be responsible to the Affected Municipalities to take any appropriate and necessary Removal or Remedial Actions at the Active Fill Area.

The Operator, upon the date of Final Closure, shall cease transportation of Solid Waste to the Active Fill Area and shall prevent any further transportation of Solid Waste to the Active Fill Area at the Solid Waste Facility, shall cease Disposal of any Solid Waste and shall prevent any further Disposal of Solid Waste at the Active Fill Area, and shall not conduct any Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area, and Compost Facility Area, or at any other location at the Solid Waste Facility and shall not allow any Disposal operations, Storage Operations or Treatment Operations at the Active Fill Area or at any other location at the Solid Waste Facility, unless an Expansion has been approved by the Department.

C. Local Approvals.

By adoption of a resolution authorizing the execution of this Agreement, each Affected Municipality does hereby waive all applicable zoning, grading and landfill operational Local Approvals, regulations, permits, licenses, and ordinances that may be required of the Operator to allow it to construct, maintain, repair, engage in on-site operations, closure, and to provide Long-Term Care of the Active Fill Area, and to conduct Disposal, Storage and Treatment Operations at the Solid Waste Facility as authorized by the special use and zoning permits granted to Operator by the City of Muskego as described in Section 25.A. above, excepting the terms of such permits and the terms of this Agreement. Any remedial investigations and feasibility studies and implementation of any Removal and/or Remedial Actions required by the USEPA or the Wisconsin Department shall also be permitted regardless of Local Approvals that may be imposed by Affected Municipalities. This waiver shall continue until Final Closure of the Active Fill Area, except that the waiver shall extend thereafter to Long-Term Care Operations which the Operator must undertake pursuant to the

Department's regulations pertaining to the Solid Waste Facility and the Operator's implementation of the post closure site plan as required by this Agreement.

These regulatory waiver provisions do not apply to any persons other than the Operator, its officers and employees, when engaged in activities directly relating to the Operator of the Solid Waste Facility.

These regulatory waiver provisions do not apply for any other uses, operations or businesses at the Solid Waste Facility except those uses, operations and businesses that are directly and specifically related to and consistent with the: (1) Solid Waste Disposal Operations of the Active Fill Area and at the currently licensed facility; and (2) the storage and treatment operations of the facilities specifically authorized under Section 25.A.

These regulatory waiver provisions apply only to zoning, grading and landfill operational Local Approvals as they apply to the authorized use of the Active Fill Area and zoning local regulations as they apply to the other authorize uses hereunder and do not waive any other Local Approvals. These waiver provisions, by way of enumeration, and not limitation, do not include regulations pertaining to speed limits, the issuance of waste hauler permits (with a fee not to exceed what is reasonable and customary), litter control, building permits, rules of the road, road obstructions, excavations, fire safety permits, and health ordinances and regulations. Any recycling, Storage and uses beyond those that are currently authorized by special use and zoning permits and undertaken by Operator and any other use of the property not specifically authorized herein shall be subject to all applicable substantive and procedural approvals, rules, regulations, orders, laws and ordinances of the City of Muskego.

These regulatory and enforcement waiver provisions do not apply in any way to waive any authority the Affected Municipalities may have now or in the future have to control or regulate, by regulation, ordinance, permit, license or order, the uses, operations and businesses at the Solid Waste Facility or at the currently-licensed facility, where these orders, permits, licenses or ordinances are deemed necessary by the Affected Municipalities to protect the public health, safety and welfare, or to prevent or abate a public nuisance.

26. Standing Committee.

The Operator and the Local Committee hereby agrees to the formation of a Standing Committee ("Committee") which shall consist of three (3) residents of the City of Muskego appointed by the Mayor, and one (1) designee from each of the Affected Municipalities, if they desire to participate in the Standing Committee. The City of Muskego shall have the right to appoint additional members such that the City of Muskego shall always have no less than a one (1) person majority on the Standing Committee. The Committee shall have the functions and powers described in Exhibit "C". The Operator will finance the first Ten Thousand Dollars and 00/100 (\$10,000) of the Committee's costs annually. The remainder of the Committee's costs shall be borne by the Affected Municipalities in proportion to their representation on the Committee. The Standing Committee shall receive funds for 15 years after Final Closure, so it can monitor Post Closure site activities.

27. Existing Agreements.

The Affected Municipalities and the Operator do hereby stipulate that this Agreement shall supersede any prior inconsistent terms, provisions or contracts applicable to the Solid Waste Facility, but shall not in any way lessen or eliminate the Operator's responsibilities under the existing Emerald Park Landfill Negotiated Agreement. The terms of the Interim Construction Agreement, to which this Agreement was attached as an Exhibit, shall govern the timing and amount of payments made by the Operator under the Interim Construction Agreement and other benefit programs set forth or referenced therein.

28. Future Expansions.

The Affected Municipalities shall have the option to waive negotiations for future expansions from Superior Services, Inc. on property owned by Emerald Park Landfill, Inc., Superior Services, Inc., or a related company which is within, contiguous to, or within one half mile of the Solid Waste Facility. This option shall be a waiver of renegotiation of that contract for future expansions and shall make applicable all terms and rate schedules for compensation set forth in this contract. The Affected Municipalities shall have six months from the date of receiving the Initial Site Report to make this election. This election shall be in writing and approved by each of the municipalities in writing or by the City of Muskego.

**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 and duly-appointed committees, including the Negotiating Committee established under § 289.33, Wis. Stats. and the Standing 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, claims or damages, including reasonable attorneys and consulting fees and costs of litigation, 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, Household Hazardous Waste 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.

Operator also agrees to support, defend and/or reimburse the costs, attorneys fees, damages or other liabilities incurred by the Affected Municipalities, their officers, agents, employees and any duly-appointed committees, including the Committee under § 289.33, Wis. Stats., and any other committees as may be established for any proceeding, brought by any person or entity at any time to establish that the Affected Municipality, their officers, agents, employees and any duly-appointed committees, including the Committee established under § 289.33, Wis. Stats., and any other committee as may be established for any proceeding, that may have liability for 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 loss, claim or damages arising in any way or as the result of any anticipated or unanticipated occurrence associated with the site, including, but not limited to, the design, siting, construction, transportation to and from,

operation, maintenance, control, repair, administration, monitoring, closure, Long-Term Care and termination of the site; the Treatment, Storage and Disposal of the Solid Waste and Recyclable Materials at the site and the negotiations or terms of this Agreement. The terms and conditions of this paragraph shall apply from the Effective Date of this Agreement in perpetuity.

In any legal proceedings resulting from the above two paragraphs, the Operator has the right to assert any defense on behalf of a particular municipality, individual or entity which that municipality, individual or entity is legally entitled to, including the provisions of § 893.80, Wis. Stats. Each municipality, individual or entity seeking to utilize the indemnity of this section subrogates all applicable counter-claims (excepting separate damage claims not subject to the indemnification and hold harmless provisions) and assigns all applicable rights and defenses to the Operator which each may have.

2. Reimbursement for Negotiation Expenses.

The Operator shall pay any unreimbursed expenses of the Affected Municipalities and the Negotiating Committee or its members, not previously reimbursed by Operator, for their actual attorney's 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 Chapter 289, Wis. Stats. up to the date that the Approved Final Negotiated Siting Agreement is accepted by the Waste Facility Siting Board. The above-noted expenses, which shall not exceed \$200,000.00 shall be paid by the Operator within forty-five (45) days after the Operator's receipt of invoices from the Committee or the Affected Municipalities, if not previously reimbursed.

**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) waiving their Local Approvals and Pre-existing Local Approvals, as set forth elsewhere in this Agreement, and (3) accepting the consequences and numerous responsibilities associated with the location of a sanitary landfill in or in proximity to the municipalities, and in consideration of all other matters as set forth in this Agreement, the Operator has agreed to provide, the following compensation and benefits:

A. A direct payment shall be paid to the Affected Municipalities as set forth in Exhibit J at a rate equivalent to the amount of \$2.41 per ton of solid waste or other materials Disposed of at the Solid Waste Facility, inclusive of all beneficial reuse materials, contaminated soils, foundry sands and shredder fluffs. However, the first 15,000 tons of shredder fluff per calendar year shall be excluded from the Direct Payment Provision. This rate shall be applicable upon the commencement of waste disposal in the expansion area. Subsequent to 1999 and each year thereafter, the rate of Direct Payment shall be increased at the rate of 5.2% compounded annually, every January 1, beginning the year 2000.

B. Payment shall be made based upon the tonnage as determined by the weigh scale as provided for hereinafter in this agreement. The actual tonnage shall be the basis upon which payments in each month are based. Payment shall be made quarterly, after the Commencement Date. Payment shall be received within sixty (60) days from the date that the actual tonnage is to be determined for the payment period.

In the event the payment is not made when due, interest shall accrue on such obligation at a rate equal to the prime interest rate plus 2%. The same will apply in the event that a dispute requires resolution by court action, arbitration or other resolution, until such amount is paid. The Affected Municipalities and the Standing Committee may review documentation pertaining to the tonnages reported on a monthly basis as the year progresses, and the Affected Municipalities and Standing Committee shall have the right to challenge such amounts at any time, either on a

monthly basis or through a year-end reconciliation of the tonnages reported by usage of the weigh scale. Any annual review shall be accomplished on or before March 1 of the following calendar year. Any dispute between the Operator and the Affected Municipalities shall be resolved by a neutral third party who has no direct or indirect relationship with the Operator or the Affected Municipalities. The Affected Municipalities shall have the right to nominate the neutral third party, but the neutral third party must be agreed to by the Operator. The decision of the neutral third party shall be based on information and methodologies commonly used for making such a determination of actual tonnages disposed, and the determination of the neutral third party shall be final and binding on the Operator and the Affected municipalities. Any costs incurred by or in retaining the neutral third party to make the determination on actual tonnages disposed shall be shared equally by the Operator and the Affected Municipalities. Any underpaid amounts shall be paid within sixty (60) days from the date of the determination, at the then current rate, plus interest thereon from the date the amounts should have been paid, at a rate equal to the prime rate of interest plus 2%.

All direct payments shall be paid to the Affected Municipalities as set forth in Exhibit "N". The Operator shall take no position regarding the distribution or usage of any funds that are required to be paid under this contract with the Operator's responsibility being to make the payments required and as directed by the Affected Municipalities or as specifically set forth in this Agreement or in Exhibit "N" attached hereto.

The Operator shall submit detailed statements pertaining to the waste received each month, breaking down such information as to the types of waste, the source of such waste by state, the gate tonnage received based upon the Operators daily records, and as provided for in Article IV (1)(A), and any other supporting documents or provisions of this section. In the event that neither the weigh scale nor the computer generated information is available for any day that waste is received, then the Operator shall make a direct payment based upon the average amount of tonnage received per day during the preceding sixty (60) business days of operation of the Solid Waste Facility.

The Operator shall provide to the City of Muskego and Waukesha County and Standing Committee all documents submitted to the Department pertaining to the recording and documentation of the waste received. The reporting of tonnage to the Department shall have no bearing on amounts paid to the Affected Municipalities as

the parties stipulate that the means of payment to the Affected Municipalities as the parties stipulate that such reporting formulas are different. Information supplied to the Affected Municipalities or the Standing Committee of amounts submitted to the DNR are stipulated to be for informational purposes only.

If, at any time, the Affected Municipalities or Standing Committee so desire, they may retain an independent consulting firm to perform computations in order to verify the Operators reported tonnages. Such firms may independently test the weigh scale, computer generated information off of said scale, or may use field or aerial surveys to verify reported tonnages based upon air space, volume consumed within the Active Fill Area. The Affected Municipalities or Standing Committee retaining the independent consulting firm shall pay all costs unless such independent consulting firm's computations reveal that the Operator's reported air space or tonnage used has been understated by 10% or greater. If so understated, the costs of such consulting firm shall be borne by the Operator and the Operator shall pay the costs of such independent consulting firm within thirty (30) days after presentation of such bill. The Operator shall also prepare a written report and any documentation necessary explaining the cause of such error. With respect to underpaid amounts that are not disputed by the Operator, such underpaid amounts shall be paid within sixty (60) days at the then current rate, plus interest thereon from the date the amounts should have been paid, at a rate equal to the prime rate of interest plus 2%.

Notwithstanding the foregoing, the Operator shall be required to install, maintain and certify (bi-annually) a certified weigh scale for measuring and recording Solid Waste disposed at the Active Fill Area. The weigh scale shall be equipped with sufficient computer software and hardware capabilities to record, generate and summarize all information hereinbefore set forth pertaining to Solid Waste documentation requirements. The Affected Municipalities and the Standing Committee shall have access to all computer-generated data or written reports pertaining to waste received at the site. The Operator shall keep records and logs of all trucks coming to the site and include the following data:

- A. Name of Acknowledged Transporter.
- B. Time and date of disposal.
- C. Truck weight (gross weight, truck weight and net Solid Waste weight).
- D. Origin of waste by state.
- E. Type of Waste.

Weight shall be declared per truck in numerical order of their receipt on a daily basis with the truck ownership and any information which is relevant and kept by the Operator on a regular basis to assist the Standing Committee in reviewing declared garbage weights at the site. The Affected Municipalities and Standing Committee may, at their expense, establish video tape equipment and place personnel on-site, as such times as they choose, to monitor the reporting of Solid Waste received at the Active Fill Area for disposal.

Any payment that is received late shall accrue interest at a rate equal to the prime rate of interest plus 2%, until paid.

2. Sociological Payments

The Operator shall pay to the Affected Residents certain sociological payments as set forth in Exhibit "P" of this Agreement. Said Exhibit includes the beneficiaries of such sociological payments and the amount of those payments.

3. Premium for Out-of-State Waste.

The Operator is permitted to accept out-of-state Solid Waste for Disposal in the Active Fill Area, until such time as State or Federal law allows the placement of restrictions on the acceptance of out-of-state waste. The Operator shall pay the Affected Municipalities Four Percent (4%) of the gross revenue that it receives for the Disposal of such waste. For the purposes of this Section, gross revenue shall not include any taxes, fees, duties, or charges that the Operator is required to collect from the generators pursuant to § 289.63(3), § 289.64(3) and § 289.67(1)(cp), and any other statutes that similarly impose fees upon the generators of Solid Waste but require the owner or operator of the licensed solid waste facility to collect the same. The Operator shall make such payments within sixty (60) days after the end of each calendar quarter and shall provide a summary of all out-of-state waste accepted the previous quarter.

Said payments shall be divided among the Affected Municipalities in proportion to the share of the Monthly Installment that each municipality will receive under this Agreement.

4. Waste Volume Surcharge.

Any volume of waste disposed of at the Landfill Site exceeding 1,000,000 tons per calendar year shall be subject to a ten (10%) percent surcharge in direct payments and shall be payable monthly as a supplemental payment once the 1,000,000 ton level has been reached, and shall increase the monthly direct payment in that amount.

5. PCB Impacted Sediments.

PCB Impacted Sediments shall not be disposed of in the Active Fill Area without a premium for the same being negotiated by the Standing Committee.

6. Property Value Protection Plan.

A Property Value Protection Plan shall be administered in accordance with Exhibit "F" attached hereto and incorporated herein by reference as an integral part of this Agreement.

7. Household Hazardous Waste Program.

The Operator shall provide and promote a Household Hazardous Waste (HHW) Collection Program, as detailed in Exhibit "I", for residents of the participating jurisdictions to such program, which include the Cities of Franklin and Muskego, Waukesha County and the Towns of Norway and Raymond. This program shall include operation of one Permanent Collection Facility and two satellite collection sites each year. The location of the Permanent Collection Facility shall be in the Muskego/Waukesha area and shall be determined prior to the approval of this Agreement by mutual consent of the Operator and the Siting Committee. Any future changes to the program, including but not limited to, the Permanent Collection Facility location, frequency of collection, hours of operation, use of satellite collections, shall be reviewed and approved by the Standing Committee and the Operator prior to implementation. The location of the satellite sites shall be approved annually by the Standing Committee in consultation with the Operator.

The Permanent Household Hazardous Waste Collection Facility shall be operated at a minimum of twice per month during the year.

Materials to be accepted at the site shall include, but shall not be limited to, the items listed in Exhibit "I". Exhibit "I" shall also set forth the protocol and design of the permanent facility, as well as a detailed statement of the overall program. The

Operator shall act as the generator for receipt of all materials and shall provide for staffing, proper disposal and transportation of collected items in accordance with all Federal, State and local requirements, as well as proper management and safety equipment. The Operator shall also provide space for a product exchange/redistribution program at the Permanent Collection Facility site. Indemnification, insurance and hold harmless provisions of the Agreement also apply to any operation or transportation related to and including the facility.

Collections at two satellite sites selected by the Standing Committee shall be held a minimum of once per quarter during the year. The Operator shall act as the generator for receipt of all materials and be responsible for staffing, proper disposal and transportation of the collected materials, providing adequate safeguards, insurance and management of the sites. The Indemnification, Hold Harmless, Duty to Defend, Insurance and Guarantee provisions of this Agreement shall also apply to any operation pertaining to the Household Hazardous Waste Collection Program, including the Permanent and Satellite Collection Facilities, the transportation of waste, the disposal of HHW and any other responsibility, obligation or part of the program as set forth in Exhibit "I".

The Operator shall promote the use of the HHW Collection Program through an effective education program. This program shall be prepared by the Operator and reviewed and approved by the Standing Committee prior to implementation of the program.

The costs of the program shall be paid by the Operator out of the host fees, but shall not exceed \$250,000.00 per year. Based on an audit of the program at the end of each operating year, unexpended funds shall be divided by the Affected Municipalities in accordance with the division of host fees as set forth in Article VI, Section 1. Upon the affirmative vote of three-fourths (3/4 or 75%) of the Affected Municipalities, the Affected Municipalities may opt out of this program after giving sixty (60) days written notice to the Operator of their election.

The direct payments shall increase by the amount set forth in this paragraph if this election is made, and the Operator shall have no further liability under this paragraph beyond making the annual payment set forth above.

8. Free Disposal of Governmental and School District Waste.

The County of Waukesha and City of Muskego governmental or departmental waste, Drought Elementary School, and Muskego/Norway School District waste will be brought to the site and disposed of free of charge. However, such waste shall be limited to 1,000 tons per year for each of these three entities. This disposal shall be limited to the operating hours of the Active Fill Area or any other Superior Services facility, including landfills or transfer stations, should there be any temporary interruption of the operation of the Active Fill Area prior to final closure.

In the event that any governmental or school district waste as set forth above is disposed of at the site but is charged for by the Operator, the Operator shall reimburse such entity for all charges for such waste by the 20th day of the month following the disposal of such waste. Any reimbursement for the City of Muskego or Muskego/Norway School District waste disposal shall be paid directly into the Muskego Park Dedication Fund.

9. Contested Case hearing Reimbursement of Fees. The parties acknowledge that under the terms of the Interim Construction Agreement, the Operator has or shall pay to the City of Muskego the sum of \$200,000.00 to reimburse it for City expenses in reviewing the Feasibility Report, retaining experts to evaluate and comment on the same, and in participating in the Contested Case Hearing.

10. City of Muskego Residential Waste.

The Operator shall establish a Residential Waste Convenience Center area at the Solid Waste Facility for purposes of accepting and disposing of any residential or yard waste transported to the Residential Waste Convenience Center by any resident of the City of Muskego. The Operator shall construct the Residential Waste Convenience Center and provide sufficient employees to reasonably accommodate the drop-off of such waste. The residential waste drop-off site shall be open to receive waste, at a minimum, each Friday from 9:00 a.m. to 4:00 p.m. and each Saturday from 8:00 a.m. to 12 noon, except on the holidays identified in Article IV, Section 2.

The Operator shall be responsible for providing the free waste drop-off and disposal until Final Closure of the Active Fill Area, or for a period of 15 years, whichever is longer.

11. Loomis Drive Reconstruction. The Operator agrees that it shall contribute the sum of \$340,000.00 to the City of Muskego for the purposes of defraying the cost of rebuilding that portion of Loomis Drive described in Exhibit "O" attached hereto. The aforementioned payment shall be made within ten (10) days following the City's letting of the construction contract. In the event the cost of the rebuilding is less than \$340,000.00, the balance shall be paid to the City of Muskego.

12. Miscellaneous Benefits. The parties acknowledge that the Interim Construction Agreement, to which this Agreement is attached as an Exhibit, contains additional benefits for the Affected Municipalities, including a rebate for municipal waste disposed of in the Active Fill Area, a payment in the amount of \$1,296,000.00 in consideration of the Local Committee's execution of the Interim Construction Agreement and the issuance of a clay extraction permit by the City of Muskego, the establishment of a police firing range, and the funding of a Landfill Compliance Officer.

**ARTICLE VII**  
**MISCELLANEOUS PROVISIONS**

1. **Expansion.**

No further Expansion of the Active Fill Area shall occur except pursuant to the procedures set forth by law applicable at that time or else as specifically set forth in this Agreement.

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 Ten Million Dollars (\$10,000,000) exclusively limited to the Solid Waste Facility, including the original Emerald Park Landfill and the Superior Emerald Park Landfill, Inc.: Southern Expansion.

The adequacy of the policy shall be reviewed by the attorneys for the City of Muskego and the Negotiating or Standing Committee.

3. **Load Inspections.**

Procedures for excluding the receipt of waste not specifically approved for acceptance at the landfill. Superior Emerald Park Landfill, Inc., accepts municipal solid waste, and therefore will implement a program to detect and prevent the disposal of wastes not specifically approved for acceptance. Unacceptable materials include but are not limited to liquids, sludges, regulated hazardous waste, and PCB Contaminated Sediment, as defined in Exhibit "Q." The program shall include the following:

Random Inspections of Incoming Loads. Random inspections shall be conducted on a basis of two (2) inspections per week (approximately one inspection per 5,000 tons, or less, of waste received). To insure that the inspections are random, a random number will be generated, multiplied by the total number of loads received the preceding week for two (2) separate iterations. The procedure will result in random numbers that will correspond to the incoming loads to be inspected that week.

Deliberate Inspections of Incoming Loads. Deliberate inspections shall be conducted on an as determined basis by the landfill general manager, or site manager. The basis for deliberate inspections may be predicated on the results of Random Load Inspections, or on other criteria based on the experience of

the landfill regarding incident(s) of having previously received problem, banned or illegal wastes from specifically identified haulers/transporters.

Inspections shall be conducted in accordance with NR506.16.

**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 certified mail, return receipt requested 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 Standing 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, return receipt requested to the addresses noted below. The current names and addresses are:

**Affected Municipalities:**

- A. City of Muskego  
Attn: City Clerk-Treasurer  
P.O. Box 903  
Muskego, WI 53150
  
- B. City of Franklin  
Attn: City Clerk  
9229 West Loomis Road  
Franklin, WI 53132
  
- C. County of Waukesha  
Attn: Parks & Land Use Department  
c/o County Clerk  
1320 Pewaukee Road, Room 120  
Waukesha, WI 53188
  
- D. Town of Norway  
Attn: Town Clerk  
6419 Heg Park Road  
Wind Lake, WI 53185
  
- E. Racine County  
Attn: County Clerk

730 Wisconsin Avenue  
Racine, WI 53403

**Operator**

F. Superior Emerald Park Landfill, Inc.  
Gene Kramer, General Manager  
W124 S10629 South 124th Street  
Muskego, WI 53150

2. **Headings.**

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

3. **Governing Law.**

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

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. **Other Agreements.**

This Agreement shall not replace or supersede the existing Emerald Park Landfill Agreement unless expressly stated to the contrary in this contract. Certain provisions of that contract shall also be incorporated herein by reference and shall be binding on the Operator as to this new expansion known as Superior Services Emerald Park Landfill, Inc.: Southern Expansion. The following paragraphs of the 1991 Landfill Agreement between Emerald Park, Inc. and the City of Muskego are so incorporated as follows:

3. Responsibility of Applicant (Operator)  
for Water
4.
  - A. Replacement of Water Supply
  - B. Drainway
  - C. Sewer
  - D. Traffic and Roads

E. Miscellaneous

- 5. Zoning Approval
- 17. C. Traffic Matters
  - E. Environmental Monitoring
  - M. Drainage and Erosion Control
- 19. Property Value Protection
- 20. Sociological Impacts
- 22. Limitations on Future Development
- 25. Failure to Comply with Agreement

Exhibit "E": Property Protection List for Emerald Park Area

6. Complete Agreement.

This Agreement is the complete agreement as to the Active Fill Area pursuant to § 289.33, Wis. Stats., between the Affected Municipalities, the Operator, and the Local Committee.

7. 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.

8. 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 Muskego 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 Superior Emerald Park Landfill, Inc.: Southern 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.

9. 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: \_\_\_\_\_

DATED: \_\_\_\_\_

SUPERIOR EMERALD PARK LANDFILL  
Siting Committee,

SUPERIOR EMERALD PARK LANDFILL, INC.

BY: \_\_\_\_\_

Jacqueline Schweitzer,  
Chairperson and authorized  
by vote of and on behalf of the  
Superior Emerald Park Landfill  
Siting Committee

BY: \_\_\_\_\_

Larry Goswick ,  
Midwest Regional  
Vice-President

GUARANTEE

Superior Services, Inc., for valuable consideration, including the mutual covenants and benefits stated in this Agreement to itself and its subsidiary corporation Superior Emerald Park Landfill, Inc., such consideration and receipt of which is hereby acknowledged, does hereby guarantee the performance of Superior Emerald Park Landfill, Inc., in the event that the latter fails to do so. Those obligations shall extend to any obligations provided for in this Agreement, including the operation, closure, post-closure responsibilities, and indemnification responsibilities of Superior Services, Inc.

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

DATED: \_\_\_\_\_

SUPERIOR SERVICES, INC.

BY: \_\_\_\_\_  
\_\_\_\_\_ President

ATTEST: \_\_\_\_\_  
\_\_\_\_\_ Secretary

A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.

**SIGNATURE PAGES FOR AFFECTED MUNICIPALITIES  
WILL BE SUPPLIED AT A LATER DATE**

**Exhibit "A"**  
**ACTIVE FILL AREA**

LEGAL DESCRIPTION FOR LIMITS OF WASTE  
(Existing and Proposed Expansion)

A parcel of land located in the NE. 1/4 and SE. 1/4 of Section 36, T.5N.,R.20E. in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the East 1/4 corner of said Section 36; thence S1°26'12"E along the east line of the SE 1/4 of said Section 36, 1249.02 feet; thence S88°33'48"W, 601.75 feet to the point of beginning of the parcel to be described; thence S86°04'56"W, 1589.70 feet; thence N0°24'42"W, 847.00 feet; thence S88°47'42"W, 344.00 feet; thence due North, 1590.42 feet to a point of curvature; thence northeasterly along a line which curves to the right (having a radius of 60.00 feet and a chord of 83.47 feet which bears N44°04'33"E) an arc distance of 92.31 feet to a point of tangency; thence N89°09'05"E, 932.88 feet; thence S32°27'28"E, 389.95 feet; thence S0°15'04"W, 416.19 feet; thence S81°00'49"E, 10.58 feet; thence N67°30'10"E, 113.36 feet; thence due East, 483.97 feet; thence S48°05'32"E, 77.05 feet; thence due South 238.71 feet; thence S45°00'00"E, 119.42 feet; thence due South, 1289.41 feet to the point of beginning. Said parcel containing 89.53 acres of land, more or less.

Exhibit "B"

SUPERIOR EMERALD PARK LANDFILL  
TOTAL FACILITY DESCRIPTION  
WAUKESHA COUNTY, WISCONSIN

LEGAL DESCRIPTION OF ENTIRE SUPERIOR EMERALD PARK LANDFILL

Parcels of land located in the NE. 1/4, SE. 1/4, NW. 1/4 and SW. 1/4 of Section 36, T.5N., R.20E. and also the NE. 1/4 of Section 35, T.5N., R.20E., all in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the East 1/4 corner of Section 36, T.5N., R.20E., thence S88°04'17"W along the South line of the NE. 1/4 of said section 36, 50.02 feet to a point on the west right-of-way line of S.T.H. "45" (S. 124th St.), said point also being the point of beginning of the parcel to be described; thence continuing S88°04'17"W along said south line, 379.98 feet; thence S1°26'12"E and parallel with the east line of the SE. 1/4 of said Section 36, 227.00 feet; thence N83°49'06"E, 431.46 feet to a point on the east line of said SE. 1/4; thence S1°26'12"E along said east line, 2310.38 feet; thence S88°38'39"W and parallel with the south line of said SE. 1/4 455.50 feet; thence S1°26'12"E and parallel with the east line of said SE. 1/4 207.00 feet to a point on the south line of said SE. 1/4; thence S88°38'39"W along said south line 865.31 feet; thence N1°21'21"W, 8.25 feet; thence S88°38'39"W on a line parallel with and 8.25 feet north of said south line, 1320.81 feet; thence S88°38'44"W on a line parallel with and 8.25 feet north of the south line of the SW. 1/4 of Section 36, T.5N., R.20E., 1990.98 feet; thence N1°09'57"W. 2658.13 feet to a point on the North line of said SW. 1/4; thence S88°04'17"W along said north line, 665.06 feet to the West 1/4 corner of said Section 36; thence N1°12'10"W along the west line of the NW. 1/4 of said Section 36, 2625.29 feet; thence S88°59'36"W and parallel with the north line of the NE. 1/4 of Section 35, T.5N., R.20E., 297.00 feet; thence N1°12'10"W and parallel to the east line of said NE. 1/4, 33.00 feet to the north line of said NE. 1/4; thence N88°59'36"E along said north line, 297.00 feet to the NE. corner of said NE. 1/4; thence N87°28'33"E along the north line of the NW. 1/4 of Section 36, 1333.01 feet to the NE. corner of the NW. 1/4 of the NW. 1/4 of said Section 36; thence S1°08'35"E along the east line of the NW. 1/4 of said NW. 1/4, 1336.09 feet; thence N87°46'24"E, 1331.47 feet; thence N87°49'03"E, 2309.21 feet; thence S0°29'55"E, 132.00

feet; thence N87°49'03"E, 279.98 feet to a point on the west right-of-way line of S.T.H. "45" (S. 124th St.); thence S0°29'55"E along said west line, 1222.78 feet to the point of begininng.

**Exhibit "C"**  
**STANDING COMMITTEE**

1. **Purpose.** The Affected Municipalities and Superior Emerald Park Landfill, Inc. (hereinafter referred to as the "Operator"), agree to re-establish and continue to participate in the Standing Committee to monitor the construction and operation of the Solid Waste Facility (hereinafter referred to as Committee or Standing Committee).

2. **Membership.** Membership on the Committee shall consist of three (3) City of Muskego representatives appointed by the Mayor, and one (1) representative of each of the other Affected Municipalities (hereinafter these representatives are referred to as Committee Members). The Committee shall elect, from amongst its members, an individual to function in the capacity of chairperson. For any action taken by the Committee, unless otherwise expressly provided, a majority vote of the Committee is required. The Operator may appoint two (2) representatives to the Committee who shall be ad hoc members and shall have no vote.

In the event that additional affected municipalities are added to the membership, the City of Muskego shall have the right to appoint additional members such that the City of Muskego will always have a one member majority on the Committee.

3. **Term.** All members appointed shall serve at the pleasure of the respective entities that appointed them.

4. **Replacement and Removal.** A Committee member may voluntarily resign or be replaced at any time.

Any Committee Member may be removed by the Committee for good cause and upon a three-fourths (3/4) vote of the Committee.

5. **Quorum and Vote.** A majority of the Committee Members shall constitute a quorum, provided that voting shall be governed by the following rules: each member of the Committee present shall have one vote.

6. **Documents.** The Operator shall provide copies of all technical reports and monitoring data supplied to the State of Wisconsin/Department of Natural Resources by the Operator pertaining to the Superior Emerald Park Landfill, including the Plan of Operation, any proposed amendments to the feasibility study or any proposed changes to any special conditions imposed by the

State of Wisconsin/Department of Natural Resources. Such copies shall be provided free of charge to the Committee. Such information shall apply to all activities in the Solid Waste Facilities.

7. Meetings. The Committee may establish a schedule for meetings for the purposes of review, explanation and discussion of said technical data and the status of the Solid Waste Facility construction, operation and closure. Special meetings of the Committee may be called by the Chairperson of the Committee or any three members of the Committee upon written notice mailed at least five (5) days prior to the proposed meeting. Said meeting may be called for the purpose of addressing any issue of concern involving the Solid Waste Facility construction, operation or closure. Upon the occurrence of an event deemed by the Chairperson to constitute an Emergency condition, a special meeting may be called with less than five (5) days notice, provided each Committee Member is personally notified. The public may attend any Committee meeting. Any written notice called for in this Agreement shall be deemed effectively provided when either personally delivered or sent by mail to all Committee Members at the addresses listed by them with the Committee.

The Standing Committee shall also appoint a Vice-Chair who shall have the responsibilities of the Chairperson in his/her absence.

The Chairperson shall be responsible for the running of all meetings. The Chairperson shall approve all secretarial invoices and shall have the authority of the Standing Committee to sign any checks, should the Standing Committee have its own account. Any approved invoice shall otherwise be sent to the Clerk of the City of Muskego for payment out of the segregated Standing Committee funds. The secretary shall either be appointed or hired by the Standing Committee. The secretary shall be responsible for notifying the members and providing notice as required by the Open Meetings Law. The secretary shall also record all open meetings and prepare minutes of the meetings, which shall at a minimum include information pertaining to all formal motions and resolutions made, complaints made by or to the Standing Committee regarding operation of the site and representations or promises made by the Operator pertaining to responses to be made to any complaint or objection presented or discussed at a Committee meeting.

8. Committee Inspections. Individual Committee Members, with proper identification, shall have the right to conduct on-site inspections of the Solid Waste Facility pursuant to the procedure provided in Article IV, Section 12 of the Agreement.

9. Violations. If, in the judgment of the majority of the Committee Members, the Solid Waste Facility is not being constructed or operated in compliance with the Operator's approved Plan of Operation, or with any applicable State statute or regulation, or any other provision of law, whether it be in law or equity, the Committee may serve written notice of such perceived noncompliance upon, and may make recommendations to, the Operator. Similarly, if any aspect of the construction, operation or closure of the Solid Waste Facility causes or is likely to cause, in the judgment of the majority of the Committee, a problem due to noise, dust, debris, odor, maintenance of access road, litter, traffic flow, traffic patterns or inadequate screening or fencing or any other problem, the Committee may serve upon the Operator written notice of the Committee's concern and make recommendations to remedy or address such concern.

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

10. Enforcement. The Affected Municipalities and Operator hereby stipulate that the Committee shall have legal standing in its own name to enforce any provision of the negotiated settlement if the Operator fails to remedy the concern of the Standing Committee as hereinbefore stated using the enforcement procedures of this section. Upon receipt of any notice of non-compliance or notice of an issue of concern to the Committee, the Operator shall immediately investigate any allegation of non-compliance or issue of concern made by the Committee and shall, if possible, take action as is necessary to alleviate and/or correct the situation within twenty-four (24) hours. The Operator shall deliver a written report concerning the investigation and any resulting Remedial Action to the Committee within seventy-two (72) hours of receipt of the original notice. In the event the situation is

incapable of being alleviated or corrected within the above time frames, the time periods shall be automatically extended so long as Operator is diligently working to alleviate or correct the situation. The Operator may petition the Committee for an extension of the above time limits and, upon showing sufficient cause, the Committee shall so extend the limits. In the event the Operator does not correct the condition to the satisfaction of a majority of the Committee within the time frames hereinbefore stated, the Committee may pursue such remedies as are available.

11. Expenses.

The Standing Committee receives \$10,000.00 per year through the landfill siting agreement to fund the Committee's expenses. In the event the Committee exceeds this budget, then all of the Affected Municipalities that have representation on the Committee, will be responsible in the same proportion of its membership where it exceeds such amount. The Committee shall not exceed its budget by an additional \$10,000.00 without prior approval of all of the Affected Municipalities, unless one or more of the municipalities agree to be responsible for the expense of the Committee which exceeds \$20,000.00 per year. In the event any municipality fails to pay their proportion of the expenses within 60 days, the Standing Committee may apply to the Operator to have any direct payments made to such municipality first used to cover such expenses, with that amount to be deducted by that municipality's fees.

**Exhibit "D"**  
**AIR QUALITY STANDARDS**

The Operator shall comply with all air quality standards required under the Plan of Operation or any modifications thereof or any other requirements of the Department of Natural Resources or United States Environmental Protection Agency.

In addition, the Operator shall specifically comply with all of Administrative Code Regulations pertaining to emerging gases emanating from the site including, but not limited to, Wisconsin Administrative Code Chapters 400 et. seq., 500 et. seq., and 600 et. seq. Notwithstanding the foregoing, the Operator shall only be required to comply with those regulations which the Department imposes upon existing landfills such as the Active Fill Area and subsequent changes to such regulations.

The Operator shall take all reasonable precautions to minimize the amount of dust and particulate matter that leaves the Active Fill Area or its access roads during construction, operation, and closure. The total concentration of the suspended particulates shall not exceed 150 micrograms per cubic meter measured at the boundary of the Solid Waste Facility.

**Exhibit "E"**  
**WATER TESTING**

**Operator's General Requirements.** The Operator shall comply with all background testing and groundwater monitoring as required by the Department in its approvals of the Feasibility Report and Plan of Operation. The Operator shall provide the Standing Committee copies of all test results and communications to or from the Department that relate to such testing. A copy of the results of each well test required by this Exhibit shall be provided by the Operator, at its cost, to the Affected Municipality in which the well is located, the Standing Committee, and the property owner (or occupant) in question within five (5) days of the receipt of the test results. The Operator shall undertake all testing required by this Agreement in compliance with the Wisconsin Clean Water Act, any Department of Natural Resources or EPA requirements, whichever is the most stringent.

**Eligibility of Wells.** One (1) well in each tax-keyed property located within the "Well Testing Area," as defined on the map included as Exhibit "E-1", shall be eligible for background water testing under this provision. If any property is served by more than one well, the Standing Committee shall select one (1) of the wells which shall be the test well. The Standing Committee shall maintain a list identifying such properties and the specified test well on each property.

The Standing Committee may change this list from time-to-time (e.g., as when new homes are built within the Well Testing Area). The Operator guarantees to protect the environment from landfill-related groundwater contamination, including the specified wells presently in place and the quality of drinking water in the Well Testing Area.

**Standing Committee to Select Wells.** The Standing Committee shall make an initial designation of seventy-five (75) wells the first (1st) year of the Agreement, selected from the total list above, that will be tested by the Operator at its expense, as hereinafter provided. Thirty-five (35) wells shall be tested in each subsequent year, unless problems are identified which might require more testing, as detailed below. This selection may be based on expert geological advice regarding the direction of flow of underground water, well testing results from prior years, unidentified contamination of wells, etc.

Notwithstanding the foregoing, the Operator shall not be required to sample any of the water supply wells serving the properties identified above for the purpose of determining the water quality of well water of these properties, unless it first receives, in the form attached as Exhibit "E-2", written permission from the respective property owner or an occupant. The Testing Consultant shall also be directed not to test any well not meeting all applicable codes and ordinances pertaining to wells.

Testing of the first seventy-five (75) wells shall be accomplished within six (6) months of the signing of the Final Negotiated Agreement. The schedule for testing in subsequent years shall be agreed to by the Standing Committee and the Operator, and may be changed from time-to-time based on the accumulated information then available. The testing of wells shall be conducted annually under this provision until Final Closure or 15 years after the execution of this Agreement, whichever is later.

In the event that the owner(s) or user(s) of any well so identified refuses to give the Operator written consent, the Operator shall advise the Standing Committee, and the Standing Committee shall designate additional wells to reach the above specified number of wells to be sampled during that year.

**Field Sampling Procedures and Data Management.** At the time of laboratory sample collection, a separate container will be used for field testing. The private well sample will be tested in the field for pH, temperature, specific conductivity, color, odor, and turbidity (specific parameters are delineated in the Baseline Analysis Summary below). Field data will be recorded on Groundwater Monitoring Field forms and forwarded to the laboratory to be included in the laboratory report. Within five (5) days of receipt of the laboratory report, the laboratory or consulting firm (hereinafter described) will prepare a brief letter to each property owner and the Standing Committee with an explanation of the laboratory test results.

**Baseline Analysis Summary:**

Parameter	Detection Limit	Preventive Action Limit (PAL)	Enforcement Standard (ES)
Volatile Organica - EPA Method 524.2	less than 1.0 ppb	Varies by compound	Varies by compound
Total Suspended Solids	1.0 ppm	Not established	Not established

Coliform Bacteria	1/ml	0	0
Chloride	0.5 ppm	125 ppm	250 ppm
Sulfate	2.5 ppm	125 ppm	250 ppm
Lead	.5 ppb	1.5 ppb	15 ppb
Manganese	0.01 ppm	0.025 ppm	0.05 ppm
TKN	.01 ppm	Not established	Not established
Nitrate + Nitrate (as N)	0.05 ppm	2.0 ppm	10.0 ppm
Alkalinity	6.0 ppm	Not established	Not established
Selenium	1.5 ppb	10 ppb	50 ppb
Boron	50 ppb	Not established	Not established

Additional Parameters for Non-Compliance Wells:

Parameter	Detection Limit	Preventive Action Limit (PAL)	Enforcement Standard (ES)
Iron Bacteria	1/ml	0	0
Nitrate (as N)	0.5 ppm	2.0 ppm	10.0 ppm
Sulfur Bacteria	1/ml	0	0

**Laboratory Testing Procedures.** The laboratory shall scan the sample using EPA Methods 601 and 602. The parameter list is included below:

Sampling Parameters

1. Quarterly Sampling Parameters:

Field Temperature	Hardness
Field Conductivity	Chloride
(Field at 25°C)	Dissolved Iron
Field pH	Total Suspended Sediment
Alkalinity	(Sedimentation basin only)
cod	

2. Annual Sampling Parameters:  
(VOC) SCAN using EPA methods 601 and 602

Parameter --

Bromodichlorormethane  
Bromoform  
Bromomethane  
Carbon tetrachloride  
Chlorobenzene  
Chloroethane  
2 - Chloroethylvinyl ether  
Chloroform  
Chloromethane  
Dibromochloromethane  
1,2 - Dichlorobenzene  
1,3 - Dichlorobenzene  
1,4 - Dichlorobenzene  
Dichlorodifluoromethane  
1,1 - Dichloroethene  
1,2 - Dichloroethane  
1,1 - Dichloroethane  
trans - 1,2 - Dichloroethane  
1,2 - Dichloropropane  
cis - 1,3 - Dichloropropene  
trans - 1,3 - Dichloropropene  
Methylene Chloride  
1,1,2,2 - Tetrachloroethane  
Tetrachloroethene  
1,1,1 - Trichloroethane  
1,1,2 - Trichloroethane  
Trichlorofluoroemethane  
Vinyl chloride  
Benzene  
Chlorobenzene  
1,2 - Dichlorobenzene  
1,3 - Dichlorobenzene  
1,4 - Dichlorobenzene  
Ethylbenzene  
Toluene

The Operator shall be responsible for the costs of collecting and analyzing the samples. The samples shall be collected by a firm ("Firm") qualified to perform the required water sampling procedures, and selected by the Standing Committee and agreed to by the Operator. The Operator and the Standing Committee shall both be deemed clients of the Firm, except as to the payment obligation, which, except as otherwise provided herein, shall be the Operator's sole responsibility. The Operator and the Standing Committee shall have equal access to the Firm for input as to the services to be rendered. However, if the Standing Committee requests any services

in addition to those contemplated within this Agreement or any agreement with the Consultant, that shall be the sole obligation of the Standing Committee and the Standing Committee shall enter into a separate contract for these services. The Operator shall have no payment obligation for such additional separate contract services. In addition, the Operator and the Standing Committee shall have equal access as to all information pertaining to the services and/or product provided by the Firm. Any contract or agreement with the Firm shall contain an informed consent provision requiring the Firm to consult with both the Standing Committee and the Operator on an equal basis and shall provide that no information in any way pertaining to the services and products to be provided under this Agreement shall, in any way, be privileged or confidential.

The Standing Committee shall instruct the Firm to deliver the test results to the Standing Committee within sixty (60) days from the receipt of the notice of the Standing Committee's selection.

Within five (5) days of submission of the well test results, the Firm will prepare a brief letter to each property owner and Standing Committee with a layperson's explanation of the laboratory test results.

**Initial Response to Well Contamination.** [A] If the test of a sample collected by the Operator, Wisconsin Department of Natural Resources ("Department"), or a third party from a private water supply well (said test to have been conducted in accordance with Department protocols for sampling and analysis, including the use of a Department-certified laboratory) indicates an exceedance of a primary non-bacterial maximum contaminant level as defined in NR 809 of the Wis. Adm. Code, or a health-related Enforcement Standard as defined in NR 140.10 of the Wis. Adm. Code, then:

The Firm shall, upon notice from the Standing Committee, secure a sample from said well and test the same [utilizing the procedure stated above] to confirm the exceedance. The Firm shall deliver the test results to the Standing Committee and the Operator within thirty (30) days of said notice. If the results of this test confirm the exceedance, then the exceedance will be said to have been documented.

If the results of this test do not confirm the exceedance, then the Firm shall collect a third sample utilizing the same procedure. The Firm shall deliver the test results to the Standing Committee and the Operator within sixty (60) days of

said notice. If the results of the third sample confirm the exceedance, then the exceedance will be said to have been documented. If the results of the third sample do not confirm an exceedance, then the exceedance will be said not to have been documented.

[B] If the results of the Firm test under subparagraph [A] document the exceedance, then the Operator shall forthwith initiate a "First Response" and deliver, at its sole cost, potable water to residents and livestock residing upon the property served by the well. This "First Response" shall be for the interim period until the full scope of the contamination is determined. However, the Operator's obligation to provide potable water to livestock shall be contingent upon the City of Muskego, City of Franklin, and/or other municipal water sources selling water to the Operator at a cost as is then determined by the Wisconsin Public Service Commission.

The foregoing "First Response" procedure for providing water upon the documentation of an exceedance shall only be binding upon the Operator if: (i) the well at which the exceedance was detected is within the Well Protection Area, and (ii) the well owner and tenant, if any, reasonably cooperates with the Operator in the investigation under subparagraphs [D] and [E].

[C] If the results of the Operator's test under subparagraph [A] document the exceedance, then the Operator shall also test the well for the following inorganic substances: arsenic, cadmium, chromium, lead, mercury, barium, selenium, silver, copper and zinc.

[D] If upon further investigation, including additional testing by the Operator, it is determined by the Department that the exceedance is caused by a source other than a landfill, then the Operator's obligation to provide potable water will cease and the following sections shall not apply.

**Determining the Scope of Contamination.** Once an individual well has been identified as contaminated, the Standing Committee shall immediately select five (5) additional wells for testing, located either in close proximity to the contaminated well, or in the hypothesized path the contaminants traveled between the landfill and the contaminated well. These tests shall be above and beyond the number performed in normal Background Testing.

The purpose of this additional testing is to more completely delineate the entire scope of the drinking water contamination so

that an appropriate remedy can be obtained. The Operator shall be responsible for requiring the Firm to expeditiously testing the newly-selected wells in the same manner as the contaminated well.

The Standing Committee shall continue selecting new wells for testing, in sets of five (5), as long as at least one (1) of the wells in the last previous set tested was contaminated. The wells selected need NOT be confined to the Well Testing Area.

The Standing Committee may, in its sole discretion, select fewer than five (5) wells for testing; however, if none of the newly selected wells is contaminated, testing at the Operator's expense shall be deemed completed.

The Standing Committee shall notify the Operator, once it is satisfied that the full extent of the problem has been determined. The Operator shall thereafter have one (1) month from said notice to present proposals for a permanent remedy to the Standing Committee. The proposal presented shall include a comprehensive solution in the form of a technical plan, with associated costs and scheduling included. The Operator shall be responsible for implementing the plan.

If the Operator does not present a viable plan within the allotted month, the Standing Committee shall take steps to create one of its own. Those steps may include working with contractors, consultants and other professionals the Standing Committee deems necessary to accomplish an adequate "Work Plan" to remedy the contamination. All costs for this planning and subsequent implementation are the responsibility of the Operator and shall be paid within thirty (30) days of being invoiced.

The Standing Committee and the Affected Municipality(s) shall be the official source(s) of information released to the public about such an occurrence. All such information shall be freely distributed by the Standing Committee throughout the fact-finding process. The Operator shall pay all costs incurred by the Standing Committee to communicate with affected residents in the affected and surrounding areas (e.g., cost of copying, mailing, publications, etc.).

**Permanent Remedy for Groundwater Contamination.** The Operator shall take appropriate measures to provide a permanent potable water supply, equivalent to that the homeowner(s) enjoyed before the landfill-related problem(s) occurred. This includes delivering water to each affected home (whether inside or outside of the Well

Testing Area) via underground pipes connected to the existing household plumbing, as though the new connection was the existing water supply, and with sufficient water pressure and flow capacity to allow the homeowner to utilize all the existing facilities on the property in a fashion to which they were accustomed.

This remedy might be affected by removing the source of contamination and restoring the contaminated well(s); by drilling new individual wells; by drilling new community or neighborhood wells; or by obtaining water from an already existing source (e.g., the local city water utility). In no way shall water hauled to a property in a vehicle be considered adequate for a permanent solution.

The Permanent Solution shall be expedited with all reasonable haste, and the Standing Committee shall oversee the scheduling of the project and take action to see to the Operator's completion of the Permanent Solution according to the proposed schedule. The Standing Committee shall keep all affected residents informed about the status of the situation on a monthly basis.

Addendum to Exhibit "E"  
ACCESS AND WELL SAMPLING AGREEMENT  
Property Protection Program  
Superior Emerald Park Landfill  
Muskego, Wisconsin

I, \_\_\_\_\_,  
owner/occupant of the property located at \_\_\_\_\_  
\_\_\_\_\_, grant the  
Sampling Agency (SA), and their agents, employees, and/or  
independent contractors the right to temporarily interrupt the  
well owner/occupant's water supply for the purpose of well  
inspection and sampling. Such temporary interruption shall only  
occur when the well owner/occupant and SA agree to a mutually  
convenient time within the restrictions placed on such sampling  
by the Superior Emerald Park Landfill Standing Committee or any  
regulatory agency requiring that such sampling occur.

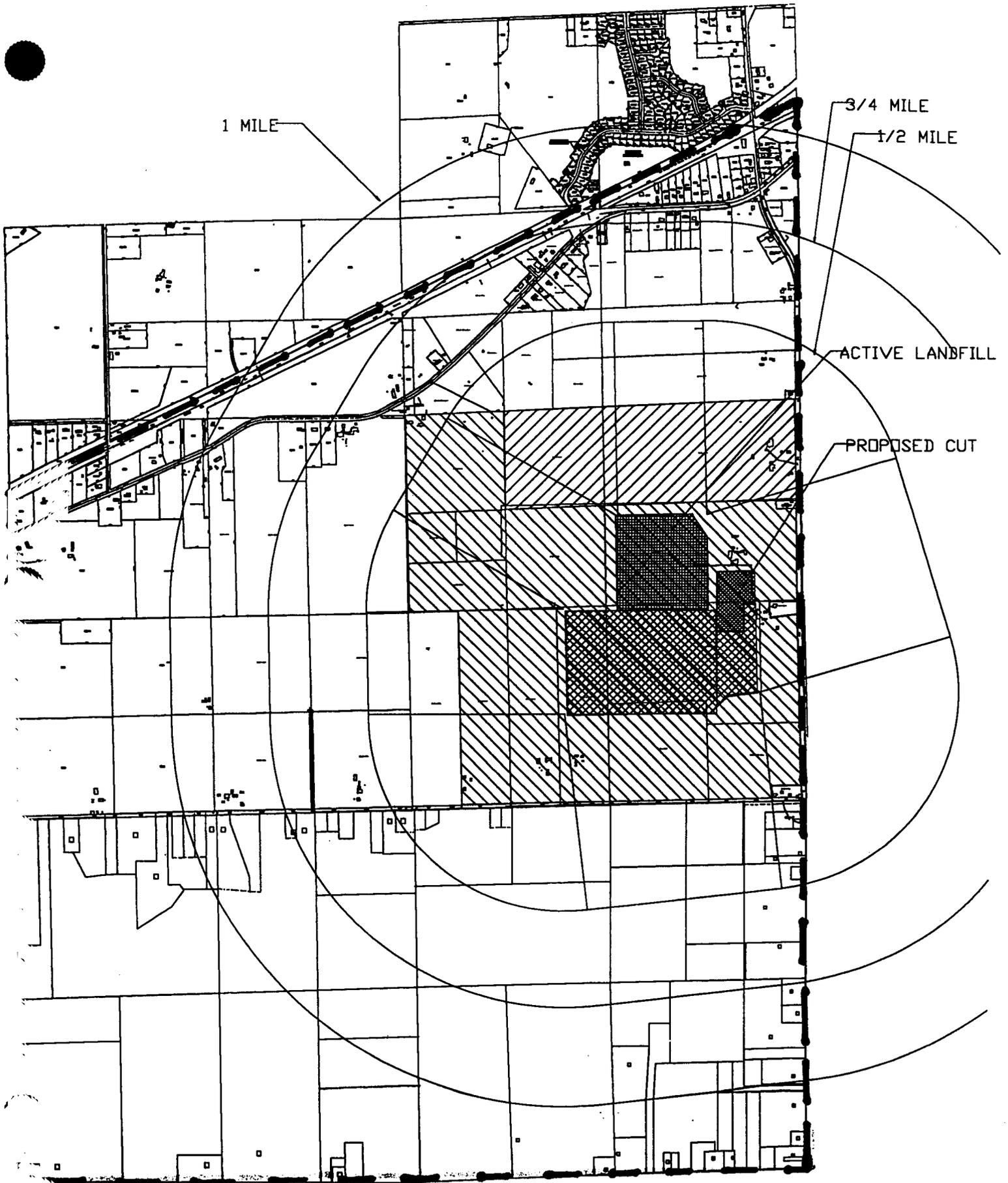
SA, its agents, employees, and/or contractors will take all  
responsible steps to prevent:

- polluting the waters of well(s) on the premises.
- damaging the well(s), pump(s) and/or casing(s) located  
on the property.

SA agrees to correct any of the above-noted problems arising  
due to the negligent acts or willful misconduct of SA, its agents,  
employees, and/or independent contractors. Well owner/users,  
however, shall not hold SA and/or its independent contractor liable



# WELL TEST AREA MAP



Draft Well Test Area Parcel List							
	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>	
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>	
1	E-Nor	01-001-000	S98 W12712 Loomis Dr.	Muskego, WI 53150	Alex	George V.	Land - No well
2	Nor	01-003-000	8916 N. Raynor Ave	Franksville, WI 53126	Meyers	Blanch	
3	Nor	01-004-000	8832 N. Raynor Ave	Franksville, WI 53126	Hintz	Jack & Kathleen	
4	New	01-005-000	1939 W. Oakwood Rd.	Oak Creek, WI 53154	Gaffney	Fredrick	Rental
5	New	01-006-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Carol	
6	New	01-007-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Carol	
7	New	01-008-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Harold	
8	New	01-008-010	7562 Seaspring Dr. #201	Hunnington Beach, CA 92648	Hart	Jeffery & Kimberly	Land
9	Nor	01-008-020	21923 Eight Mile Rd.	Muskego, WI 53150	Feustel	Cory & Jodi	
10	Nor	01-008-030	21719 Eight Mile Rd	Muskego, WI 53150	Torres	Ysidro	
11	New	01-008-040	P.O. Box 1143	Menomonee Falls, WI 53052	Habitat for Humanity of Wauk Co. Inc.		Land
12	New	01-009-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Harold	
13	New	01-010-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Harold	21806 Eight Mile Rd.
14	Nor	01-011-000	8702 N. Raynor Ave	Franksville, WI 53126	Datka	Myron & Amy	
15	New	01-012-000	8702 N. Raynor Ave	Franksville, WI 53126	Datka	Myron & Amy	
16	Nor	01-013-000	8608 N. Raynor Ave	Franksville, WI 53126	Sanford	Dennis & Judith	
17	12	01-014-000	21636 Seven Mile Rd.	Franksville, WI 53126	Drought	Gene & Gerald	
18	13	01-015-000	21636 Seven Mile Rd.	Franksville, WI 53126	Drought	Gene & Gerald	
19	14	01-016-000	21510 Seven Mile Rd.	Franksville, WI 53126	Drought	Dale	
20	E-Nor	01-017-000	8412 Raynor Ave.	Franksville, WI 53126	Ellerton	Harold W.	
21	16	01-017-001	21414 Seven Mile Rd.	Franksville, WI 53126	Waldron	Donald & Barbara	
22	21	01-017-002	21224 Seven Mile Rd.	Franksville, WI 53126	Schaefer	Family Living Trust	
23	15	01-017-003	21414 Seven Mile Rd.	Franksville, WI 53126	Waldron	Donald & Barbara	
24	17	01-017-004	W198 S10957 Racine Ave	Muskego, WI 53150	De Back	Harold	
25	15	01-017-006	21414 Seven Mile Rd.	Franksville, WI 53126	Waldron	Donald & Barbara	
26	23	01-017-010	11920 W. Arthur St	West Allis, WI 53227	Duerr	Tim & April	
27	20	01-017-011	25903 W. Loomis Rd.	Wind Lake, WI 53185	Wolfert	Gregory & Cherye	
28	23	01-017-020	11920 W. Arthur St	West Allis, WI 53227	Duerr	Tim & April	
29	19	01-018-000	21324 Seven Mile Rd.	Franksville, WI 53126	Hunjadi	Richard & Carol	
30	18	01-019-000	21332 Seven Mile Rd.	Franksville, WI 53126	Hunjadi	Donald	
31	Nor	01-020-000	8502 N. Raynor Ave	Franksville, WI 53126	Mente	Clarence J.	
32	E-Nor	01-021-000	Raynor Ave	Franksville, WI 53126	Waukesha Block Co.		
33	E-Nor	01-022-000	Raynor Ave	Franksville, WI 53126	Waukesha Block Co.		
34	24	01-024-000	8122 Raynor Ave	Franksville, WI 53126	Datka	Robert G.	
35	22	01-026-000	21204 Seven Mile Rd.	Franksville, WI 53126	Brulan	Richard & Mardell	
36	25	01-027-000	8108 Raynor Ave	Franksville, WI 53126	Gale	Eve Spanic	

Draft Well Test Area Parcel List							
	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>	
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>	
37	E-Nor	01-028-000					Drought School
38	Nor	01-031-000	8808 N. Raynor Ave	Franksville, WI 53126	Ambramowski	Harold	
39	New	02-001-000	W198 S10957 Racine Ave	Muskego, WI 53150	De Back	Harold	22037 Eight Mile Rd.
40	Nor	02-001-010	22037 Eight Mile Rd.	Muskego, WI 53150	Barwick	Robert & Susan	
41	New	02-001-020	N162 W19309 Oakland Dr.	Jackson, WI 53037	DeBack	Dean & Carol	2 Family
42	Nor	02-001-030	22217 Eight Mile Rd.	Muskego, WI 53150	Antezak	Paul & Dawn	
43	Nor	02-001-040	22207 Eight Mile Rd	Muskego, WI 53150	Ottoson Jr.	Robert & Elizabeth	
44	Nor	02-001-051	22123 Eight Mile Rd	Muskego, WI 53150	Hough	Herbert & Brenda	
45	New	02-002-000	22013 Eight Mile Rd.	Muskego, WI 53150	Schill	Albert	Rental
46	New	02-004-000	W198 S10957 Racine Ave	Muskego, WI 53150	De Back	Harold	22057 Eight Mile Rd.
47	Nor	02-005-000	22429 Eight Mile Rd	Muskego, WI 53150	Kopidlowski	Wayne & Lisa	
48	Nor	02-005-010	22243 Eight Mile Rd	Muskego, WI 53150	Menako	James & Debra	
49	Nor	02-005-020	22439 Eight Mile Rd	Muskego, WI 53150	Sekula	Mike	
50	New	02-005-030	22243 Eight Mile Rd	Muskego, WI 53150	Mehako	James & Debra	
51	Nor	02-006-001	22619 Eight Mile Rd	Muskego, WI 53150	Funk Jr	Roy	
52	Nor	02-006-010	22505 Eight Mile Rd	Muskego, WI 53150	Ludwig	Lois	
53	New	02-006-020	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
54	New	02-006-021	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
55	New	02-006-022	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
56	New	02-006-023	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
57	New	02-006-024	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
58	Nor	02-006-031	22637 Eight Mile Rd	Muskego, WI 53150	Young	Jesse & Cheryl	
59	4	02-006-033	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	
60	1	02-006-132	6198 Revere Rd	Racine, WI 53402	Laffin/Pradarelli	Daniel/Gina	
61	2	02-006-232	22737 Eight Mile Rd.	Muskego, WI 53150	Sellner	Mark & Lori	
62	3	02-007-000	22825 Eight Mile Rd.	Muskego, WI 53150	Deavers	Dale A.	
63	7	02-008-011	27402 Malchine Rd.	Waterford, WI 53185	Peters	Mark & Rosemary	
64	6	02-008-012	S69 W22945 National Ave	Big Bend, WI 53103	Peters	Jonathan Paul	
65	5	02-008-013	22933 Eight Mile Rd.	Muskego, WI 53150	Swartz	David & Sharon	
66	W-Nor	02-009-000	5410 Sunny Lane	Waterford, WI 53185	Rasmusson	Ronald	Land - No well
67	W-Nor	02-010-000	22930 Seven Mile Rd.	Muskego, WI 53150	Lange	James & Amy	
68	W-Nor	02-010-010	22930 Seven Mile Rd.	Muskego, WI 53150	Lange	James & Amy	Land - No well
69	W-Nor	02-011-000	22502 Seven Mile Rd.	Muskego, WI 53150	Huckstorf	Gerald & Deborah	
70	W-Nor	02-011-100	22502 Seven Mile Rd.	Franksville, WI 53126	Huckstorf	Gerald & Deborah	Land - No well
71	8	02-012-000	22428 Seven Mile Rd.	Franksville, WI 53126	Davitz	Harvey	
72	9	02-013-000	22020 Seven Mile Rd.	Franksville, WI 53126	Schubring	Brian & Michelle	

Draft Well Test Area Parcel List						
	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>
73	10	02-013-010	25505 W. Loomis Rd.	Wind Lake, WI 53185	Bajarek	Frank
74	11	02-014-000	22204 Seven Mile Rd.	Franksville, WI 53126	Hayne	William & Jenilynne
75	n-msk	2257 976	W125 S9808 North Cape	Muskego, WI 53150	Berka	Judith
76	n-msk	2257 980	W125 S9819 North Cape	Muskego, WI 53150	Kloskowski	Scott & Jean
77		2257 985	5820 S. 109th St.	Hales Corners, WI 53150	Wagner	Clarence J.
78		2257 986	S98 W12772 Loomis Rd.	Muskego, WI 53150	Slak	Margaret L.
79		2257 987	S98 W12808 Loomis Rd.	Muskego, WI 53150	Brien	Karl L. & Dawn
80		2257 989	S98 W12878 Loomis Rd.	Muskego, WI 53150	Bartes	LeVerne J.
81		2257 990	S98 W12904 Loomis Rd.	Muskego, WI 53150	Weissbrodt	Mark A.
82		2257 992	S98 W12970 Loomis Rd.	Muskego, WI 53150	Eckstein	John F.
83		2259 980	W124 S10227 S. 124th St.	Muskego, WI 53150	Boehm	Robert C.
84		2259 981	W124 S10077 S. 124th St.	Muskego, WI 53150	Machulak	Walter & Audrey
85		2259 982	S99 W13201 Loomis Rd.	Muskego, WI 53150	Eigenberger	Claude A.
86		2259 983	S99 W13277 Loomis Dr.	Muskego, WI 53150	Jung	Norman
87		2259 985	S100 W13399 Loomis Dr.	Muskego, WI 53150	Martins	Gerald
88		2259 986	S100 W13421 Loomis Dr.	Muskego, WI 53150	Lentz	Joseph
89		2259 987	S100 W13499 Loomis Dr.	Muskego, WI 53150	Wertz	John
90		2259 988	S100 W13475 Loomis Dr.	Muskego, WI 53150	Tesch	Barbara L.
91		2259 989	S100 W13497 Loomis Dr.	Muskego, WI 53150	Lossman	Larry & Connie
92		2259 990	S100 W13547 Loomis Dr.	Muskego, WI 53150	Dibb	Donald
93		2259 992	S102 W13815 Loomis Dr.	Muskego, WI 53150	Jankowski	Russell/Donna
94		2259 993 001	S102 W13945 Loomis Dr.	Muskego, WI 53150	Marold	Alice L.
95		2259 995	S99 W13259 Loomis Dr.	Muskego, WI 53150	Counter	Donald & Peggy
96		2259 995 001	S99 W13381 Loomis Dr.	Muskego, WI 53150	Arbinger	Jeffrey & Kathleen
97		2259 996	S100 W13510 Loomis Dr.	Muskego, WI 53150	Lund	Verner L.
98		2259 997	S100 W13474 Loomis Dr.	Muskego, WI 53150	Paul	Michael
99		2259 999	S100 W13402 Loomis Dr.	Muskego, WI 53150	Schultz	Virginia
100		2260 989	W124 S10293 S. 124th St.	Muskego, WI 53150	Malkowski	Edmund
101		2260 993	S99 W12953 Loomis Rd.	Muskego, WI 53150	White	Ruth I.
102		2260 994	S99 W12917 Loomis Rd.	Muskego, WI 53150	Peuse	Ronald
103		2260 995	S99 W12897 Loomis Rd.	Muskego, WI 53150	Lang	Gene & Karen
104		2260 996	S99 W12857 Loomis Rd.	Muskego, WI 53150	Brace	Ellsworth W.
105		2260 997	S99 W12817 Loomis Rd.	Muskego, WI 53150	Banaszynski	Andrew
106		2260 998	W125 S9905 North Cape	Muskego, WI 53150	Krause	Evelyn/Margaret
107		2260 998 001	W124 S9995 North Cape	Muskego, WI 53150	Bethlehem Lutheran Church	
108		2264 998	S102 W14040 Loomis Dr.	Muskego, WI 53150	Pellman	Marvin



Exhibit "F"

PROPERTY VALUE PROTECTION PLAN

All Owners of record of properties described in Addendum 1 to this Exhibit shall be beneficiaries of this Property Value Protection Plan. The Operator shall notify all of said owners of their benefits under this Plan, by certified mail, return receipt requested, within 30 days after the last Affected Municipality executes the Final Negotiated Agreement or within 120 days after the Agreement is executed by the Emerald Park Negotiating Committee, whichever occurs sooner. A second notice shall be submitted to said owners by certified mail, return receipt requested, within 30 days of the day that waste is initially received or disposed of in the Active Fill Area.

However, the Operator shall have no obligation to guarantee the value of or to purchase any property for which a final subdivision plat was approved and recorded or the property was otherwise subdivided after the date Superior Services/SEPLI executes the Final Negotiated Agreement, unless the resulting parcel is owned by the same person following the subdivision as before, but only one such parcel shall qualify for the protection. For the purposes of this Agreement, "otherwise subdivided" shall mean any parcel created by a recorded certified survey map or created by a metes and bounds division parcel conveyed by a recorded deed. This protection shall apply to

properties that are vacant as of the Effective Date of the Final Negotiated Agreement, but are subsequently improved with non-commercial or non-industrial structures.

The Property Owners listed in the attached Property Value Protection list shall automatically qualify under the following Plan.

**Addendum 1 to Exhibit "F"**

**Property Value Protection Plan Map  
and**

**Tax Key Numbers of Properties Within Plan Boundaries**

Actual ownership as of the date of the filing of the Final Agreement with the Waste Facility Siting Board shall supersede the attached listing of Property Owners for purposes of qualifying under this Plan.

Addendum 2 to Exhibit "F"

PROPERTY VALUE PROTECTION PLAN  
(Expansion Area)

1. Effective Date of Plan. This Plan shall become effective and binding on Guarantor only upon the occurrence of all of the following:

A. Execution of the written Final Negotiated Agreement negotiated by the Local Committee appointed by the municipalities pursuant to § 289.33(7), Wis. Stats., and Guarantor and the City of Muskego; or upon issuance of a Final Arbitration Award;

B. The issuance of all necessary licenses, approvals, permits, etc., if any, as may be required by the City of Muskego to establish and operate the Expansion pursuant to the aforesaid agreement;

C. Issuance by the Wisconsin Department of Natural Resources ("DNR") of a license to the Guarantor for the Expansion described in the Guarantor's Solid Waste Facility permit, said Expansion having been the subject of the negotiations between the Guarantor and the Local Committee.

2. Exercise of Guarantee. In the event that the Property Owners wish to exercise the guarantee of the Property Value Protection Plan, they shall notify Guarantor of same in writing by

certified mail and thereafter they shall make a good faith effort to sell said Property for 120 days. This good faith effort to sell can be done in either of two ways: (1) they may advertise and attempt to sell their Property without the employment of a real estate broker, or (2) they may enter into a residential listing contract with a licensed real estate broker.

In either event, the asking price of said Property, as advertised or set out in the listing contract, shall be mutually agreed to by the Property Owners and the Guarantor. If the parties are unable to agree as to the price of the Property, then the Property Owners shall hire, at Guarantor's expense, a qualified professional appraiser who shall be instructed to determine the fair market value of the Property as follows:

A. Assume that no landfilling or solid waste disposal activities are taking place anywhere near the Property;

B. Any comparables selected by the appraiser shall be located a sufficient distance away from the Emerald Park Landfill site or any other landfill site so that the selling price was not, in the opinion of the appraiser, influenced by the presence of the Emerald Park Landfill site or any other landfill site;

C. The use, zoning classification and the Adopted Master Plan of the Property on the Effective Date of this

Agreement shall be the sole factors to be used by the appraiser in determining the highest and best use of the Property;

D. An appraisal in the form of those customarily used by mortgage lending institutions in the Milwaukee Metropolitan area (i.e., Fannie Mae 10-25);

E. The appraisal shall be prepared in full compliance with any and all state standards and state regulations which pertain to the preparation of an appraisal of the Property, except those standards and regulations which are specifically pre-empted by these instructions; and

F. The appraiser shall note the condition of the premises, both interior and exterior, at the time of the appraisal.

If Guarantor accepts the appraised value, then the Property Owners shall attempt to sell their Property, in either of the two (2) ways described above, at the appraised value.

If the Guarantor does not accept the appraised value it may retain, at its own expense, a qualified professional appraiser who shall be similarly instructed to determine the fair market value of the Property, assuming that no landfilling activities were being undertaken or would be undertaken at the Emerald Park Landfill. In such event, the Property Owners may then elect and shall attempt to

sell their Property in either of the two (2) ways described above, at an asking price equal to the arithmetic average of the two (2) appraised values.

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

For the purpose of this section, "qualified" shall mean a person who is unrelated to the Property Owners, is licensed as may be required by the State of Wisconsin, has no business or other relationship with the Guarantor, and who is a member of at least one (1) national appraisal association.

After the asking price is agreed to or determined through the appraisal process, if Guarantor offers to buy the property for that price, then the Property Owners must either sell the property to the Guarantor or forgo the right to recover any advertising costs from the Guarantor. The Property Owners shall have ninety (90) days in which to make this election, in writing.

If the Property Owners elect to attempt to sell their Property themselves, they shall place a "For Sale" sign on the Property and

shall advertise the Property for sale in the classified section of *The Milwaukee Journal Sentinel* or other newspaper not less than once per week for the 120-day period. Guarantor may supplement this advertising and undertake attempts to find a purchaser for said Property during this period.

Alternatively, if the Property Owners elect to use a broker, they shall give the Guarantor notice of the broker with whom they wish to list their Property prior to the execution of any listing contract. The broker shall be licensed in Wisconsin, not related to the Property Owners, and shall be a member of the Board of Realtors Multiple Listing Exchange, unless such MLS membership is waived by the Guarantor. Both the Guarantor and Property Owners shall act in good faith concerning any attempt to obtain the fair market value of said Property.

Said listing contract shall extend for a term of 120 days and shall specifically provide: (1) that the broker shall list the Property in the Multiple Listing Exchange and shall agree to keep said Property so listed until the occurrence of either the sale of the Property or the expiration of the listing contract, and (2) that the broker shall be paid his/her commission or other payments by the Guarantor, in the event the Guarantor purchases said Property at any time during the term of the listing contract. The Property Owners shall cooperate with the broker in obtaining a

purchaser pursuant to the terms as set out in said listing agreement and shall make, in good faith, all reasonable efforts necessary to conclude a sale pursuant to said terms. No provision hereunder shall be construed to grant the Guarantor any option to purchase rights or rights of first refusal as against any potential third party purchaser during the term of the listing contract. If the Property Owners advertises the Property themselves and sells the same at fair market value or with the consent of the Guarantor as provided for in this Agreement, the Guarantor shall reimburse all actual advertising expenses of the Property Owners.

The Guarantor shall hold harmless, indemnify and defend any Property Owners against a suit by a broker who seeks a commission not permitted under the terms of this Agreement.

3. Offers to Purchase. The Property Owners shall provide the Guarantor with a copy of every Offer to Purchase which they receive for their Property and agree not to accept the same until the Guarantor has given its approval. The Guarantor may approve of an Offer to Purchase at a price below the agreed upon asking price established by the procedure set out in Section 3. In such event, the Guarantor agrees to pay to the Property Owners at the closing, the difference in cash between the selling price set out in the Offer to Purchase and the sales price as established in Section 3.

4. Guaranteed Purchase After 120 Days. If the Property Owners have attempted to sell their Property under either of the methods provided in Section 3 for a period of at least 120 days, then Property Owners may request, in writing, that the Guarantor purchase their Property. However, Guarantor shall have no obligation to purchase the Property until 120 days have expired from the issuance by the Wisconsin Department of Natural Resources of a license to the Guarantor for the Expansion and the issuance of all necessary approvals, permits, etc. as may be required by the Affected Municipalities to establish and operate the Expansion. It is the intention of the Guarantor to avoid panic selling prior to the licensing of the Expansion, and the Property Owners agree that any attempts which they make to sell their Property prior to the time that the Guarantor receives the aforesaid licenses, permissions and approvals for the Expansion, will not be considered in meeting the requirement for sales attempts for 120 days. Guarantor, upon request, will notify the Property Owners, in writing, of the date when it has received the aforesaid licenses, permission and approvals for the Expansion.

The Property Owners shall provide proof of advertising for sale or a copy of the listing contract and an affidavit of good faith attempt to sell said Property. Provided the Property Owners have complied with the foregoing procedure, the Guarantor shall

purchase the Property at the price established by the procedure set out above in Section 3, subject to the conditions set out below. In addition, the Guarantor shall reimburse all actual advertising and out-of-pocket expenses of the Property Owners. If the Property Owners attempted to sell the property themselves, the Guarantor shall, at closing, reimburse the Property Owners for all advertising expenses they incurred.

A. Evidence of Title. Upon 15 days after making such written request for the Guarantor to purchase their Property, the Property Owners shall provide to the Guarantor a commitment for a title insurance policy to be issued in the name of the Guarantor in the amount of the purchase price as provided above. After receipt of such commitment, the Guarantor shall have 30 days to notify the Property Owners of any defects in title caused by the Property Owner by way of a mortgage, judgment lien, repair order, delinquent real estate taxes, or the like, which make the same unmerchantable. Any such defects shall be cured at the expense of the Property Owners. If any defect cannot be cured and the Guarantor is unwilling to waive the same, then the Guarantor shall have no obligation to purchase and the Property Owners shall have no obligation to convey said Property.

B. Documents Required for Closing; Prorations;

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

- i. Government agency or court order requiring repair, alteration or correction of any existing condition.
- ii. Underground storage tanks or any structural, mechanical, or other defects of material significance affecting the property, including but not limited to inadequacy for normal residential use of mechanical systems, waste disposal systems and well, unsafe well water according to State standards, and the presence of any dangerous or

toxic materials or conditions affecting the Property.

Further, the Property Owners shall pay at closing all conveyancing costs typically paid by a seller, including but not limited to: real estate transfer tax and recording fees. The Property Owners shall also execute at closing a standard affidavit as to liens and possession and shall provide lien waivers from all contractors, subcontractors and materialmen who have provided services or materials for said Property within six (6) months prior to closing. Real estate taxes for the year of closing shall be prorated based upon the real estate taxes assessed and levied for the prior year and if the residential Property is a part of a larger tax parcel, then the tax proration shall be based upon the taxes for the improvement, plus the percentage of the taxes which approximates the percentage of the land comprising the Property compared to the total land included in the tax parcel. The Property Owners shall be responsible for and shall pay all utilities through the date of closing. Possession and physical occupancy of the premises shall be given to the Guarantor at closing. Prior to the closing, the Property Owners shall give the Guarantor, or its agent, the right to inspect the Property for the purpose of determining

the existence of any damage to the premises which may have occurred between the date of the first appraisal and the date of the closing. The Property Owners shall be responsible for all damage in excess of normal wear and tear and any claim for such damage shall be presented to the Property Owners prior to closing, or such claim shall be waived. The Property Owners shall repair such damage prior to closing or the reasonable cost of such repair shall either be deducted from the sale price or, at the Property Owners' option, be escrowed from the sales proceeds with a non-party pending judicial determination of any dispute regarding liability therefor or cost thereof.

5. Termination of Guarantor's Obligations. This Property Value Protection Plan shall terminate and Guarantor shall have no obligation to purchase or guarantee the purchase price upon the occurrence of all of the following events: (1) Final Closure of the last Expansion or any Active Fill Area or related landfilling activities at the Solid Waste Facility; (2) Guarantor serves notice of same upon the Property Owners; and (3) the Property Owners do not notify Guarantor of their exercise of the guarantee pursuant to Section 3 above within 60 days after service pursuant to (2) above.

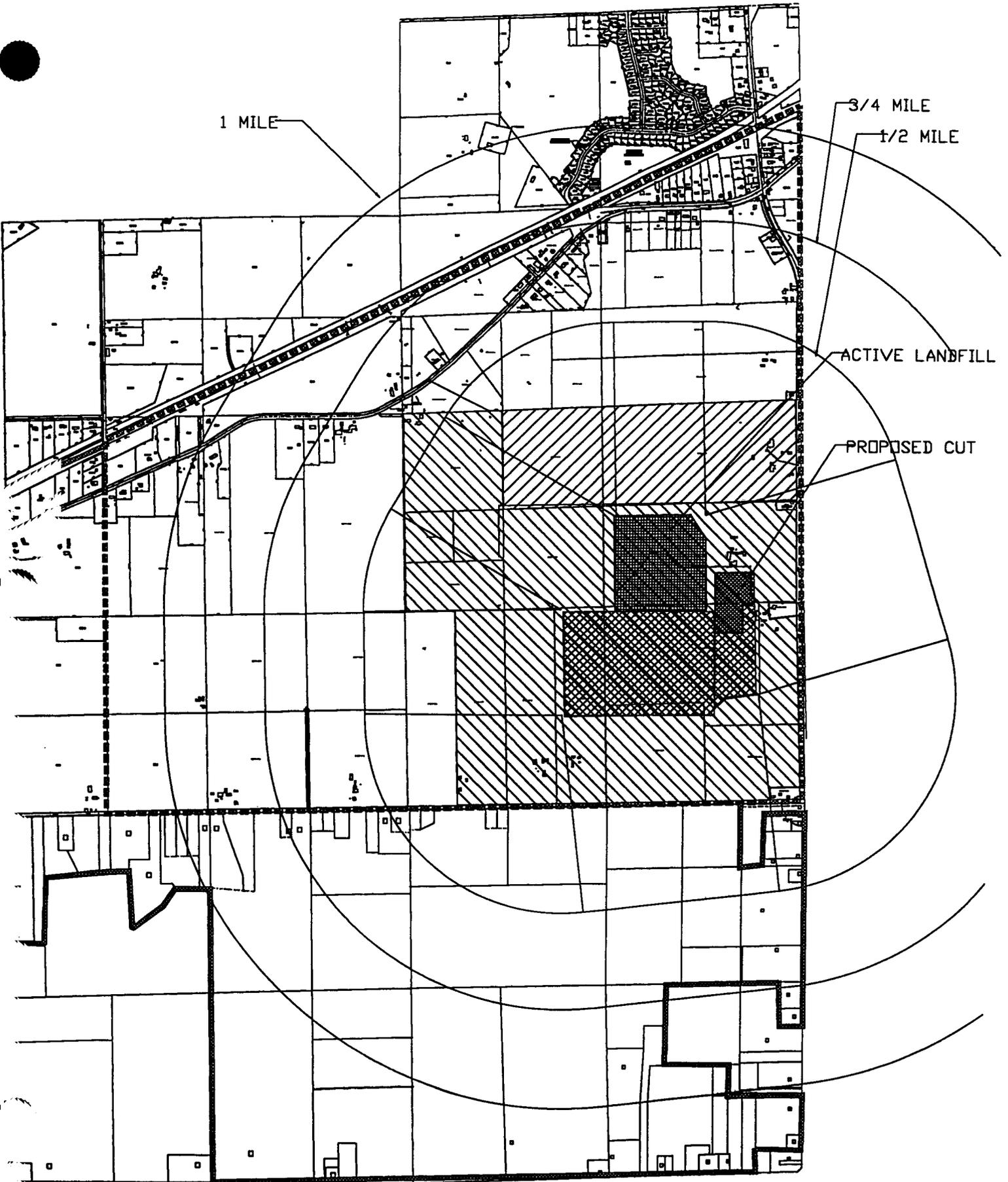
The notice under (2) above shall be served in the same manner as required for a summons under Ch. 801, Wis. Stats. and shall inform the Property Owners of the exercise of the guarantee and the

termination provisions hereunder. Upon timely notice of their exercise of the guarantee by the Property Owners, the terms of the Property Value Protection Plan shall remain in full force and effect.

6. Assignment or Transfer. The guarantee given by the Guarantor pursuant to this Exhibit F and its Addenda is personal to the property owners and terminates when the property is sold, conveyed or otherwise transferred, unless the sale, conveyance or transfer is (a) to a spouse, parent, child, brother, sister, son-in-law or daughter-in-law, or (b) to an heir, beneficiary, personal representative, guardian or trustee. In the event of a sale, conveyance or transfer to one of those described in (a) or (b), the new property owner shall be entitled to the same property value protection and guarantee as the preceding Property Owners.

7. Subsequent Agreements. Any subsequent Final Negotiated Agreement regarding a further expansion of the Emerald Park Landfill may supercede the terms of this Exhibit "F."

# PROPERTY PROTECTION AREA MAP



**DRAFT - Proposed Property Protection Area Parcel List**

	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>	
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>	
1	Nor	01-003-000	8916 N. Raynor Ave	Franksville, WI 53126	Meyers	Blanch	
2	Nor	01-004-000	8832 N. Raynor Ave	Franksville, WI 53126	Hintz	Jack & Kathleen	
3	New	01-005-000	1939 W. Oakwood Rd.	Oak Creek, WI 53154	Gaffney	Fredrick	Rental
4	New	01-006-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Carol	
5	New	01-007-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Carol	
6	New	01-008-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Harold	
7	New	01-008-010	7562 Seaspring Dr. #201	Huntington Beach, CA 92648	Hart	Jeffery & Kimberly	Land
8	Nor	01-008-020	21923 Eight Mile Rd.	Muskego, WI 53150	Feustel	Cory & Jodi	
9	Nor	01-008-030	21719 Eight Mile Rd	Muskego, WI 53150	Torres	Ysidro	
10	New	01-008-040	P.O. Box 1143	Menomonee Falls, WI 53052	Habitat for Humanity of Wauk Co. Inc.		Land
11	New	01-009-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Harold	
12	New	01-010-000	W198 S10957 Racine Ave	Muskego, WI 53150	DeBack	Harold	21806 Eight Mile Rd.
13	Nor	01-011-000	8702 N. Raynor Ave	Franksville, WI 53126	Datka	Myron & Amy	
14	New	01-012-000	8702 N. Raynor Ave	Franksville, WI 53126	Datka	Myron & Amy	
15	Nor	01-013-000	8608 N. Raynor Ave	Franksville, WI 53126	Sanford	Dennis & Judith	
16	12	01-014-000	21636 Seven Mile Rd.	Franksville, WI 53126	Drought	Gene & Gerald	
17	13	01-015-000	21636 Seven Mile Rd.	Franksville, WI 53126	Drought	Gene & Gerald	
18	14	01-016-000	21510 Seven Mile Rd.	Franksville, WI 53126	Drought	Dale	
19	16	01-017-001	21414 Seven Mile Rd.	Franksville, WI 53126	Waldron	Donald & Barbara	
20	21	01-017-002	21224 Seven Mile Rd.	Franksville, WI 53126	Schaefer	Family Living Trust	
21	15	01-017-003	21414 Seven Mile Rd.	Franksville, WI 53126	Waldron	Donald & Barbara	
22	17	01-017-004	W198 S10957 Racine Ave	Muskego, WI 53150	De Back	Harold	
23	15	01-017-006	21414 Seven Mile Rd.	Franksville, WI 53126	Waldron	Donald & Barbara	
24	23	01-017-010	11920 W. Arthur St	West Allis, WI 53227	Duerr	Tim & April	
25	20	01-017-011	25903 W. Loomis Rd.	Wind Lake, WI 53185	Wolfert	Gregory & Cherye	
26	23	01-017-020	11920 W. Arthur St	West Allis, WI 53227	Duerr	Tim & April	
27	19	01-018-000	21324 Seven Mile Rd.	Franksville, WI 53126	Hunjadi	Richard & Carol	
28	18	01-019-000	21332 Seven Mile Rd.	Franksville, WI 53126	Hunjadi	Donald	
29	Nor	01-020-000	8502 N. Raynor Ave	Franksville, WI 53126	Mente	Clarence J.	
30	24	01-024-000	8122 Raynor Ave	Franksville, WI 53126	Datka	Robert G.	
31	22	01-026-000	21204 Seven Mile Rd.	Franksville, WI 53126	Brulan	Richard & Mardell	
32	25	01-027-000	8108 Raynor Ave	Franksville, WI 53126	Gale	Eve Spanic	
33	Nor	01-031-000	8808 N. Raynor Ave	Franksville, WI 53126	Ambramowski	Harold	
34	New	02-001-000	W198 S10957 Racine Ave	Muskego, WI 53150	De Back	Harold	22037 Eight Mile Rd.
35	Nor	02-001-010	22037 Eight Mile Rd.	Muskego, WI 53150	Barwick	Robert & Susan	
36	New	02-001-020	N162 W19309 Oakland Dr.	Jackson, WI 53037	DeBack	Dean & Carol	2 Family
37	Nor	02-001-030	22217 Eight Mile Rd.	Muskego, WI 53150	Antezak	Paul & Dawn	

**DRAFT - Proposed Property Protection Area Parcel List**

	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>	
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>	
38	Nor	02-001-040	22207 Eight Mile Rd	Muskego, WI 53150	Ottoson Jr.	Robert & Elizabeth	
39	Nor	02-001-051	22123 Eight Mile Rd	Muskego, WI 53150	Hough	Herbert & Brenda	
40	New	02-002-000	22013 Eight Mile Rd.	Muskego, WI 53150	Schill	Albert	Rental
41	New	02-004-000	W198 S10957 Racine Ave	Muskego, WI 53150	De Back	Harold	22057 Eight Mile Rd.
42	Nor	02-005-000	22429 Eight Mile Rd	Muskego, WI 53150	Kopidlowski	Wayne & Lisa	
43	Nor	02-005-010	22243 Eight Mile Rd	Muskego, WI 53150	Menako	James & Debra	
44	Nor	02-005-020	22439 Eight Mile Rd	Muskego, WI 53150	Sekula	Mike	
45	New	02-005-030	22243 Eight Mile Rd	Muskego, WI 53150	Mehako	James & Debra	
46	Nor	02-006-001	22619 Eight Mile Rd	Muskego, WI 53150	Funk Jr	Roy	
47	Nor	02-006-010	22505 Eight Mile Rd	Muskego, WI 53150	Ludwig	Lois	
48	New	02-006-020	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
49	New	02-006-021	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
50	New	02-006-022	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
51	New	02-006-023	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
52	New	02-006-024	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	Land
53	Nor	02-006-031	22637 Eight Mile Rd	Muskego, WI 53150	Young	Jesse & Cheryl	
54	4	02-006-033	27402 Malchine Rd.	Waterford, WI 53185	Malchine	Kevin & Michael	
55	1	02-006-132	6198 Revere Rd	Racine, WI 53402	Laffin/Pradarelli	Daniel/Gina	
56	2	02-006-232	22737 Eight Mile Rd.	Muskego, WI 53150	Sellner	Mark & Lori	
57	3	02-007-000	22825 Eight Mile Rd.	Muskego, WI 53150	Deavers	Dale A.	
58	7	02-008-011	27402 Malchine Rd.	Waterford, WI 53185	Peters	Mark & Rosemary	
59	6	02-008-012	S69 W22945 National Ave	Big Bend, WI 53103	Peters	Jonathan Paul	
60	5	02-008-013	22933 Eight Mile Rd.	Muskego, WI 53150	Swartz	David & Sharon	
61	8	02-012-000	22428 Seven Mile Rd.	Franksville, WI 53126	Davitz	Harvey	
62	9	02-013-000	22020 Seven Mile Rd.	Franksville, WI 53126	Schubring	Brian & Michelle	
63	10	02-013-010	25505 W. Loomis Rd.	Wind Lake, WI 53185	Bajarek	Frank	
64	11	02-014-000	22204 Seven Mile Rd.	Franksville, WI 53126	Hayne	William & Jenilynne	
65	n-msk	2257 976	W125 S9808 North Cape	Muskego, WI 53150	Berka	Judith	
66	n-msk	2257 980	W125 S9819 North Cape	Muskego, WI 53150	Kloskowski	Scott & Jean	
67		2257 985	5820 S. 109th St.	Hales Corners, WI 53150	Wagner	Clarence J.	
68		2257 986	S98 W12772 Loomis Rd.	Muskego, WI 53150	Slak	Margaret L.	
69		2257 987	S98 W12808 Loomis Rd.	Muskego, WI 53150	Brien	Karl L. & Dawn	
70		2257 989	S98 W12878 Loomis Rd.	Muskego, WI 53150	Bartes	LeVerne J.	
71		2257 990	S98 W12904 Loomis Rd.	Muskego, WI 53150	Weissbrodt	Mark A.	
72		2257 992	S98 W12970 Loomis Rd.	Muskego, WI 53150	Eckstein	John F.	
73		2259 980	W124 S10227 S. 124th St.	Muskego, WI 53150	Boehm	Robert C.	
74		2259 981	W124 S10077 S. 124th St.	Muskego, WI 53150	Machulak	Walter & Audrey	

**DRAFT - Proposed Property Protection Area Parcel List**

	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>
75		2259 982	S99 W13201 Loomis Rd.	Muskego, WI 53150	Eigenberger	Claude A.
76		2259 983	S99 W13277 Loomis Dr.	Muskego, WI 53150	Jung	Norman
77		2259 985	S100 W13399 Loomis Dr.	Muskego, WI 53150	Martins	Gerald
78		2259 986	S100 W13421 Loomis Dr.	Muskego, WI 53150	Lentz	Joseph
79		2259 987	S100 W13499 Loomis Dr.	Muskego, WI 53150	Wertz	John
80		2259 988	S100 W13475 Loomis Dr.	Muskego, WI 53150	Tesch	Barbara L.
81		2259 989	S100 W13497 Loomis Dr.	Muskego, WI 53150	Lossman	Larry & Connie
82		2259 990	S100 W13547 Loomis Dr.	Muskego, WI 53150	Dibb	Donald
83		2259 992	S102 W13815 Loomis Dr.	Muskego, WI 53150	Jankowski	Russell/Donna
84		2259 993 001	S102 W13945 Loomis Dr.	Muskego, WI 53150	Marold	Alice L.
85		2259 995	S99 W13259 Loomis Dr.	Muskego, WI 53150	Counter	Donald & Peggy
86		2259 995 001	S99 W13381 Loomis Dr.	Muskego, WI 53150	Arbinger	Jeffrey & Kathleen
87		2259 996	S100 W13510 Loomis Dr.	Muskego, WI 53150	Lund	Verner L.
88		2259 997	S100 W13474 Loomis Dr.	Muskego, WI 53150	Paul	Michael
89		2259 999	S100 W13402 Loomis Dr.	Muskego, WI 53150	Schultz	Virginia
90		2260 989	W124 S10293 S. 124th St.	Muskego, WI 53150	Malkowski	Edmund
91		2260 993	S99 W12953 Loomis Rd.	Muskego, WI 53150	White	Ruth I.
92		2260 994	S99 W12917 Loomis Rd.	Muskego, WI 53150	Peuse	Ronald
93		2260 995	S99 W12897 Loomis Rd.	Muskego, WI 53150	Lang	Gene & Karen
94		2260 996	S99 W12857 Loomis Rd.	Muskego, WI 53150	Brace	Ellsworth W.
95		2260 997	S99 W12817 Loomis Rd.	Muskego, WI 53150	Banaszynski	Andrew
96		2260 998	W125 S9905 North Cape	Muskego, WI 53150	Krause	Evelyn/Margaret
97		2264 998	S102 W14040 Loomis Dr.	Muskego, WI 53150	Pellman	Marvin
98		2297 993	S103 W14578 Loomis Dr.	Muskego, WI 53150	Martin	Dale & Maureen
99		2297 994	S103 W14697 Loomis Dr.	Muskego, WI 53150	Campbell	Thomas P.
100		2297 994 001	S103 W14727 Loomis Dr.	Muskego, WI 53150	Lyman	Jack
101		2297 995	S103 W14459 Loomis Dr.	Muskego, WI 53150	Wriedt	Charles
102		2297 998	S103 W14305 Loomis Dr.	Muskego, WI 53150	Albrecht	Donald L.
103		2297 999	S103 W14305 Loomis Dr.	Muskego, WI 53150	Albrecht	Donald L.
104		2297 999 001	S103 W14363 Loomis Dr.	Muskego, WI 53150	Albrecht	Allan & K.
105	w-msk	2298 977	S105 W15578 Loomis Dr.	Muskego, WI 53150	Baggio	James & Dana
106		2298 978	S103 W14823 Loomis Dr.	Muskego, WI 53150	Campbell	Kent & Roseann
107		2298 979	S104 W15043 Loomis Dr.	Muskego, WI 53150	Moran	Gerald & Sharon
108		2298 980	S104 W15103 Loomis Dr.	Muskego, WI 53150	Wieselmann Trust	
109	w-msk	2298 981	S104 W15379 Loomis Dr.	Muskego, WI 53150	Clemence	Bonnie D.
110		2298 981 001	S104 W15169 Loomis Dr.	Muskego, WI 53150	Bowmil	Stephen & Catherine
111	w-msk	2298 982	W152 S10407 Thode Dr.	Muskego, WI 53150	Strem	David

**DRAFT - Proposed Property Protection Area Parcel List**

	<u>Cmte</u>				<u>Owner</u>	<u>Owner</u>	
	<u>ID</u>	<u>Tax Key No.</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Last Name</u>	<u>Frist Name</u>	
112	w-msk	2298 983	W152 S10385 Thode Dr.	Muskego, WI 53150	Wilm	Mark & Lynette	
113	w-msk	2298 984	W152 S10431 Thode Dr.	Muskego, WI 53150	Harry/Hribar	Leonard/Debra	
114	w-msk	2298 985	10212 W FRIAR LN	Muskego, WI 53150	Beuth	George & Judy L.	
115	w-msk	2298 986	S104 W15370 Loomis Dr.	Muskego, WI 53150	Banaszynski	Anthony V.	
116	w-msk	2298 987	S104 W15370 Loomis Dr.	Muskego, WI 53150	Banaszynski	Anthony & M	
117	w-msk	2298 988	S105 W15585 Loomis Dr.	Muskego, WI 53150	Godsell	Mark	
118		2298 997 001	S104 W15020 Loomis Dr.	Muskego, WI 53150	Goodwin	Brent & Kelly	
119		2299 996	S110 W14718 Union Church Dr.	Muskego, WI 53150	Holterman	Joseph & Tracy	
120	w-msk	2299 997	S110 W15262 Union Church Dr.	Muskego, WI 53150	Rohde	Elmer J.	
121	w-msk	2299 998	S106 W16105 Loomis Dr.	Muskego, WI 53150	Sonnentag	George A.	
122	w-msk	2299 998 001	S107 W16108 Loomis Dr.	Muskego, WI 53150	Oberhauser	John B. & Stephanie	
123		2299 999	S110 W14718 Union Church Dr.	Muskego, WI 53150	Madden	Eileen	
124		2300 999	S110 W14230 Union Church Dr.	Muskego, WI 53150	Schweitzer	Harvey & Jacqueline	
125		2303 996	S110 W14230 Union Church Dr.	Muskego, WI 53150	Schweitzer	Harvey & Jacqueline	

Exhibit "G"

LANDFILL CLOSURE PLAN

(To be supplied at a later date)

Exhibit "H"

ZONING PERMITS, CONDITIONAL USE PERMITS  
AND SUMMARY OF EXISTING, PERMITTED USES

(To be supplied at a later date)

## Exhibit "I"

### HOUSEHOLD HAZARDOUS WASTE (HHW) COLLECTION PROGRAM

The Household Hazardous Waste Collection Program is being provided to reduce the risk of future of groundwater contamination at the SEPI Landfill through the proper disposal of hazardous materials such as, old paints, solvents, pesticides, and chemicals from the surrounding service area. The Program consists of one Permanent HHW Collection Facility open to Participating Jurisdictions a minimum of 8 hours twice per month and two one day satellite collections per quarter provided by the Operator.

The following definitions pertain to this program:

- Materials Exchange - means a specific location at the Permanent HHW Collection Facility where residents may obtain unspent materials for their use.
- Participating Jurisdictions - means the municipalities who may utilize the HHW Collection Program, including the Cities of Muskego and Franklin, Waukesha County and the Towns of Raymond and Norway.
- Permanent HHW Collection Facility - means a facility provided by the Operator at a fixed location for the receipt and processing of HHW materials from residents.
- Satellite HHW Collection Site - means a site utilized for a one day collection at which collected materials are received by the Operator, packaged and shipped at the close of the day and the site returned to its normal daily use.

#### I. PROGRAM DESCRIPTION:

Permanent HHW Collection Facility - The Operator shall provide a Permanent HHW Collection Facility and associated materials exchange at (to be determined at a later date). The facility shall be designed to accommodate 75 to 100 vehicles per collection day and include space for storage of containerized materials.

The Operator shall provide:

- staff, supplies, equipment and disposal services necessary to operate the permanent facility.

- properly trained and qualified personnel necessary to staff and administer this program, to accomplish the following:
  1. Insure adequate traffic control.
  2. Insure that only eligible persons (i.e., Residents from Participating Jurisdictions bringing residentially generated materials) participate in this program and maintain a list of residents who use the facility by municipality.
  3. Collect, identify, segregate, and package the collected waste.
  4. Complete all appropriate forms and reports.
  
- All equipment and safety items necessary to perform these services including personal protective equipment to all exposed personnel. The Contractor shall promptly clean and properly dispose of any spilled materials and waste. Prior to the first collection, the Contractor shall establish a containment plan to be approved by the County.
  
- Provide all materials necessary for the implementation of this program, including but not limited to all containers, packaging materials, labeling forms, manifests, forms, etc.
  
- Act as the "Generator", for record keeping, paperwork and liability purposes, of all waste accepted by the Operator during the operation of the HHW collection program from residents of the Participating Jurisdictions.
  
- Segregate hazardous, non hazardous and recyclable materials, package all hazardous wastes in accordance with DOT requirements, prepare container content sheets, manifests, certifications and other shipping documents, transport and dispose of collected hazardous wastes.
  
- Provide space at the Permanent HHW Collection Facility for a product exchange, e.g. unopened materials in original containers, for pickup by residents during normal facility operating hours.
  
- Provide a list of the treatment and/or disposal facilities that the Operator intends to utilize. The selected treatment and/or disposal facilities shall be

appropriately licensed and permitted to store and dispose of hazardous waste collected in accordance with federal regulations, The preferred method of waste management is reuse or recycling, followed by RCRA incineration or chemical treatment. Land disposal is to be minimized to the greatest extent possible.

- Provide a site contingency plan and train all site personnel in site safety procedures such as evacuation signals and routes.
- Provide written evidence to the Standing Committee that the Operator is Licensed as follows:
  - a. Valid Environmental Protection Agency ("EPA") identification numbers for transportation and storage of hazardous and acutely hazardous wastes; and
  - b. A valid Wisconsin permit for transportation of hazardous wastes.
- Administer and collect surveys from residents each collection day to obtain information such as resident's municipality, street address, zip code, types of materials delivered and effectiveness of program advertisements.
- Provide reports as follows:

Provide quarterly reports to the Standing Committee which include, but are not limited to, date and number of households serviced per day, household hazardous waste by type and total pounds/gallons for lab packed and bulked materials, including number and type of drums. Provide an annual report summarizing the information above, provide a table indicating household hazardous waste by type and total pounds for lab packed and bulked materials including number and type of drums, a graph showing waste volume by category; and a pie chart of total costs by category, including disposal, transportation, equipment/supplies, labor and set up charges.

Satellite Collection Sites - As provided in Article VI, Section 5, the EPI Standing Committee will approve the Operator's proposed sites to hold Satellite collections. The Operator will manage two

one day collections each quarter, for a total of 8 days at each site per year. The Operator is responsible for all of the items described under the Permanent Collection Facility, except the materials exchange requirement.

## II. Acceptable Materials

The Operator shall accept only the following materials from eligible residents unless authorized by the Standing Committee:

Automotive Products:	Antifreeze (used) Gasoline/Kerosene (under 5 gallons)
Home Products:	Acids/bases (undiluted) Chemicals - hobby/photo Lead paint Oil based paint, lacquers, varnished (one quart or larger) Strippers/degreasers Thinners/solvents Mercury/thermometers (with silver liquid)
Lawn and Garden/ Outdoor Products	Pool chemicals (unmixed) Rodent bait Weed and bug killers Wood preservatives (penta, Creosote)

## III. INDEMNIFICATION

The Operator shall defend, hold harmless and fully indemnify the Standing Committee and Participating Jurisdictions, its officers, agents, and employees against all claims, actions, and suits brought or asserted against them for death or bodily injury, damage to property (including contamination or adverse effects on the environment) or violation of governmental laws, regulations or orders, and all judgments, penalties, fines forfeitures, costs and expenses (including reasonable attorney fees) resulting therefrom where such claim, action or suit arises from Operator's actions, inactions or responsibilities, including but not limited to any

negligent, willful or intentional act or omission or its failure to perform any obligation requires by this agreement.

#### IV. INSURANCE REQUIREMENTS

The Operator agrees to keep in force and effect insurance policies, as outlined below, issued by a company or companies authorized to do business in the state of Wisconsin. Such insurance shall be primary.

Upon execution of this agreement, the Operator shall furnish a Certificate of Insurance naming the Standing Committee and the Participating Jurisdictions as additional insureds and upon request, certified copies of the required insurance policies. The certificate shall reference this contract.

1. Worker's Compensation and Employer's Liability Insurance - Statutory worker's compensation benefits and employer's liability insurance with a limit of liability not less than \$500,000 each accident. Operator shall require subcontractors not protected under its insurance to take out and maintain such insurance. The Operator shall also provide proof of any subcontractor's certificate of insurance to the Standing Committee before any services are performed by any subcontractor.
2. Commercial General Liability Insurance - Policy shall be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual, independent contractors coverage. Limits of liability not less than \$5,000,000 each occurrence and aggregate.
3. Automobile Liability Insurance - Coverage for all owned, scheduled, hired, and non-owned private passenger autos and commercial vehicles. Limit of liability not less than \$5,000,000 combined single limit.
4. Pollution/Environmental Impairment Liability Insurance - Policy shall provide pollution liability/environmental impairment coverage for injuries/damages/remediation arising out of the collection program including sudden or non-sudden releases at the collection site, treatment, or disposal sites. Limits of liability not less than

\$3,000,000 each occurrence/claim and \$6,000,000 aggregate.

V. Promotion and Education Program

The Operator shall promote the use of the HHW Collection Program through an effective education program. This program shall be prepared by the Operator and reviewed/approved by the Standing Committee prior to implementation.

Exhibit "J"

CITY OF MUSKEGO LANDFILL FUND

(To be supplied at a later date)

Exhibit "K"

CITY OF MUSKEGO STORM WATER ORDINANCE

Exhibit "L"

CITY OF MUSKEGO NOISE ORDINANCE STANDARDS

(To be supplied at a later date)

Exhibit "M"

ACKNOWLEDGED TRANSPORTERS COMPLIANCE POLICY

The Operator shall require any Acknowledged Transporters, other than the Operator or any affiliate of Superior Services, Inc., to agree to the Acknowledged Transporter vehicular requirements in the form as set forth below. These requirements shall be distributed to any Acknowledged Transporter, other than the Operator or any affiliate of Superior Services, Inc., the first time the Acknowledged Transporter uses the Solid Waste Facility and every six (6) months thereafter, either through personal delivery of the requirements at the scale or in the billing statement. The requirements shall be posted at all times at the scale window.

Acknowledged Transporter Vehicular Requirements

I agree, as a representative of \_\_\_\_\_ (contract hauler), that I/our company and/or our representatives will cooperate with Superior Services, Inc. and operate in conformance with the vehicular requirements of the Hickory Meadows Landfill Final Negotiated Agreement and local ordinances to ensure that as a hauler disposing of waste at the Superior Hickory Meadows Landfill our company will comply with the vehicle requirements imposed by the Operator, as stated below. I further acknowledge that the Operator is under obligation to cooperate with the Affected Municipalities in order to substantially minimize Solid Waste transported in such third party vehicles from discharging, leaking, spilling, falling or blowing out of such transport vehicles on public or private lands in the County.

I, \_\_\_\_\_ (contract hauler/individual), agree to conduct the transportation of waste based on the following:

Contract Hauler will operate its transport vehicles so as to substantially eliminate the potential for discharge of waste onto public or private property in the County.

All transport vehicles will be equipped with proper side boards, gates, straps and/or tarps to allow for the safe transport of waste to or from the Solid Waste Facility. This equipment shall meet or exceed DNR or Wisconsin Department of Transportation specifications.

Operating hours will be from 6:30 a.m. to 5:00 p.m., Monday through Friday, and 6:30 a.m. to 12:00 p.m. on Saturday. All vehicles shall cross the scale no later than 15 minutes prior to the end of the day.

Contract Hauler will only approach and leave the Solid Waste Facility utilizing Schneider Road east to Highway 57.

All loads/trucks will be fully contained and/or tarped as they enter the Solid Waste Facility and will be either swept out inside the Active Fill Area of the landfill or tarped when they leave the Solid Waste Facility.

Any discharge of waste onto public or private property or adjacent public or private property or any failure to comply with these requirements that are documented by the Operator or by the Standing Committee and notice is provided to the Operator will result in the following sanctions:

BREACH	AGREED DAMAGES	
LEVEL 1	One per calendar quarter	Verbal warning
LEVEL 2	Second per calendar quarter	Written warning
LEVEL 3	Third per calendar quarter	Second written warning
LEVEL 4	Fourth per calendar quarter	Suspended from using the facility for the next following week
2nd LEVEL 4	Second Level 4 event per calendar year	Suspended from using the facility for the next month

If there are no further breaches of these requirements during a six-month period (not including any suspension period), the Contract Hauler shall be considered to be in compliance with these requirements.

This compliance policy may be amended to conform with any approvals made pursuant to the Agreement or any modifications of the Agreement.

Exhibit "N"

DIRECT PAYMENT RATE SCHEDULE

(To be supplied at a later date)

Exhibit "O"

LOOMIS DRIVE RECONSTRUCTION DESCRIPTION

(To be supplied at a later date)

Exhibit "P"

SOCIOLOGICAL PAYMENTS

The Affected Municipalities recognize that the proposed Landfill Expansion at Emerald Park Landfill will have an adverse impact on the quality of life of certain Residential Properties which are listed in Attachment 1 to this Sociological Impact Payment Exhibit. For each party listed, SEPLI agrees to pay the sum of \$3,000.00, made payable to the Owner(s) of record, on or before January 15, 2000, and January 15 each year thereafter. Payments shall continue until Final Closure is certified by the Department . The payment will increase by the amount of 5% each year, beginning in the year 2001. Drought School and Bethlehem Lutheran Church will be included in this program.

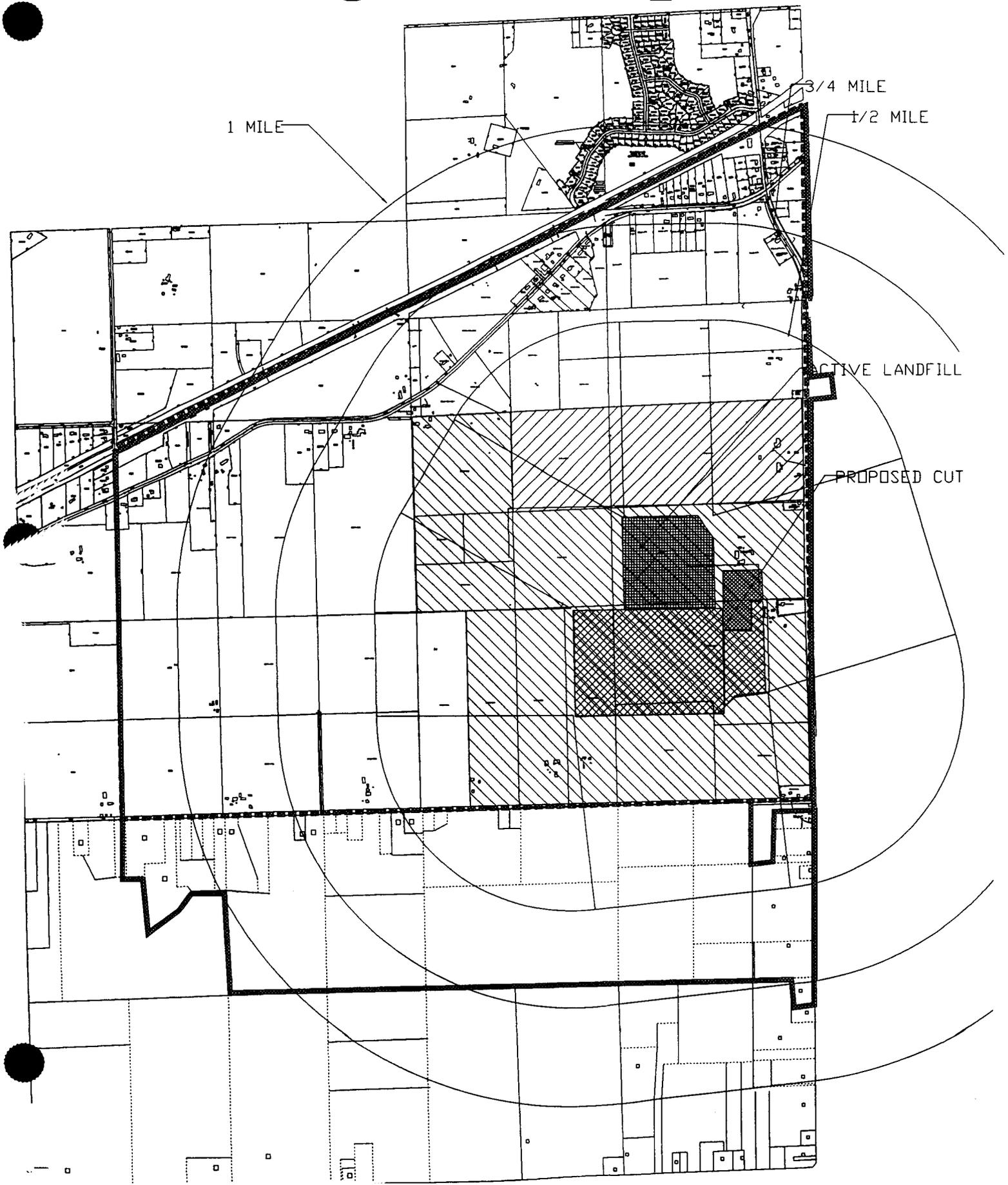
To be eligible, the property must be an owner-occupied dwelling as of January 1 of the year of this program for which payment is sought. Furthermore, only homes that have been constructed and occupied by the Owner as of the date of the signing of the Final Negotiated Agreement by SEPLI shall qualify.

"Owner-occupied" shall include properties held in trusts, solely-owned corporations, partnerships or limited liability entities, or the above-named schools or churches.

The sociological payments will continue and are transferrable to purchasers or transferees of the qualified property. In the event SEPLI 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.

# Sociological Map



**PROPOSED SEPLI SOCIOLOGICAL IMPACT PARCELS**

	<b>Tax Key</b>	<b>Owner Last Name</b>	<b>Owner First Name</b>	<b>Owner Address</b>	<b>Municipality, State Zip</b>
1	2297 999 01	Albrecht	Allan & K.	S103 W14363 Loomis Dr.	Muskego, WI 53150
2	2297 998	Albrecht	Donald	S103 W14305 Loomis Dr.	Muskego, WI 53150
3	2259 995 001	Arbinger	Jeff & Kathleen	S99 W13381 Loomis Dr.	Muskego, WI 53150
4	2260 997	Banaszynski	Andrew	S99 W12817 Loomis Rd.	Muskego, WI 53150
5	2257 989	Bartes	LaVerne	S98 W12878 Loomis Rd.	Muskego, WI 53150
6	2259 980	Boehm	Robert	W124 S10227 S. 124th St.	Muskego, WI 53150
7	2298 981 001	Bowmil	Stephen & Catherine	S104 W15169 Loomis	Muskego, WI 53150
8	2260 996	Brace	Ellsworth	S99 W12857 Loomis Rd.	Muskego, WI 53150
9	2257 987	Brien	Karl & Dawn	S98 W12808 Loomis Rd.	Muskego, WI 53150
10	2298 978 001	Campbell	Kent & Roseann	S103 W14823 Loomis Dr.	Muskego, WI 53150
11	2297 994	Campbell	Thomas	S103 W14697 Loomis Dr.	Muskego, WI 53150
12	2259 995	Counter	Donald & Peggy	S99 W13259 Loomis Dr.	Muskego, WI 53150
13	2259 990	Dibb	Donald	S100 W13547 Loomis Dr.	Muskego, WI 53150
14	2257 992	Eckstein	John	S98 W12970 Loomis Rd.	Muskego, WI 53150
15	2259 982	Eigenberger	Claude	S99 W13201 Loomis Rd.	Muskego, WI 53150
16	2298 997 001	Godwin	Brent & Kelly	S104 W15020 Loomis Dr.	Muskego, WI 53150
17	2299 996	Holterman	Joseph & Tracy	S110 W14718 Union Church	Muskego, WI 53150
18	2259 992	Jankowski	Russell & Donna	S102 W13815 Loomis Dr.	Muskego, WI 53150
19	2259 983	Jung	Norman	S99 W13277 Loomis Dr.	Muskego, WI 53150
20	2260 998	Krause	Evelyn & Margaret	W125 S9905 North Cape	Muskego, WI 53150
21	2260 995	Lang	Gene & Karen	S99 W12897 Loomis Rd.	Muskego, WI 53150
22	2259 986	Lentz	Joseph	S100 W13421 Loomis Dr.	Muskego, WI 53150
23	2259 989	Lossman	Larry	S100 W13497 Loomis	Muskego, WI 53150
24	2259 996	Lund	Verner	S100 W13510 Loomis Rd.	Muskego, WI 53150
25	2297 994 001	Lyman	Jack	S103 W14727 Loomis Dr.	Muskego, WI 53150
26	2259 981	Machulak	Walter & Audrey	W124 S10077 S. 124th St.	Muskego, WI 53150
27	2299 999	Madden	Eileen	S110 W14800 Union Church	Muskego, WI 53150
28	2260 989	Malkowski	Edmund	W124 S10293 S. 124th St.	Muskego, WI 53150
29	2259 993 001	Marold	Alice	S102 W13945 Loomis Dr.	Muskego, WI 53150
30	2297 993	Martin	Dale & Maureen	S103 W14578 Loomis Dr.	Muskego, WI 53150
31	2259 984	Martins	Gerald	S100 W13399 Loomis Dr.	Muskego, WI 53150
32	2298 979	Moran	Gerald & Sharon	S104 W15043 Loomis Dr.	Muskego, WI 53150
33	2259 997	Paul	Michael	S100 W13474 Loomis Dr.	Muskego, WI 53150
34	2260 994	Peuse	Ronald	S99 W12917 Loomis Rd.	Muskego, WI 53150
35	2259 999	Schultz	Virginia	S100 W13402 Loomis Dr.	Muskego, WI 53150
36	2300 999	Schweitzer	Harvey & Jacqueline	S110 W14230 Union Church	Muskego, WI 53150
37	2257 986	Slak	Margaret	S98 W12772 Loomis Rd.	Muskego, WI 53150
38	2259 988	Tesch	Barbara	S100 W13475 Loomis Dr.	Muskego, WI 53150

**PROPOSED SEPLI SOCIOLOGICAL IMPACT PARCELS**

	<b>Tax Key</b>	<b>Owner Last Name</b>	<b>Owner First Name</b>	<b>Owner Address</b>	<b>Municipality, State Zip</b>
39	2257 990	Weissbrodt	Mark	S98 W12904 Loomis Rd.,	Muskego, WI 53150
40	2259 987	Wertz	Margaret	S100 W13499 Loomis Dr.	Muskego, WI 53150
41	2260 993	White (Revocable Trust)	Ruth	S99 W12953 Loomis Dr.	Muskego, WI 53150
42	2298 980	Wieselmann Trust		S104 W15103 Loomis Dr.	Muskego, WI 53150
43	2297 995	Wriedt	Charles	S103 W14459 Loomis Dr.	Muskego, WI 53150
44	01-003-000	Meyers	Blanch	8916 N. Raynor Ave	Franksville, WI 53126
45	01-004-000	Hintz	Jack & Kathleen	8832 N. Raynor Ave	Franksville, WI 53126
46	02-001-010	Barwick	Robert & Susan	22037 Eight Mile Rd.	Muskego, WI 53150
47	02-001-051	Hough	Herbert & Brenda	22123 Eight Mile Rd	Muskego, WI 53150
48	02-001-040	Ottoson Jr.	Robert & Elizabeth	22207 Eight Mile Rd	Muskego, WI 53150
49	02-001-030	Antezak	Paul & Dawn	22217 Eight Mile Rd.	Muskego, WI 53150
50	02-005-010	Menako	James & Debra	22243 Eight Mile Rd	Muskego, WI 53150
51	02-005-000	Kopidowski	Wayne & Lisa	22429 Eight Mile Rd	Muskego, WI 53150
52	02-005-020	Sekula	Mike	22439 Eight Mile Rd	Muskego, WI 53150
53	02-006-010	Ludwig	Lois	22505 Eight Mile Rd	Muskego, WI 53150
54	02-006-001	Funk Jr	Roy	22619 Eight Mile Rd	Muskego, WI 53150
55	02-006-031	Young	Jesse & Cheryl	22637 Eight Mile Rd	Muskego, WI 53150
56	01-011-000	Datka	Myron & Amy	8702 N. Raynor Ave	Franksville, WI 53126
57	01-031-000	Ambramowski	Harold	8808 N. Raynor Ave	Franksville, WI 53126
58	01-013-000	Sanford	Dennis & Judith	8608 N. Raynor Ave	Franksville, WI 53126
59	01-020-000	Mente	Clarence J.	8502 N. Raynor Ave	Franksville, WI 53126
60	93 99 997	Bonney	James	10146 S. 124th St.	Franklin, WI 53132
61	2257 976	Berka	Judith	W125 S9808 North Cape	Muskego, WI 53150
62	2257 980	Kloskowski	Scott & Jean	W125 S9819 North Cape	Muskego, WI 53150
63	01-008-020	Feustel	Cory & Jodi	21923 Eight Mile Rd.	Muskego, WI 53150
64	01-008-030	Torres	Ysidro	21719 Eight Mile Rd	Muskego, WI 53150
65	01-028-000	Drought School	Dist. No. 7		
66	2260 998 001	Bethlehem Lutheran Church		W124 S9995 S 124th St.	Muskego, WI 53150

Exhibit "Q"

PCB IMPACTED SEDIMENTS

"PCB-Impacted Sediments" are defined as those sediments containing PCBs at any concentration from remediation projects authorized for disposal in Wisconsin landfills which comply with the requirements of U.S. EPA Region 5's Approval to the Department to Dispose of PCB-Impacted Sediment in a Wisconsin Landfill, dated January 24, 1995, or any subsequent amendment by EPA-Region V to such approval, or under TSCA.

**CITY OF MUSKEGO  
EPI LANDFILL NEGOTIATION  
BENEFIT VALUE ASSUMPTIONS**

1) Local Negotiation Expenses

A payment of \$200,000 for legal negotiation expenses and a payment of \$200,000 for the contested case hearing costs would be made within a prescribed number of days following the execution of the agreement.

2) Loomis Drive Road

A payment of \$340,000 towards the cost of reconstructing Loomis Drive would be paid to the City after the project is publicly bid, but prior to the award of the construction contract.

3) Muskego/Norway School District Disposal

Free disposal for the School District - currently at 221 tons/year according to their BFI contract using 300 tons/year in 1999 and 450 tons/year in 2013 and a tipping fee increase of 4%/year (see computation sheet). The contract would allow any hauler with School District waste to dump at no charge. This would be for as long as the landfill is open, but at a minimum for 15 years certain.

4) Muskego Department of Public Works Disposal

Free disposal for any wastes from the City DPW currently estimated at 300 tons/year. For analysis purposes, 400 tons/year is assumed for 1999 and will increase to 600 tons/year by 2013. The benefit would be for as long as the landfill is open, but at least for 15 years (see computation sheet). The benefit assumes the tipping fee will increase by 4% per year starting at \$22.50/ton in 1999.

5) Waukesha County Parks Disposal

Free disposal of any wastes from the Waukesha County Park system estimated at 600 tons/year for 1999 and increasing to 1000 tons/year by 2013. The benefit would be for as long as the landfill is open, but at least for 15 years (see computation sheet). The benefit assumes the tipping fee will increase at 4% per year starting at \$22.50/ton in 1999.

6) Free Public Disposal Drop Off For City Residents

Free drop off 9 AM to 4 PM on Friday and 8 AM to 12 noon on Saturdays for residents, estimated at 10 tons/week starting in 1999 and increasing to 15 tons/week by 2013. The benefit assumes the tipping fee will increase by 4% per year starting at \$22.50/ton in 1999 (see computation sheet). The estimated construction cost is \$25,000 and the annual

labor cost is \$11,310/year. This benefit would be for as long as the landfill is open, but at least for a minimum of 15 years.

7) Police Firing Range

A credit of \$50,000 would be acknowledged by the City upon signing of the agreement.

8) Private Well Testing

It was assumed that 55 homes would need well testing for the next 55 years. It was assumed that the costs for the testing is \$400 per home per year. It was also assumed that the well testing costs would escalate at 4% per year (see computation sheet). For purposes of computing the benefit, 15 years was used since any future expansion would continue the well testing requirement. If there is no expansion to the landfill, the City would assume the costs of the well testing program after the first 15 years.

9) Property Value Protection

It was assumed that 55 homes would be placed under the property value protection plan. This plan would be structured to pay for any loss in value of the property caused by the landfill. This would give the existing homeowners an option to sell their property at a pre-landfill price within a period of time (one year?) after the expanded landfill begins operation. EPI believes there will be no property value decrease, however, a figure of \$400,000 was estimated as the value of this protection.

10) Household Hazardous Waste Management Facility

It was assumed that the agreement would require EPI to establish a permanent facility which would be available for use by all affected jurisdictions (siting committee to define). The start up costs for 1999 are assumed to be \$250,000 and the second year costs are assumed to be \$190,000 with the third year costs stabilizing at \$156,000 and then for the last 12 years, the cost would escalate at 4% per year. A schedule would be developed so that if something changes with the program and the scheduled expense is not incurred, the difference would be paid to the City at the end of that year (see computation sheet).

11) Muskego Landfill Compliance Officer

A payment of \$25,000 per year escalating at 4% per year would be made to the City. This money would be used towards the salary of a Landfill Compliance Officer who would monitor both the landfill operations and the terms of the agreement (see computation sheet).

12) Annual Standing Committee Expense

This benefit is meant to fund the costs incurred by a standing committee to review and address any complaints or problems the citizens are having with the landfill. It was estimated that the approximate cost of this committee would be \$10,000 per year (based on the Franklin Agreement). There is some question of whether this is actually a benefit or a result of the landfill expansion. In addition, if the funds are not expended, no benefit will occur. If it is considered to be a benefit, language should be drafted to require a yearly payment of \$10,000 to the City. For the purposes of setting the direct payment rate, it was assumed the City will receive \$10,000 per year with no escalation factor for a period of 15 years (see computation sheet).

13) Tipping Fee Rebate

It was assumed that the City would modify their contract with BFI to be a pick-up and haul contract and that the tipping fee or disposal costs at EPI would be zero. The benefit calculation was based on a wasteload of 2 pounds of waste per day per person. The DOA population estimate for 1998 for Muskego is 20,619 and the 2013 estimate is 29,863. It was assumed that the tipping fee benefit cost is \$22.50/ton and that will escalate at 4% per year during the 15 year contract (see computation sheet). It was also assumed that this benefit would last as long as the landfill was open and at least for a minimum of 15 years.

14) Remaining Life Benefit

The agreement would contain a provision that as of January 1, 1999, all wastes brought into the existing landfill would be charged at the new contract rate per ton. It is assumed that the compaction would reach 2,000 pounds per cubic yard. The benefit difference between the old contract rate and the new contract would be \$1,296,000 ( $\$2.41/\text{Ton} - \$0.77/\text{Ton} \times 790,280$ ) based on an assumed remaining capacity of 790,280 cubic yards (859,000 less 8% cover). Because of the variables involved, the contract would contain a provision that a minimum of \$1,296,000 over the existing contract would be paid to the City on January 1, 2000. If the actual remaining capacity of the existing landfill exceeds 790,280 tons, the new contract rate will continue to apply.

RUEKERT & MIELKE, INC.  
Consulting Engineers

February 16, 1999

Exhibit 3

**CITY OF MUSKEGO  
EPI LANDFILL  
BENEFIT ANALYSIS**

	<u><b>Benefit</b></u>	<u><b>Present Value</b></u>
1)	Local Negotiation Expenses	\$ 400,000
2)	Loomis Drive Road Project	340,000
3)	Muskego/Norway District Disposal	104,000
4)	Muskego DPW Disposal	138,000
5)	Waukesha County Parks Disposal	221,000
6)	Public Disposal	343,000
7)	Police Firing Range	50,000
8)	Private Well Testing	273,000
9)	Property Value Protection	400,000
10)	Household Hazardous Waste Program	1,929,000
11)	Landfill Compliance Officer	311,000
12)	Standing Committee Costs	97,000
13)	Tipping Fee Rebate	2,551,000
14)	Remaining Life Benefit	<u>1,296,000</u>
	Total	\$8,453,000

\$ 8,453,000  
9,867,920 Ton Capacity = \$0.856/Ton Benefit

**MALLARD RIDGE  
BENEFIT ANALYSIS**

	<u>Benefit</u>	<u>Present Value</u> <sup>(3)</sup>
1)	Negotiation Expenses	\$108,000
2)	Tree Replacement	15,000
3)	Free Public Disposal	14,300
4)	Tipping Fee Rebate	113,000
5)	Private Well Testing	17,000
6)	Standing Committee	44,000
7)	Existing Site Benefit	1,282,451
8)	Recycling Benefit <sup>(1)</sup>	?
9)	Town Administration Costs	<u>36,800</u>
	Total	\$1,630,551

**Benefit Computation**

$$\frac{\$1,630,551}{4,331,000 \text{ Ton Capacity}^{(2)}} = \$0.3765/\text{Ton}$$

Notes:

<sup>(1)</sup> To be determined

<sup>(2)</sup> Using a compaction assumption of 2,000 lbs/cu yd

<sup>(3)</sup> Based on 6% interest

**CITY OF MUSKEGO  
EPI LANDFILL NEGOTIATION  
RATE CALCULATIONS**

The rate is to be based on an equivalent Mallard Ridge Contract payment which is \$2.31/Ton for 1998. The \$2.31/Ton escalates at 8% per year. If the EPI rate only escalates at LGIP (5.2%) per year, the starting rate for EPI needs to be adjusted accordingly (see computation sheet). The starting rate for EPI equivalency would be \$2.893/Ton for 1999.

**Mallard Ridge Equivalent Rate Calculation**

Starting Rate	\$2.893/Ton
Plus Indirect Benefit	<u>\$0.377/Ton</u> (see computations)
Total Mallard Ridge Equivalent	\$3.270/Ton

**EPI Contract Calculation**

Starting Rate	\$3.270/Ton
Minus Indirect Benefit	<u>\$0.856/Ton</u> (see computations)
Computed Direct Rate	\$2.414/Ton For 1999

**NOTICE OF FINAL  
NEGOTIATED LANDFILL  
SITING AGREEMENT  
PURSUANT TO WISCONSIN  
STATUTE 289.33**

**COPY of EXHIBIT 4**

**Document No.**

**Document Title**

Superior Emerald Park Landfill, Inc. hereby gives notice that a Final Negotiated Siting Agreement has been entered into between Superior Emerald Park Landfill, Inc., owner of the property described in Exhibit "A" attached hereto, and the Superior Emerald Park Landfill Negotiating Committee which represents the City of Muskego, the City of Franklin, Racine County, Waukesha County, and the Town of Norway, which provides that the property hereinbefore referred to has been encumbered by certain covenants and restrictions that are more specifically set forth in a separate agreement which can be obtained by contacting the Grantor, Superior Emerald Park Landfill, Inc. or the Clerks of any of the aforementioned municipalities. Such restrictions run with the land and constitute limitations on use of the property described in Exhibit 'A' as well as affirmative obligations to the municipality and others, including the aforementioned municipalities.

**Recording Area**

**Name and Return Address**

Hudec Law Offices, S.C.  
2100 Church Street, P.O. Box 167  
East Troy, WI 53120

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1999

\_\_\_\_\_  
Superior Emerald Park Landfill, Inc.

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 1999

\_\_\_\_\_  
Notary Public, Walworth Co., WI  
Commission (expires): \_\_\_\_\_

This document was drafted by:  
Attorney Patrick J. Hudec  
Attorney for the Superior Emerald  
Park Landfill Negotiating Committee  
HUDEC LAW OFFICES, S.C.  
2100 Church Street  
P.O. Box 167  
East Troy, WI 53120  
(414) 642-2200

Exhibit 4

# **WFSB**

# **STIPULATION**

STATE OF WISCONSIN  
BEFORE THE WASTE FACILITY SITING BOARD

---

**in the Matter of the Petition Requesting  
Initiation of Arbitration Pursuant to  
Wis. Stat. 289-33, Involving a Dispute  
Between:**

SUPERIOR EMERALD PARK LANDFILL, INC.,

Petitioner,

and

SUPERIOR EMERALD PARK LANDFILL  
SITING COMMITTEE.

Other Party.

---

**STIPULATION AS TO AGREED UPON  
ISSUES FOR A FINAL NEGOTIATED  
AGREEMENT AS PROVIDED FOR BY  
WISCONSIN STATUTE 289.33(9)(g)  
WHICH SHALL CONSTITUTE A  
MUTUALLY AGREED ARBITRATION  
AWARD.**

Superior Emerald Park Landfill, INC., ("SEPLI"), by its attorneys, Davis & Kuelthau, S.C., by Attorney William S. Roush, Jr., and the Superior Emerald Park Landfill Siting Committee ("Siting, Committee"), by its attorney Hudec Law Offices, S.C., by Attorney Patrick Hudec, do hereby stipulate and agree as follows:

1. That the Negotiated Agreement attached to this Stipulation shall be deemed to be a Final Offer in Arbitration by SEPLI and the Siting Committee and is submitted to the Waste Facility Siting Board as stipulated and agreed upon terms under Wisconsin Statute 289.22(9)(g).
2. That the parties have agreed that the subject matter of the arbitration shall be limited to five issues:
  - A. Direct Payments under Article VI, - Section 1.

- B. Sociological Payments under Article VI, Section 2.
- C. Premium for Out-of-State Waste under Article VI. Section 3.
- D. Waste Volume Surcharge under Article VI. Section 4.
- F. Plan of Operation Enforcement under Article II. Section 4.

3. With respect to those matters at issue set forth above, SEPLI and the Siting Committee shall contemporaneously submit their Final Offers as required by the Board on June 24, 1999.

Dated June 24, 1999.

Dated June 24, 1999.

DAVIS & KUELTHAU, S.C.  
Attorneys for Superior Emerald  
Park Landfill. Inc.

HUDEC LAW OFFICES, S.C.  
Attorneys for Superior Emerald  
Park Landfill Siting Committee

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

William S. Roush, Jr.  
State bar No: 1001662

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

Patrick J. Hudec  
State Bar No: 1001208

SUPERIOR EMERALD PARK LANDFILL, INC.: SOUTHERN EXPANSION

NEGOTIATED AGREEMENT

OPERATOR: SUPERIOR EMERALD PARK LANDFILL, INC.

**Affected Municipalities:**

CITY OF MUSKEGO  
WAUKESHA COUNTY  
CITY OF FRANKLIN  
TOWN OF NORWAY  
RACINE COUNTY

Attorney Patrick J. Hudec  
HUDEC LAW OFFICES, S.C.  
Attorneys for Landfill Negotiating  
Committee  
2100 Church Street  
P.O. Box 167  
East Troy, WI 53120  
Phone: (414) 642-3000  
Fax: (414) 642-7737  
E-Mail: pat@hudeclaw.com

Mr. Scott S. Cramer, General Counsel  
Attorneys for Operator  
Superior Services, Inc.  
One Honey Creek Corporate Center  
125 South 84th Street  
Suite 200  
Milwaukee, WI 53214  
Phone: (414) 479-7800  
Fax: (414) 479-7400  
E-Mail: SSCRAMER@SUPERIORSERV.COM

Mr. Gene Kramer, General Manager  
Superior Emerald Park Landfill, Inc.  
W124 S10629 South 124th Street  
Muskego, WI 53150

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## EXHIBITS

- Exhibit "A" - Active Fill Area
- Exhibit "B" - Superior Emerald Park Landfill - Total Facility Description, as of the Effective Date of this Agreement, Waukesha County, Wisconsin
- Exhibit "C" - Standing Committee
- Exhibit "D" - Air Quality Standards
- Exhibit "E" - Well Water Testing / Well Water Protection Plan
- Addendum to Exhibit "E" - Access and Well Water Sampling Agreement
  - Well Water Test Area Map
  - Well Water Test Area Parcel List
- Exhibit "F" - Property Value Protection Plan and Purchase Agreement
  - Addendum 1 to Exhibit "F" - Property Value Protection Plan Map and Tax Key Numbers of Properties Within Plan Boundaries
  - Addendum 2 to Exhibit "F" - Property Value Protection Plan
- Exhibit "G" - Landfill Closure Plan
- Exhibit "H" - Zoning Permits, Conditional Use Permits and Summary of Existing, Permitted Uses
- Exhibit "I" - Household Hazardous Waste
- Exhibit "J" - City of Muskego Landfill Fund
- Exhibit "K" - City of Muskego Storm Water Ordinance
- Exhibit "L" - City of Muskego Noise Ordinance Standards
- Exhibit "M" - Acknowledged Transporter Procedures
- Exhibit "N" - Direct Payment Rate Schedule
- Exhibit "O" - Loomis Drive Reconstruction Description
- Exhibit "P" - Sociological Impact Payments
- Exhibit "Q" - PCB Impacted Sediments

## TITLE AND INTRODUCTION

This Agreement ("Agreement") is made and entered into by and between Superior Emerald Park Landfill, Inc. (SEPLI), a Wisconsin corporation (hereinafter referred to as "Operator") and the City of Muskego, City of Franklin, Racine County, Waukesha County, and the Town of Norway, 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 § 289.33, Wis. Stats. This Agreement between the SEPLI Landfill Siting Committee (Superior Emerald Park Landfill, Inc.: Southern Expansion) and the Operator shall be deemed a Final Agreement upon approval thereof by the Negotiating Committee, the Affected Municipalities and the Operator.

This Agreement shall be known as the "SEPLI Landfill: Southern Expansion Final Negotiated Agreement".

### OPERATOR OBLIGATION TERM SUMMARY

The Operator's obligations and requirements under this Agreement shall commence upon the date this Agreement is approved and executed by all parties. A summary of those obligations are set forth below and shall be deemed to be obligations of the Operator for the term indicated below, unless a greater length of time is specifically noted elsewhere in this Agreement.

1. The following obligations and requirements terminate when and upon the Operator completing its Final Closure of the Active Fill Area, as approved by the DNR:

- A. Emergency Disposal limitations.
- B. Hours of operation of Solid Waste Facility and authorized uses, excluding construction, closure and post-closure activities.
- C. Drop off and Disposal of municipal and residential waste.
- D. Waste restrictions on type of waste which may be disposed of in the Active Fill Area.
- E. Purchase agreements with residential property owners, subject to the notice provisions therein.

- F. Tipping rebates.
- G. Compensation paid pursuant to this Agreement to Affected Municipalities.
- H. Litter control.
- I. Sociological Payments

2. The following obligations and requirements terminate upon expiration of the Operator's Long-Term Care obligation for the Expansion as currently defined in Ch. 289, Wis. Stats. (1997-1998):

- A. Existence of the Standing Committee.
- B. Sampling of the wells required in the Agreement, by the DNR and by the Standing Committee.
- C. Continuation of well water testing requirements.
- D. Maintenance of clay cap including vegetative cover.
- E. Maintenance of surface water diversions, erosion and runoff controls.
- F. Landscaping.
- G. Final use.
- H. Maintenance of any bond or other proof of financial responsibility if required by any state agency or by this Agreement.
- I. Continuation of air quality monitoring if required by a state agency or by this Agreement.
- J. Compliance with all applicable laws and regulations except as waived herein.
- K. Roadway designation and use.
- L. Vehicle requirements.
- M. Operator notification and reporting to Affected Municipalities.
- N. Hours and days of operation.

- O. Dust, dirt and debris control.
- P. Groundwater monitoring.
- Q. Noise, air quality, rodent, insect, fire disasters and hazard controls.
- R. Municipal access to facility.
- S. Active Fill Area repair, maintenance and reconstruction.
- T. Hazardous Waste prohibitions and requirements.
- U. Surface water, standing open water, wetland and green space controls.
- V. Post-closure alienation and change in ownership.
- W. Disposal, Storage and Treatment Operations.
- X. Post-Closure Site Plan.

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. Post-Closure Site Plan and maintenance obligations.

## ARTICLE I

### DEFINITIONS

**Active Fill Area** means the total capacity approved by the Department of Natural Resources as the Disposal capacity for the Disposal of Solid Waste by the Operator at the Solid Waste Facility, in the area depicted and described in Exhibit "A", herein incorporated by reference in this Agreement. Such term shall also specifically include the entire footprint and disposal capacity volume of the previously permitted landfill site. This approved area shall not include any Expansion of the Active Fill Area or any Expansion of the Solid Waste Facility for the purpose of providing additional Disposal capacity area at the Solid Waste Facility or at the Active Fill Area.

**Acknowledged Transporter** means any person who is identified orally or in writing by the Operator at any time as a transporter of Solid Waste to or from the Solid Waste Facility and/or any person who disposes Solid Waste in the Active Fill Area at the Solid Waste Facility for the purpose of conducting business-related Disposal.

**Affected Municipality or Affected Municipalities** shall mean the Cities of Muskego and Franklin, Waukesha and Racine Counties, and the Town of Norway.

**Commencement Date or Effective Date.** The Commencement Date or Effective Date of this Agreement, except for any pick-up or disposal services, shall begin as of the date that this Agreement is signed and approved by the Negotiating Committee, and the Affected Municipalities, and the Operator.

**Counties.** Counties, unless specifically indicated, shall mean Racine and Waukesha Counties.

**Department or "DNR"** means the Wisconsin Department of Natural Resources or its successor agency. This also includes multiple agencies to the extent that the existing responsibilities of the Department of Natural Resource are divided amongst new or additional agencies.

**Design Management Zone or "DMZ"** means the area defined by NR 140.22(3), Wis. Admin. Code.

**Discharge** means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Solid Waste or Hazardous Waste at the Solid Waste Facility, or the dissemination of such wastes or materials by Acknowledged Transporters bringing such wastes to the Solid Waste Facility; except as legally

permitted in connection with Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area. The term "Discharge" shall not include the placement of materials for construction of the Solid Waste Facility, the recirculation or recycling of leachate at the Solid Waste Facility in compliance with permits or approvals issued by the Department, or the release of air emissions from the landfill gas extraction system in compliance with permits or approvals issued by the Department.

**Disposal or Dispose** means the Discharge, deposit, injection, dumping or placing of Solid Waste within the Active Fill Area. This term does not include the Storage or the Treatment of Waste at the Solid Waste Facility. The terms "Disposal" and "Dispose" shall not include the placement of materials for construction of the Solid Waste Facility, the recirculation or recycling of leachate at the Solid Waste Facility in compliance with permits or approvals issued by the Department, or the release of air emissions from the landfill gas extraction system in compliance with permits or approvals issued by the Department.

**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.

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

**Expansion** means the Expansion at any time by any means by the Operator of the design capacity to be set forth in the Plan of Operation approval for the Active Fill Area but, in no event, greater than 9,500,000 cubic yards of in-place Solid Waste. Any increase in the height of the Active Fill Area beyond 960 feet above mean sea level shall be deemed an expansion.

**Final Closure** means the date upon which the Operator and all other people cease the Disposal of Solid Waste in the Active Fill Area. Solely with respect to Sociological Payments made pursuant to Article VI, Par. 2 and Exhibit "P", the term "Final Closure" shall include the period of time during which the final clay cap and cover is being constructed on the Active Fill Area.

**Hazardous Waste** means any waste identified or defined as a Hazardous Waste by the Department, under § 289.01(12) or

§ 291.05(2), Wis. Stats., or regulations adopted by the Department in Chapter NR 600 through 690, Wis. Admin. Code, or its successor chapters, or Subtitle C of the Resource Conservation and Recovery Act or regulations promulgated thereunder, whichever is more stringent.

**Household Hazardous Waste** shall have such meaning as defined by the Wisconsin Statutes, as amended, the Wisconsin Administrative Code or in rules and regulations promulgated by the Department of Natural Resources, or Subtitle C of the Resource Conservation and Recovery Act and regulations promulgated thereunder, whichever is more stringent.

**Initial Term** shall mean the date on which this Agreement is signed by all the parties and shall continue through the date upon which the DNR approves Final Closure, but does not apply to the Operator's obligations which continue after Final Closure.

**Local Approvals** means any local approval as defined in § 289.33(3)(d), Wis. Stats., or its successor provisions. Local Approvals shall include zoning and conditional use permits, except as otherwise specifically provided for in this Agreement.

**Local Committee or Negotiating Committee** shall mean the Negotiating Committee created under Chapter 289.33(7), Wis. Stats., which consists of seven (7) City of Muskego members, two (2) County of Waukesha members, one (1) City of Franklin member, one (1) Town of Norway member, and one (1) Racine County Member. Also included is one (1) Town of Raymond ad hoc member, who is not entitled to a vote.

**Long-Term Care or Long-Term Care Operations** means any activities at the Solid Waste Facility, including routine care, maintenance and monitoring in the Active Fill Area where all the above-noted activities occur any time following the Final Closure of the Active Fill Area. Long-Term Care Operations by the Operator and by its agents shall not be considered Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area for purposes of this Agreement.

**Operator** means Superior Emerald Park Landfill, Inc., Superior Services, Inc., its officers, employees, subcontractors successors or assigns. The transfer of any or all of the Operators responsibilities under this Agreement shall not affect the continuing guarantee of Superior Services, Inc. under this Agreement unless such transfer is approved as provided for in this Agreement.

**Pre-existing Local Approvals** means any Pre-Existing Local Approvals as "Pre-Existing Local Approvals" are defined in § 289.33(3)(fm), Wis. Stats., or its successor provisions. Pre-existing Local Approvals shall include zoning and conditional use permits unless otherwise specifically provided for in this contract.

**Recyclable Materials** means materials listed in § 287.07(1m) through (4), Wis. Stats., as amended from time-to-time, excepting those listed materials for which the Department has granted an exception or variance, for the period such exception or variance remains in effect.

**Remedial Actions** means those actions consistent with a temporary or permanent remedy which are taken instead of or in addition to Removal Actions in the event of a release or threatened release outside the Design Management Zone of the Solid Waste Facility of any pollutant or contaminant into the environment, to prevent or minimize the release of such pollutants or contaminants such that the pollution or contamination does not migrate to cause any danger to the present or future public health or welfare of the residents of the Affected Municipalities or to the environment in the Counties other than at the Solid Waste Facility. The term includes, but is not limited to, actions at the location of the release of the pollutants or contaminants such as Storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, clean-up of released pollutants or contaminants, recycling or reuse of pollutants or contaminants, diversion of pollutants or contaminants, destruction of pollutants or contaminants, segregation of pollutants or contaminants, dredging or excavations, repair or replacement of leaking containers, collection of leachate and run-off, on-site Treatment or incineration, provision of alternative water supplies to residents in the Affected Municipalities and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment outside the Solid Waste Facility.

**Removal Action** means the clean-up action ("Removal Action") of released pollutants or contaminants from the environment outside of the Design Management Zone of the Solid Waste Facility including such actions as may be reasonably taken in the event of release of pollutants or contaminants into the environment outside the Active Fill Area , such actions as may be necessary to monitor, assess and evaluate the release or threat of release of pollutants or contaminants, the Disposal of removed pollutants or contaminants, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare of the residents of the Affected Municipalities or to the environment in

Milwaukee, Waukesha and Racine Counties, which may otherwise result from a release or threat of release of pollutants or contaminants outside the Design Management Zone of the Solid Waste Facility. The term includes, in addition, without being limited to, provision of alternative water supplies to the residents of the Counties, temporary evacuation and housing of threatened residents of the Counties.

**Solid Waste** means garbage, ash, refuse, rubbish, sludge from a waste Treatment plant, water supply Treatment plant or air pollution control facility, and other discarded or salvageable materials, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities. Solid Waste may include, but is not limited to, paper, wood, metal, glass, cloth and products thereof; litter and street rubbish; lumber, concrete, dirt, stone, plastic, bricks, tar, asphalt, plaster, masonry, and other debris resulting from the construction or the demolition of structures, buildings, roads and other manmade structures. Solid Waste does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial Discharges which are point sources subject to permits under Chapter 283, Wis. Stats., or its successor chapter, or sources, special nuclear or by-product materials as defined in § 254.31, Wis. Stats., or its successor section. Solid Waste shall not include recyclable waste deemed not appropriate for landfilling or Disposal in the Active Fill Area, as may be specifically provided for in this Agreement.

**Solid Waste Facility** means the Solid Waste Disposal facility in the City of Muskego specifically depicted and described in Exhibit "B". It includes both the Active Fill Area and the other land described in Exhibit "B", which includes the existing landfill which is known as the Emerald Park Landfill.

**Special Waste** shall be that waste classified as "Special Waste" by the Department, Wisconsin Statutes or Administrative Code regulations promulgated by the Department, defining the same as such.

**Standing Committee** means the Monitoring Committee established under Exhibit "C".

**Storage or Store** means the holding of Solid Waste at the Solid Waste Facility, at the end of which period the Solid Waste is to be then treated, transported away from the Solid Waste Facility, or ultimately disposed of in the Active Fill Area at the Solid Waste Facility.

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

**Term of Agreement** means the period commencing on the Effective Date and continuing until forty (40) years after Final Closure of the Active Fill Area. In addition, Term of Agreement extends into perpetuity regarding Operator, its successors and assigns' responsibility for indemnity and related obligations under Article V of this Agreement and compliance with the Landfill Closure Plan (Exhibit "G") and maintenance obligations (Article IV).

**Treat or Treatment** means any method, technique or process at the Solid Waste Facility which is designated to change the physical, chemical or biological character or composition of the Solid Waste. Treatment includes incineration. The terms "Treat" and "Treatment" shall not include the recirculation or recycling of leachate at the Solid Waste Facility in compliance with permits or approvals issued by the Department, the flaring or burning of gas extracted by the landfill gas extraction system in compliance with permits or approvals issued by the Department, or the extraction of landfill gas for beneficial reuse.

**Treatment Operations** means any activities at the Solid Waste Facility directly related to the Treatment of Solid Waste, where such activities occur at any time during the Initial Term of 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 as amended from time to time.

**Wisconsin Statutes** means the Wisconsin Statutes as amended from time to time.

## ARTICLE II

### SITE INFORMATION

The name of the Solid Waste Facility is the Superior Emerald Park Landfill, Inc. The Active Fill Area is described as the "SEPLI Landfill, South Expansion" in the Initial Site Report submitted to the Department by the Operator (hereinafter "SEPLI South Expansion").

#### 1. Address of Solid Waste Facility.

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

Superior Emerald Park Landfill, Inc.  
W124 S10629 South 124th Street  
Muskego, WI 53150

Attention: General Manager

#### 2. Legal Description.

The legal description of the Active Fill Area is set forth in Exhibit "A".

#### 3. Owner.

The current owner of the Solid Waste Facility is Superior Emerald Park Landfill, Inc. All of owner's responsibilities herein shall be guaranteed by Superior Services, Inc. In the event Superior Services, Inc. transfers the controlling interest in the Operator which shall be limited to a transfer of the majority of the shares of stock or a majority of the voting power or effective control or management of Operator. In that event, such successor shall be given written notice of the terms of this Agreement and any such transfer of any interest in the Operator, by Superior Services, Inc. shall be an obligation of the successor. Superior Services, Inc. shall be relieved of any responsibility under this Agreement and its Guarantee in the event such transfer is approved by the City of Muskego and Waukesha County, which approval shall not be unreasonably withheld.

#### 4. Plan of Operation Enforcement.

(This section of the agreement was left blank when submitted for arbitration. The following text, in the Times New Roman font, is from the WFSB 9/1/99 arbitration decision.)

The Operator had Feasibility Reports and Addenda thereto prepared and submitted to the Department in April, 1996, and prior to the Disposal of any waste in the Active Fill Area it will be necessary for the Operator to submit and obtain the Department's approval of a Plan of Operation. It is the parties' intent that the Plan of Operation for the Active Fill Area and all future modifications and amendments to such Plan of Operation, as approved by the Department, be incorporated by reference and that the same may be separately enforceable by the City of

5. Facility Design Elements.

The following incorporates and summarizes some aspects of the Feasibility Approval by the Department and also contains limits on the design capacity, height, type of expansion and volume verification.

- A. Design Concept: The Active Fill Area shall be a zone of saturation, composite lined landfill meeting all Subtitle D (RCRA) [42 U.S.C. § 6911, et seq.] requirements.
- B. Total Design Capacity: Not to exceed 9,500,000 cubic yards (solid waste capacity, including intermediate and daily cover).
- C. Expected Site Life: Approximately 10 years.
- D. Site Closure Deadline: 1/1/2015
- E. Total Acreage Owned by the Operator: 478 acres
- F. Maximum Height: 960 feet above mean sea level
- G. Proposed Licensed Acreage of this Expansion: 65 acres (47.9 acres of horizontal Expansion, 17.1 acres of overlay area). The parties hereto stipulate that the proposed landfill expansion actually constitutes two expansions, one horizontal and one an "overlay" landfill expansion, but both landfills shall be deemed to be the subject matter of this Landfill Agreement. Where applicable, the same shall be referred to as the Superior Emerald Park Landfill, Inc. Horizontal South Expansion ("Horizontal Expansion") and the Superior Emerald Park Landfill, Inc. Overlay Expansion ("Overlay Expansion").
- H. Tonnage, Waste Volume Used and Anticipated Remaining Volume: Shall be reported in writing to the City of Muskego and the other Affected Municipalities annually, with applicable supporting data by way of field surveys, aerial surveys, or

both, and supporting engineering data and engineering models. The Operator shall provide all field or aerial survey information to the Standing Committee whenever performed by the Operator, but no less than one flight and one field survey per year.

**6. Current Zoning.**

The parcel of property described in Exhibit "A" is comprised of the following zoning districts: A-2, I-2, with portions of the property being denominated as wetlands. This Agreement will call for a waiver of any zoning prohibition against landfilling activities in the area delineated in Exhibit "A" subject to approval under Ch. 289, Wis. Stats. for landfill activities, including active fill, berming, and other current site activities specifically identified in Exhibit "H".

**7. Primary Service Area.**

The Primary Service Area shall be Kenosha, Racine, Walworth, Milwaukee, Waukesha, Ozaukee, Washington, Jefferson, Rock and Dodge Counties; however, Solid Waste generated outside of this area may be Disposed of in the Active Fill Area.

**8. Acceptable Waste Types.**

The acceptable waste types shall be non-Hazardous municipal, institutional, commercial and industrial Solid Waste including but not limited to refuse, garbage, 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. This contract shall specifically prohibit Hazardous Waste and PCB contaminated sediments which do not meet the criteria set forth in Exhibit "Q" attached hereto.

**9. Estimated Waste Quantities.**

This Active Fill Area is proposed to average 19,000 tons of Solid Waste per week. Total waste quantities are estimated to be 9,500,000 cubic yards which equates to approximately 950,000 tons per year.

**10. Notices.**

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

Superior Emerald Park Landfill, Inc.  
W124 S10629 South 124th Street  
Muskego, WI 53150

Attention: General Manager

**11. Contact Persons.**

The Operator shall provide contact persons with current telephone numbers available to the Affected Municipalities and Standing 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 with a required response time of less than 10 minutes.

## ARTICLE III

### TRANSPORTATION

#### 1. Designated Roadways.

##### A. Designated Authority.

The Operator, during the Term of this Agreement shall not use and shall inform 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 or Emergency 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 for Disposal any Solid Waste transported to the Solid Waste Facility on roadways in the Affected Municipalities other than the designated primary roadway routes. This subsection establishing the designated primary roadway routes and then restricting the roadway use on other roadways in the Affected Municipalities shall not apply to the Operator, Acknowledged Transporters, the Affected Municipalities and to any residents of the Affected Municipalities when these above-noted parties are collecting Solid Waste in the Affected Municipalities in vehicles and then transporting such Solid Waste in vehicles to the Solid Waste Facility for the purpose of Disposal of the Solid Waste in the Active Fill Area at the Solid Waste Facility or for the purpose of Storage Operations, Treatment Operations, Long-Term Care Operations, or Emergency operations at the Solid Waste Facility.

This subsection shall not apply if the Affected Municipality 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 Active Fill Area or at any other location at the Solid Waste Facility. This subsection shall also apply to the Operator, when the Operator is transporting landfill construction materials to or from the Solid Waste Facility to be used in the construction, maintenance, closure or Long-Term Care of the Solid Waste Facility, except for Emergency operations.

**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 and its Acknowledged Transporters, the following roadway routes located in the Cities of Muskego and Franklin for vehicle access and traffic flow to and from the Solid Waste Facility: Highway 45 (a/k/a 124th Street).

The Operator shall only use, and shall notify the 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 parties recognize that Operator's property abuts Union Church Drive (a/k/a Eight Mile Road), and it is possible that Operator may acquire additional property abutting Loomis Drive, or a future extension thereof. The Operator agrees that none of its vehicles shall use Union Church Drive (a/k/a Eight Mile Road) or Loomis Drive for landfill related construction activities, Solid Waste Disposal, leachate removal, or any activity that involves exceeding any local or state weight limitations. In no event will any vehicle be permitted on such roads for landfill related construction activities, leachate removal or the hauling of garbage by any trucks from transfer stations or any garbage truck that is not in the process of a local garbage pickup whose usage of Union Church Drive or Loomis Drive is otherwise required.

**2. Vehicle Requirements.**

During the Initial Term and extending until forty (40) years after Final Closure, in conjunction with the transporting of Solid Waste in the Affected Municipalities to or from the Solid Waste Facility, or the Disposal by the Operator of Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility, the Operator shall use transport vehicles and shall require its Acknowledged Transporters 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 in such transport vehicles from discharging, leaking, spilling, falling or blowing out of such vehicles onto any public or private lands in the Counties, excluding the Active Fill Area.

The Operator shall cooperate with the Affected Municipalities in connection with their enforcement of any local ordinances designed to prevent or substantially eliminate any portion of any Solid Waste or Hazardous Waste in such transport vehicles from Discharging, leaking, spilling, falling, or blowing out of such transport vehicles onto any public or private lands in the Affected Municipalities, excluding the Active Fill Area at the Solid Waste Facility.

The Operator will take all reasonable measures appropriate to prevent any foreign material from being tracked onto Highway 45 and will be responsible for removing any foreign material on Highway 45 as a result of Disposal Operations within 24 hours of being notified of the same by representatives of either the Affected Municipalities or the Standing Committee. The Operator will inspect Highway 45 daily.

The Operator shall adopt the policy and procedures set forth in Exhibit "M" with respect to Acknowledged Transporters (other than the Operator or any affiliate of Superior Services, Inc., which shall be subject to the provisions set forth above).

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

#### **A. Solid Waste and Hazardous Waste Discharge Reports.**

The Operator, during the Term of Agreement shall report any Solid Waste or Hazardous Waste Discharge beyond the Design Management Zone to the Clerks of the Affected Municipalities and the Standing Committee in writing within two business days of the Operator receiving any information related to any Discharge if such Discharge occurred when the Operator or Acknowledged Transporters were transporting Solid Waste or Hazardous Waste to or from the Solid Waste Facility and if the Discharge occurrence was caused by the Operator or Acknowledged Transporters. This provision does not apply to any Solid Waste Disposed by Operator or by its Acknowledged Transporters or by any other parties in the Active Fill Area. In addition to the written reporting requirements, immediate notice shall be orally transmitted to the City of Muskego and the Standing 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, which shall simultaneously be transmitted to the City of Muskego and the Standing Committee.

The Operator, upon oral or written notice or knowledge of any Discharge by Operator onto any public or private lands in the Affected Municipalities, other than any Solid Waste Disposed in the

Active Fill Area, shall take, as soon as possible, all reasonable 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 shall take, as soon as possible, all reasonable 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 or Hazardous Waste Discharge, if known, and the suspected cause of the Discharge, if known.

**B. Discharge Removal on Roadways.**

The Operator, during the Initial Term, shall police and remove any Discharge by the Operator including litter, from the roadways or from rights-of-way next to west side of Highway 45, situated in the City of Muskego, and the Primary Roadways within the Affected Municipalities within one-half mile of the entrance of the Solid Waste Facility. This one-half mile provision shall apply to any waste that occurs in such area, but shall not in any way limit or waive the Operator's responsibilities or its other obligations under this contract with respect to discharges which are caused by the Operator or its Transporters elsewhere in 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 Active Fill Area, the Operator shall prepare a list of its Acknowledged Transporters. The list shall contain the names, addresses and telephone numbers of the Acknowledged Transporters and their WDNR permit numbers. The initial list shall be filed with the Standing Committee and shall be updated annually and available for inspection by the Standing Committee during regular business hours. All such annual updates shall be mailed to the Standing Committee. This information shall be subject to the confidentiality provision reflected in Article IV, Section 2 below.

**B. Persons Authorized.**

No Acknowledged Transporter, including the Operator, shall transport Solid Waste to the Active Fill Area, until a license has been issued by the Department, and the Operator has complied with all applicable Solid Waste statutes and regulations related to the operation of 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 Active Fill Area, or at any location at the Solid Waste Facility, unless such activity has been approved by the Department and then only if the Operator has complied, or will comply with any applicable federal and state Solid Waste laws and regulations, and any municipal ordinances that are applicable to the Solid Waste Facility.

## ARTICLE IV

### OPERATIONS AT OR NEAR THE SOLID WASTE FACILITY

#### 1. Reports to the Affected Municipalities.

##### A. Reports from the Operator.

The Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, shall receive from the Operator, written copies, within seven (7) days of distribution by the Operator, written reports and written correspondence provided by the Operator to the Department or to any other state or federal environmental agency or to any state or federal court provided said reports and correspondence are associated with the 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.

The Standing Committee may establish, at its expense, a video taping system which shall have a day and time display. The Standing Committee and Operator shall coordinate such video tape system with a computerized weight-scale system which will permit the Standing Committee to observe all trucks that enter the site, show the truck being weighed and concurrently obtain weight scale information through an identification system which will permit immediate reference and identification to the truck loads being contemporaneously weighed. In the event the Committee elects to have one of its members or a designated representative monitor the system on-site during normal business hours, the Operator will fully cooperate and make such operations available for inspection and observation.

##### B. Reports from Government Agencies.

The Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, shall receive from the Operator written copies, within seven (7) days of receipt by the Operator, of all written reports and written correspondence received by the Operator from the Department or from any other state or federal environmental agency or from any state or federal court provided said reports and correspondence are associated with the Solid Waste Facility, including but not limited to, letters, court documents, technical reports, testing data, recording data and monitoring data. These copies shall be provided by the Operator at no cost.

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

The Standing Committee, during the Initial term and extending until forty (40) years after Final Closure, shall each receive from the Operator one set of copies, within seven (7) days of receipt by the Operator, of all written letters, written reports and other written correspondence, except general notifications or general mailings to all residents or property owners, received by the Operator from any public official of any of the Affected Municipalities or from any resident of the Affected Municipalities where the above-noted letters, reports or correspondence are associated 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. These copies shall be provided by the Operator at no cost.

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

The Operator, during the Initial Term 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 and Acknowledged Transporters and their employees and agents transport Solid Waste 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 3 - Hours and Days of  
Operation
- vi. Article IV, Section 8 - Fire, Disaster and  
Hazard Control
- vii. Article IV, Section 23 - Prohibition Against  
Hazardous Waste Disposal

**E. Notice of Agreement.**

The Operator, during the Initial Term, shall notify in writing the Acknowledged Transporters who transport Solid Waste to the Solid Waste Facility for Disposal in the Active Fill Area of the applicable provisions of this Agreement and their responsibility to take reasonable steps to insure compliance with Exhibit "M". Such written notice shall be provided to such Acknowledged Transporters when they commence transporting Solid Waste with the written notice attached as Exhibit "M".

**2. Confidentiality Agreement.**

The Standing Committee covenants and agrees that for the period commencing on the Commencement Date and extending until 40 years after Final Closure, the Standing Committee shall not, except as explicitly requested by the Operator or as otherwise required by law, disclose to any person (other than its attorneys, who shall have agreed to be bound by the terms of this provision) any confidential information provided for in this Agreement as to the business of the Operator. The Standing Committee further agrees that they will not, individually or collectively, disclose pricing information, cost structure, customer names, addresses or telephone numbers, or the terms or conditions of any customer contracts, bids or proposals, to any person, firm, corporation, association, governmental body, quasi-governmental body, or other entity, except to authorized representatives of an operator or as required by law. If the Standing Committee becomes legally compelled to disclose such confidential information, the Standing Committee shall provide the Operator with written notice of the Standing Committee's legal obligation to disclose confidential information as soon as possible, but in no event later than two (2) business days after the Standing Committee receives any request, Court Order or legal process obliging the Standing Committee to release the confidential information, so that the Operator may seek a protective order or other appropriate remedy.

For purposes hereof, "confidential information" shall mean and include, without limitation, all trade secrets, rights, customer lists, subcontractor lists and related information as to customers and subcontractors, and all information concerning the business of the Operator's services, clients, customers, subcontractors, costs, profits, markets, sales, reports, written correspondence, data, trade secrets, processes, programs, products, marketing and distribution methods, which shall exclude any methods which have been or are hereafter independently developed or disclosed by a third party who is not in breach of a confidentiality undertaking with the Operator, or which otherwise is or becomes part of the public domain due to no act or omission of the Standing Committee members thereof. This confidentiality

agreement shall not apply to any information pertaining to information as provided to the Standing Committee which relates to the monitoring or protection of public or private health, safety and welfare, such as DNR reports, groundwater monitoring Discharges or other threats to the environment, public or private property. The Standing Committee agrees that the provisions and restrictions contained in this provision are necessary to protect the legitimate continuing interests of the Operator in performing its obligations under this Agreement.

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

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct any landfill construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility nor shall it allow any landfill construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its Acknowledged Transporters or by any other parties at the Solid Waste Facility, before 7:00 a.m., Monday through Saturday. The Operator will be permitted to warm up the equipment and vehicles at 6:30 a.m., Monday through Saturday. The Operator shall terminate all landfill construction, Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations and it shall not allow any landfill construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its Acknowledged Transporters or by any other parties at the Solid Waste Facility, after 5:00 p.m., Monday through Friday, and shall not accept any more Solid Waste for Disposal after Noon on Saturday. The Operator shall have until 1:00 p.m. on Saturday to complete Disposal Operations with respect to Solid Waste receive prior to Noon on Saturday. The Operator shall not conduct any landfill construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations, nor shall it allow any landfill construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its Acknowledged Transporters or by any other parties 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 or activation of any vehicles weighing more than 8,000 pounds, machinery or equipment, but shall exclude Emergency operations, bioremediation, passive composting, landfill gas control currently being conducted, and other operations inside closed buildings.

The Operator shall have the ability to operate the site on Saturdays until 3:00 p.m. following any week during which a holiday

falls on a weekday or Saturday, with such holidays being mentioned hereinbefore in this section.

The Operator shall not permit any vehicles to be parked on Highway 45 or in the Highway 45 right-of-way. There shall be no parking on the Operators own property, including its road access (private drive) prior to 6:45 a.m.

In addition, the above-noted hours and days of operation may be amended by written agreement of the Standing Committee.

**4. Dust, Dirt and Debris Control at the Solid Waste Facility.**

The Operator, during the Initial Term and specifically including the landfill construction phase, such phase being considered a part of the Initial Term, and extending until forty (40) years after Final Closure, shall take the 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 of Solid Waste in the Active Fill Area and shall conduct any landfill 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 Active Fill Area to limit the blowing of litter and debris.

**5. Groundwater Monitoring.**

The Operator shall undertake the groundwater monitoring program (including private wells) required by the Department, imposed as a condition of its Feasibility Approval, or any subsequent requirement made by the Department to test groundwater or private wells.

Private Well Water Testing shall be performed as described in Exhibit "E".

**6. Noise, Odor and Air Quality.**

The Operator shall comply with all reasonable noise control measures as requested by the Standing Committee. In no event shall decibel readings created by the Operator violate the City of Muskego noise ordinance, nor shall decibel readings created by the Operator exceed 65 dba at the property line (excluding the Highway 45 entrance to the facility where such noise is caused by vehicular travel, as further set forth in Exhibit "L". The Operator shall also meet all air quality standards as set forth in Exhibit "D".

**7. Rodent and Insect Control at the Solid Waste Facility.**

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

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in 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 substantially control or minimize rodent and insect harborage through an effective vector control program.

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

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take appropriate and necessary actions to control any rodents and any insects at the Active Fill Area. The Operator shall apply at the Active Fill Area, the pesticides or rodent control measures at appropriate levels to prevent any damage to or injury to public property or private property in the Affected Municipalities and to prevent damage or injury to the natural resources in the Affected Municipalities.

**8. Fire, Disaster and Hazard Control.**

**A. Creation of Fire Hazards.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner through an effective fire prevention and control program to minimize and thereafter control fires and explosions at the Solid Waste Facility and to substantially prevent and effectively eliminate any fire hazards or any potentially explosive hazards from occurring at the Solid Waste Facility.

**B. Public Nuisance.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent any public nuisance 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.

**C. Private Nuisance.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations, and any Long-Term care operations at the Solid Waste Facility, in such a manner as to prevent any 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, and polluted surface water.

**D. Hazardous Waste.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not, at any time, Dispose, Store or Treat Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility nor shall it allow Disposal, Storage or Treatment of Hazardous Waste by its agents, by its Acknowledged Transporters, or by any other party in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, whenever appropriate and necessary, shall separate, remove, contain, cover or isolate any particular Solid Waste or Hazardous Waste that has been Disposed, Stored or Treated in the Active Fill Area or at any other location at the Solid Waste Facility in such a manner as to substantially prevent a public or private nuisance in the Affected Municipalities from occurring, and to effectively prevent any liberation of hazardous or poisonous gas from the Solid Waste Facility to any other location in the Affected Municipalities, to effectively prevent any liberation of Hazardous Waste from the Solid Waste Facility to any other location in the Affected Municipalities or to effectively prevent any damage to the natural resources of the Affected Municipalities.

**E. Security Personnel.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall have the responsibility and duty to the Affected Municipalities to employ or retain at the Solid Waste Facility the appropriate and necessary employees, personnel, and/or equipment to provide and maintain proper security in the Active Fill Area or at any other location at the Solid Waste Facility for the purpose of preventing or substantially reducing any physical access by unauthorized parties to the Solid Waste Facility.

**9. Court Action by the Affected Municipalities or Standing Committee.**

**A. Contract Enforcement.**

The Affected Municipalities or Standing Committee, during the Initial Term, and extending until forty (40) years after Final Closure, notwithstanding any other provisions of this Agreement, may commence and maintain individually or jointly 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 or Hazardous Waste in 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 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 Standing 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.

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 Muskego and the

Standing Committee formed under Exhibit "C" to this Agreement. In the event an alleged violation of this Agreement cannot be resolved with the Standing Committee, after following the procedures in paragraph 10 of Exhibit "C", the Standing Committee may issue a citation to the Operator for such violation. The City of Muskego may also issue a citation for an alleged violation of this Agreement; however, any citation issued by the City of Muskego shall be stayed and held in abeyance until completion of the procedures in paragraph 10 of Exhibit "C", and any resolution of the alleged violation by the Standing Committee, after following such procedures, shall be binding and determinative as between the Operator and the City of Muskego. The Municipal Court for the City of Muskego shall have jurisdiction to hear and determine any citations issued by the Standing Committee and may assess penalties against the Operator according to the following schedule:

- i. First Violation: \$10.00 to \$500.00, plus court costs.
- ii. Second Violation: \$1,000.00 to \$2,500.00, plus court costs.
- iii. Third Violation: \$2,500.00 to \$10,000.00, plus court costs.

Each day of violation shall be considered a separate violation for purposes of this penalty section, as the same also applies to the Municipal Code of the City of Muskego and Waukesha County.

The parties hereto understand that currently municipal ordinance violations are processed through Municipal Court but the parties are entitled to a trial de novo at the Circuit Court level. The parties stipulate that the penalty provisions set forth herein shall be binding upon the Circuit Court of Waukesha County with respect to any action that is commenced in Municipal Court. The issuance of a citation by the Standing Committee under this paragraph shall not preclude the Standing Committee or the Affected Municipalities from seeking other or additional legal or equitable relief with respect to any alleged violation of this Agreement.

**B. Public Nuisance.**

In the event of the occurrence of a public nuisance, any of the Affected Municipalities may bring an action to abate such public nuisance.

### **C. Private Nuisance.**

In the event that a private nuisance occurs or in the event that the Operator causes any individual 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.

#### **10. Administrative Action.**

The Affected Municipalities or Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, notwithstanding any provisions of this Agreement, may petition the Department under § 289.92, Wis. Stats., or § 291.89, Wis. Stats., or their successor provisions, to initiate action by the Department 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 Department wherein any such violation or alleged violation is related to or associated with the Solid Waste Facility. Operator retains the right to assert any defense it may have related to any petition(s).

#### **11. Temporary/Emergency Closure of Active Fill Area.**

During the Initial Term the Operator shall notify in writing within two (2) business days, the Clerks for the Affected Municipalities and Standing Committee of any temporary, Emergency or Final Closure of the Active Fill Area, including any ordered temporary, Emergency or Final Closure of the Active Fill Area wherein such order is made by the Department, 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 Standing Committee the specific reasons, if known, for a temporary, Emergency or Final Closure of the Active Fill Area.

#### **12. Access to the Solid Waste Facility.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall allow the Affected Municipalities or Standing Committee and their officers, employees or agents, the right to immediately obtain access to and enter the Solid Waste Facility during any Emergencies at the Solid Waste Facility. They shall also have the right to obtain access and to enter the Solid Waste Facility during normal operating hours upon twenty-four (24) hours oral or written notice from the Affected Municipalities, Standing Committee or their representatives or members. Physical access to the Solid Waste Facility shall be allowed:

- 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 Wisconsin licensed professional engineer using methods and materials approved by the Department of Natural Resources), and further provided that access to the monitoring wells shall be available only when an employee of the Operator is present;
- C. To sample and test characteristics of the Solid Waste at the Solid Waste Facility; or
- 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.

Except during Emergencies, the designated officers, employees or agents of Affected Municipalities or the Standing Committee shall be accompanied by one or more employees or agents of the Operator. In addition, the activities of the designated officers, employees or agents shall be conducted so as to not interfere with the normal business operations at the Solid Waste Facility except during Emergencies.

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

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, 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 Active Fill Area and/or, if appropriate and necessary, to temporarily or permanently close the Active Fill Area, if at any time the failure by the Operator to properly and timely maintain, repair, reconstruct or to properly and timely provide Long-Term Care of the Active Fill Area and/or its failure to temporarily or permanently close the Active Fill Area for Disposal Operations is likely to present a substantial danger of creating a public or private nuisance in the Affected Municipalities or is likely to create a substantial danger to the public health, safety or welfare of any persons in the Affected

Municipalities or is likely to cause substantial damage to the natural resources in the Affected Municipalities. Enforcement of this paragraph shall be as set forth under Section 9, paragraphs B and C of this Article.

**14. Hazardous Waste Disposal Notice.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, 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 Stored, Treated, Disposed or handled in any way by the Operator, by its agents, by its Acknowledged Transporters or by any other parties in the Active Fill Area or any other location at the Solid Waste Facility, shall then give notice orally within two (2) business days of its receipt of the information to the Affected Municipalities and Standing Committee. The Operator shall, in addition, notify the above-noted parties in writing two (2) business days 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.

**15. Hazards Notice.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall orally notify the Standing Committee as soon as possible and within not more than 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 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 landfill gas extraction system and hazardous gases or hazardous dust. The Operator will provide the same oral notification to the Affected Municipalities within twenty-four (24) hours (excluding weekends and holidays, in which case notice will be given on the next business day). The Operator shall, in addition, report in writing within two (2) business days 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.

**16. Responsible Managers.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall provide to the Affected Municipalities and Standing 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 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 five (5) business days after the Agreement is executed by the Negotiating Committee, Affected Municipalities and the Operator, 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.

**17. Height Restriction.**

The maximum height of the proposed Active Fill Area shall not exceed 960 feet above mean sea level.

**18. Depth Restriction**

The maximum depth of the Active Fill Area shall not exceed 70 feet below the natural grade existing prior to any clay extraction or construction of any part of the Active Fill Area or below 712 feet above mean sea level.

**19. Erosion and Run-off.**

**A. Erosion Restrictions.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, 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 Department and as set forth in Exhibit "H" and "K".

**B. Abatement of Erosion.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, upon written notice by any Affected Municipality or the Standing Committee describing to the Operator the location of any surface water run-off or erosion discharged from the Active Fill Area onto any other lands located in the Affected Municipalities which violates the Plan of Operation on file with the Department shall, within two (2) business of receipt of the written notice, 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.

**C. Standing Open Water and Wetlands.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall undertake an effective program to substantially eliminate the standing water at the Solid Waste Facility, except for those sedimentation basins and ponds approved by the Department and wetland areas within the Solid Waste Facility.

**D. Storm Water.**

The Operator shall comply with all storm water runoff regulations, policies or ordinances of the City of Muskego, including the draft 1999 Storm Water Ordinance which is attached as Exhibit "K".

**20. Surface Water.**

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take the appropriate and necessary actions to direct all surface water coming in contact with any Solid Waste at 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 into any surface water drainage area at the Solid Waste Facility until the surface water discharge complied with the appropriate regulations and requirements of the Department.

## **21. Post-Closure Alienation.**

After Final Closure, the Operator agrees not to sell, transfer, or convey any interest in either the property upon which 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 Muskego and Waukesha County, which approval shall not be unreasonably withheld. Gas extraction and the sale thereof shall be permitted.

Reasonable approval shall be predicated upon the experience and financial wherewithal of any successor corporation or operator. Where these standards are not met, any transfer shall be subject to the new Operator being liable and responsible for compliance with this contract without affecting Superior Services, Inc.'s agreement to comply with the terms of this Agreement.

## **22. Landfill Closure Plans.**

The Operator shall comply with the Landfill Closure Plan set forth in Exhibit "G" attached hereto. The City of Muskego shall specifically approve the same, and shall approve any modification thereof. The Landfill Closure Plan shall be completed as to each cell, phase or area of expansion in the Solid Waste Facility within 18 months after each Phase is no longer receiving waste. It shall be the intent of this section to promote an aesthetic appearance reasonably possible for the site and to permit passive recreational uses and other uses that do not conflict with the Closure responsibilities of the Applicant and applicable requirements of the DNR.

Each aspect of the Landfill Closure Plan shall be set forth with sufficient specificity so as to define the minimum and maximum requirements of the Plan proposed. In the event that there is any gap in the Plan due to the Operator's failure to include such details in a Plan, then the City of Muskego shall have the authority, either through its Planning and Zoning Office or to have an independent consultant with professional landscape experience and qualifications sufficient to design Landfill Closure Plan, to provide such details and specific requirements to comply with the intent of this section.

The Landfill Closure Plan will include provisions prohibiting the discharge of surface water off-site at a volume or rate greater than what currently exists or which existed prior to the initial Superior Emerald Park Landfill having been developed, whichever permitted less volume and flow of surface water off of the property.

**23. Prohibition Against Hazardous Waste Disposal.**

The Operator, during the Initial Term and extending until forty (40) years Final Closure, shall not knowingly transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly Dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, in addition, shall not knowingly allow its agents, its Acknowledged Transporters or any other parties to transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly allow the above-noted parties to Dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to be less stringent than any regulations of the Department relating to the Disposal, Storage or Treatment of Hazardous Waste at any location, including the Active Fill Area and at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to mean that the Affected Municipalities authorize or approve in any way of the Disposal, Storage or Treatment of Hazardous Waste at the Solid Waste Facility or at any operations related thereto.

**24. Change in Ownership.**

A. This Agreement shall be applicable to the present Operator, Superior Emerald Park Landfill, 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 for the Solid Waste Facility.

B. In conjunction with Paragraph A, the Operator, shall notify the Affected Municipalities and the Department of any and all changes in ownership 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, 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 Department 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 City of Muskego and Waukesha County 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 Department

landfill license and State law. The Affected Municipalities shall have forty-five (45) 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 City of Muskego, Waukesha County and the Operator.

D. This Agreement shall be further guaranteed by Superior Services, Inc., which shall remain responsible for all obligations set forth under this Agreement unless released by the City of Muskego and Waukesha County, which release shall not be unreasonably withheld.

## 25. Operation Terms.

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

In consideration of the terms and provisions of this Agreement, from the Effective Date hereof and until Final Closure of the Active Fill Area, subject to Operator obtaining any required applicable DNR permits or approvals, the Operator shall be allowed to:

- i. Use the area described in Exhibit "A" and any remaining area of the "Expansion" (hereinafter "currently - licensed facility") as authorized and defined under the Final Negotiated Agreement between Operator and the Affected Municipalities executed by Operator on July 17, 1992, to construct, operate, repair, maintain, and close the Solid Waste Facility, in a manner consistent with the Plan of Operation.
- ii. To continue the following existing uses located at the Solid Waste Facility:
  - (a) the composting facility authorized under existing zoning permit from the City of Muskego;
  - (b) the accessory facilities to such uses under existing zoning permits from the City of Muskego.
  - (c) Perform bioremediation activities involving contaminated soils in the Solid Waste Facility, which shall in all ways qualify as Solid Waste under this

Agreement, including the direct payment section of this Agreement.

- (d) Operate a Recycling and Residential Waste Disposal Convenience Center for the residents of the City of Muskego, as set forth in the Conditional Use Permit attached in Exhibit "H".

Copies of the foregoing zoning and special use permits are attached hereto and incorporated herein as Exhibit "H". 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 special use permits and zoning permits. 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 special use permits and zoning permits 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 special use permits conflict, the more restrictive terms to the Operator shall apply. No uses other than as enumerated above shall be allowed at the Solid Waste Facility.

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.

This Agreement is intended to waive and replace those Local Approvals for the siting, construction and operation of a Solid Waste Facility within which the Active Fill Area shall be located and shall be limited to those other activities specifically agreed to in this Agreement.

Until Final Closure of the Active Fill 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, properly construct, properly repair and to properly close the Active Fill Area at the Solid Waste Facility and to properly 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 until forty (40) years after Final Closure, shall be responsible to the Affected Municipalities to provide the proper Long-Term Care Operations at the Active Fill Area.

The Operator, from the Effective Date and extending until forty (40) years after Final Closure, shall be responsible to the Affected Municipalities to take any appropriate and necessary Removal or Remedial Actions at the Active Fill Area.

The Operator, upon the date of Final Closure, shall cease transportation of Solid Waste to the Active Fill Area and shall prevent any further transportation of Solid Waste to the Active Fill Area at the Solid Waste Facility, shall cease Disposal of any Solid Waste and shall prevent any further Disposal of Solid Waste at the Active Fill Area, and shall not conduct any Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area, and Compost Facility Area, or at any other location at the Solid Waste Facility and shall not allow any Disposal operations, Storage Operations or Treatment Operations at the Active Fill Area or at any other location at the Solid Waste Facility, unless an Expansion has been approved by the Department.

**C. Local Approvals.**

By adoption of a resolution authorizing the execution of this Agreement, each Affected Municipality does hereby waive all applicable zoning, grading and landfill operational Local Approvals, regulations, permits, licenses, and ordinances that may be required of the Operator to allow it to construct, maintain, repair, engage in on-site operations, closure, and to provide Long-Term Care of the Active Fill Area, and to conduct Disposal, Storage and Treatment Operations at the Solid Waste Facility as authorized by the special use and zoning permits granted to Operator by the City of Muskego as described in Section 25.A. above, excepting the terms of such permits and the terms of this Agreement. Any remedial investigations and feasibility studies and implementation of any Removal and/or Remedial Actions required by the U.S. EPA or the Department shall also be permitted regardless of Local

Approvals that may be imposed by Affected Municipalities. This waiver shall continue until Final Closure of the Active Fill Area, except that the waiver shall extend thereafter to Long-Term Care Operations which the Operator must undertake pursuant to the Department's regulations pertaining to the Solid Waste Facility and the Operator's implementation of the post closure site plan as required by this Agreement.

These regulatory waiver provisions do not apply to any persons other than the Operator, its officers and employees, when engaged in activities directly relating to the Operation of the Solid Waste Facility.

These regulatory waiver provisions do not apply for any other uses, operations or businesses at the Solid Waste Facility except those uses, operations and businesses that are directly and specifically related to and consistent with the: (1) Solid Waste Disposal Operations of the Active Fill Area and at the currently licensed facility; and (2) the storage and treatment operations of the facilities specifically authorized under Section 25.A.

These regulatory waiver provisions apply only to zoning, grading and landfill operational Local Approvals as they apply to the authorized use of the Active Fill Area and zoning local regulations as they apply to the other authorize uses hereunder and do not waive any other Local Approvals. These waiver provisions, by way of enumeration, and not limitation, do not include regulations pertaining to speed limits, the issuance of waste hauler permits (with a fee not to exceed what is reasonable and customary), litter control, building permits, rules of the road, road obstructions, excavations, fire safety permits, and health ordinances and regulations. Any recycling, Storage and uses beyond those that are currently authorized by special use and zoning permits and undertaken by Operator and any other use of the property not specifically authorized herein shall be subject to all applicable substantive and procedural approvals, rules, regulations, orders, laws and ordinances of the City of Muskego.

These regulatory and enforcement waiver provisions do not apply in any way to waive any authority the Affected Municipalities may have now or in the future have to control or regulate, by regulation, ordinance, permit, license or order, the uses, operations and businesses at the Solid Waste Facility or at the currently-licensed facility, where these orders, permits, licenses or ordinances are deemed necessary by the Affected Municipalities to protect the public health, safety and welfare, or to prevent or abate a public nuisance.

**26. Standing Committee.**

The Operator and the Local Committee hereby agree to the formation of a Standing Committee ("Committee") which shall consist of five (5) residents of the City of Muskego appointed by the Mayor, and one (1) designee from each of the Affected Municipalities, if they desire to participate in the Standing Committee. In the event additional Affected Municipalities are permitted or required to participate in the Standing Committee, then the City of Muskego shall have the right to appoint additional members such that the City of Muskego shall always have no less than a one (1) person majority on the Standing Committee.

The Committee shall have the functions and powers described in Exhibit "C". The Operator will pay Ten Thousand Dollars and 00/100 (\$10,000) to the Committee annually, increasing at 5.2% per annum, through the date of Final Closure and for a period of five (5) years thereafter.

**27. Future Expansions.**

The Affected Municipalities shall have the option to waive negotiations for future expansions from Superior Services, Inc. on property owned by Emerald Park Landfill, Inc., Superior Services, Inc., or a related company which is within, contiguous to, or within one half mile of the Solid Waste Facility. This option shall be a waiver of renegotiation of that contract for future expansions and shall make applicable all terms and rate schedules for compensation set forth in this contract. The Affected Municipalities shall have six months from the date of receiving the Initial Site Report to make this election. This election shall be in writing and approved by each of the municipalities in writing or by the City of Muskego.

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 and duly-appointed committees, including the Negotiating Committee established under § 289.33, Wis. Stats., and the Standing 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, claims or damages, including reasonable attorneys fees, consulting fees and costs of litigation, 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/negotiations, landfill 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, Household Hazardous Waste 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.

Operator also agrees to support, defend and/or reimburse the costs, attorneys fees, damages or other liabilities incurred by the Affected Municipalities, their officers, agents, employees and any duly-appointed committees, including the Committee under § 289.33, Wis. Stats., and any other committees as may be established for any proceeding, brought by any person or entity at any time to establish that the Affected Municipality, their officers, agents, employees and any duly-appointed committees, including the Committee established under § 289.33, Wis. Stats., and any other committee as may be established for any proceeding, that may have liability for 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 loss, claim or damages arising in any way or as the result of any anticipated or unanticipated occurrence associated with the Solid Waste Facility, including, but not limited to, the design, siting, landfill construction, transportation to and from, operation, maintenance, control, repair, administration, monitoring, closure, Long-Term Care and

termination of the Solid Waste Facility; the Treatment, Storage and Disposal of the Solid Waste and Recyclable Materials at the Solid Waste Facility, except the above indemnification and hold harmless provision shall not apply to the following situations or circumstances:

- A. Environmental Cleanup Claims. If an Indemnified Party disposes or causes to dispose of Hazardous Waste or other waste at the Solid Waste Facility that the Solid Waste Facility is not authorized to accept, the indemnity and hold harmless shall not apply to any environmental cleanup cost associated with the disposal of such wastes.
- B. Vehicular Accidents. The indemnity and hold harmless shall not apply to any on-site accident caused by any vehicle that is owned or operated by one of the Indemnified Parties.
- C. Sole Negligence (Other Than Environmental Cleanup or Vehicular Accidents). The indemnity and hold harmless shall not apply in the event the Indemnified Party(ies) is(are) solely negligent for the liability, loss, claims or damages.
- D. Intentional Acts or Omissions. The indemnity and hold harmless shall not apply in the event the liability, loss, claim or damage is due to the intentional act or omission of any of the Indemnified Parties.

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

In any legal proceedings resulting from the above two paragraphs, the Operator has the right to assert any defense on behalf of a particular municipality, individual or entity which that municipality, individual or entity is legally entitled to, including the provisions of § 893.80, Wis. Stats. Each municipality, individual or entity seeking to utilize the indemnity of this section subrogates all applicable counter-claims (excepting separate damage claims not subject to the indemnification and hold harmless provisions) and assigns all applicable rights and defenses to the Operator which each may have.

## **2. Reimbursement for Negotiation Expenses.**

The Operator shall pay any unreimbursed expenses of the Affected Municipalities and the Negotiating Committee or its

members, not previously reimbursed by Operator, for their actual attorney's 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 Chapter 289, Wis. Stats. up to the date that the Approved Final Negotiated Siting Agreement is accepted by the Waste Facility Siting Board. The above-noted expenses, which shall not exceed \$200,000.00 shall be paid by the Operator within forty-five (45) days after the Operator's receipt of invoices from the Committee or the Affected Municipalities, if not previously reimbursed.

## ARTICLE VI

### COMPENSATION TO THE AFFECTED MUNICIPALITIES

#### 1. Direct Payment

(This section of the agreement was left blank when submitted for arbitration. The following text, in the Times New Roman font, is from the WFSB 9/1/99 arbitration decision.)

"In consideration of the Affected Municipalities: (1) serving as the host and neighboring municipalities, (2) waiving their Local Approvals and Pre-existing Local Approvals, as set forth elsewhere in this Agreement, and (3) accepting the consequences and numerous responsibilities associated with the location of a sanitary landfill in or in proximity to the municipalities, and in consideration of all other matters as set forth in this Agreement, the Operator has agreed to provide, the following compensation and benefits:

"A. A Direct Payment shall be paid to the Affected Municipalities as set forth in Exhibit "N" at a rate equivalent to the amount of \$2.56, less \$0.19 attributable to the present value of the Sociological Payments made pursuant to paragraph 2, below, or a net payment of \$2.37 per ton of solid waste or other materials Disposed of at the Solid Waste Facility. Up to 118,750 cubic yards per year of Beneficially Reused Materials, including contaminated soils, foundry sands and shredder fluffs, may be placed or utilized in the landfill without being subject to or included in the calculation of the Direct Payment. This rate shall be applicable upon the commencement of waste disposal in the expansion area. Subsequent to 1999 and each year thereafter, the rate of Direct Payment shall be increased at the rate of 5.2%, compounded annually, every January 1, beginning the year 2000.

"B. Payment shall be made based upon the tonnage as determined by the weigh scale as provided for hereinafter in this agreement. The actual tonnage shall be the basis upon which payments in each month are based. Payment shall be made on a monthly basis, and the first payment shall be due thirty (30) days after the close of the first month that waste is disposed of in the expansion area, after the Commencement Date. Thereafter, payment shall be received within thirty (30) days from the date that the actual tonnage is to be determined for each monthly payment period.

"In the event the payment is not made when due, interest shall accrue on such obligation at a rate equal to the prime interest rate plus 2%. The same will apply in the event that a dispute requires resolution by court action, arbitration or other resolution, until such amount is paid. The Affected Municipalities and the Standing Committee may review documentation pertaining to the tonnages reported on a monthly basis as the year progresses, and the Affected Municipalities and Standing Committee shall have the right to challenge such amounts at any time, either on a monthly basis or through a year-end reconciliation of the tonnages reported by usage of the weigh scale. Any annual review shall be accomplished on or before March 1 of the following calendar year. Any dispute between the Operator and the Affected Municipalities shall be resolved by a neutral third party who has no direct or indirect relationship with the Operator or the Affected Municipalities. The Affected Municipalities shall have the right to nominate the neutral third party, but the neutral third party must be agreed to by the Operator. The decision of the neutral third party

shall be based on information and methodologies commonly used for making such a determination of actual tonnages disposed, and the determination of the neutral third party shall be final and binding on the Operator and the Affected municipalities. Any costs incurred by or in retaining the neutral third party to make the determination on actual tonnages disposed shall be shared equally by the Operator and the Affected Municipalities. Any underpaid amounts shall be paid within sixty (60) days from the date of the determination, at the then current rate, plus interest thereon from the date the amounts should have been paid, at a rate equal to the prime rate of interest plus 2%.

“All direct payments shall be paid to the Affected Municipalities as set forth in Exhibit "N". The Operator shall take no position regarding the distribution or usage of any funds that are required to be paid under this contract with the Operator's responsibility being to make the payments required and as directed by the Affected Municipalities or as specifically set forth in this Agreement or in Exhibit "N" attached hereto.

“The Operator shall submit detailed statements pertaining to the waste received each month, breaking down such information as to the types of waste, the source of such waste by state, the gate tonnage received based upon the Operators daily records, and as provided for in Article IV (1)(A), and any other supporting documents or provisions of this section. In the event that neither the weigh scale nor the computer generated information is available for any day that waste is received, then the Operator shall make a direct payment based upon the average amount of tonnage received per day during the preceding sixty (60) business days of operation of the Solid Waste Facility.

“The Operator shall provide to the City of Muskego and Waukesha County and Standing Committee all documents submitted to the Department pertaining to the recording and documentation of the waste received. The reporting of tonnage to the Department shall have no bearing on amounts paid to the Affected Municipalities as the parties stipulate that the means of payment to the Affected Municipalities as the parties stipulate that such reporting formulas are different. Information supplied to the Affected Municipalities or the Standing Committee of amounts submitted to the DNR are stipulated to be for informational purposes only.

“If, at any time, the Affected Municipalities or Standing Committee so desire, they may retain an independent consulting firm to perform computations in order to verify the Operators reported tonnages. Such firms may independently test the weigh scale, computer generated information off of said scale, or may use field or aerial surveys to verify reported tonnages based upon air space, volume consumed within the Active Fill Area. The Affected Municipalities or Standing Committee retaining the independent consulting firm shall pay all costs unless such independent consulting firm's computations reveal that the Operator's reported air space or tonnage used has been understated by 10% or greater. If so understated, the costs of such consulting firm shall be borne by the Operator and the Operator shall pay the costs of such independent consulting firm within thirty (30) days after presentation of such bill. The Operator shall also prepare a written report and any documentation necessary explaining the cause of such error. With respect to underpaid amounts that are not disputed by the Operator, such underpaid amounts shall be paid within sixty (60) days at the then current rate, plus interest thereon from the date the amounts should have been paid, at a rate equal to the prime rate of interest plus 2%.

“Notwithstanding the foregoing, the Operator shall be required to install, maintain and certify (bi-annually) a certified weigh scale for measuring and recording Solid Waste disposed at the Active Fill Area. The weigh scale shall be equipped with sufficient computer software and hardware capabilities to record, generate and summarize all information hereinbefore set forth pertaining to Solid Waste documentation requirements. The Affected Municipalities and the Standing Committee shall have access to all computer-generated data or written reports pertaining to waste received at the Solid Waste Facility. The Operator shall keep records and logs of all trucks coming to the Solid Waste Facility and include the following data:

- “A. Name of Acknowledged Transporter.
- “B. Time and date of disposal.
- “C. Truck weight (gross weight, truck weight and net Solid Waste weight).
- “D. Origin of waste by state.
- “E. Type of Waste.

“Weight shall be declared per truck in numerical order of their receipt on a daily basis with the truck ownership and any information which is relevant and kept by the Operator on a regular basis to assist the Standing Committee in reviewing declared garbage weights at the Solid Waste Facility. The Affected Municipalities and Standing Committee may, at their expense, establish video tape equipment and place personnel on-site, as such times as they choose, to monitor the reporting of Solid Waste received at the Active Fill Area for disposal.

“Any payment that is received late shall accrue interest at a rate equal to the prime rate of interest plus 2%, until paid.”

2. Sociological Payments.

(This section of the agreement was left blank when submitted for arbitration. The following text, in the Times New Roman font, is from the WFSB 9/1/99 arbitration decision.)

“The Operator shall pay to the Affected Residents certain sociological payments as set forth in Exhibit "P" of this Agreement. Said Exhibit includes the beneficiaries of such sociological payments and the amount of those payments.”

3. Premium for Out-of-State Waste.

This provision deleted by the WFSB in their 9/1/99 decision.

4. Waste Volume Surcharge.

This provision deleted by the WFSB in their 9/1/99 decision.

5. PCB Impacted Sediments.

PCB Impacted Sediments, as defined in Exhibit "Q", shall not be disposed of in the Active Fill Area without a premium for the same being negotiated by the Standing Committee.

**6. Property Value Protection Plan.**

A Property Value Protection Plan shall be administered in accordance with Exhibit "F" attached hereto and incorporated herein by reference as an integral part of this Agreement.

**7. Household Hazardous Waste Program.**

The Operator shall provide and promote a Household Hazardous Waste (HHW) Collection Program, as detailed in Exhibit "I", for residents of the participating jurisdictions to such program, which include the Cities of Franklin and Muskego, Waukesha County and the Towns of Norway and Raymond. This program shall include operation of one Permanent Collection Facility and two satellite collection sites each year. The location of the Permanent Collection Facility shall be in the Muskego/Waukesha area and shall be determined prior to the approval of this Agreement by mutual consent of the Operator and the Siting Committee. Any future changes to the program, including but not limited to, the Permanent Collection Facility location, frequency of collection, hours of operation, use of satellite collections, shall be reviewed and approved by the Standing Committee and the Operator prior to implementation. The location of the satellite sites shall be approved annually by the Standing Committee in consultation with the Operator.

The Permanent Household Hazardous Waste Collection Facility shall be operated at a minimum of twice per month during the year. Materials to be accepted at the site shall include, but shall not be limited to, the items listed in Exhibit "I". Exhibit "I" shall also set forth the protocol and design of the permanent facility, as well as a detailed statement of the overall program. The Operator shall act as the generator for receipt of all materials and shall provide for staffing, proper disposal and transportation of collected items in accordance with all Federal, State and local requirements, as well as proper management and safety equipment. The Operator shall also provide space for a product exchange/redistribution program at the Permanent Collection Facility site. Indemnification, insurance and hold harmless provisions of the Agreement also apply to any operation or transportation related to and including the facility.

Collections at two satellite sites selected by the Standing Committee shall be held a minimum of once per quarter during the year. The Operator shall act as the generator for receipt of all materials and be responsible for staffing, proper disposal and transportation of the collected materials, providing adequate safeguards, insurance and management of the sites. The Indemnification, Hold Harmless, Duty to Defend, Insurance and Guarantee provisions of this Agreement shall also apply to any

operation pertaining to the Household Hazardous Waste Collection Program, including the Permanent and Satellite Collection Facilities, the transportation of waste, the disposal of HHW and any other responsibility, obligation or part of the program as set forth in Exhibit "I".

The Operator shall promote the use of the HHW Collection Program through an effective education program. This program shall be prepared by the Operator and reviewed and approved by the Standing Committee prior to implementation of the program.

The costs of the program shall be paid by the Operator, but shall not exceed \$250,000.00 for the year 2000, \$190,000.00 for the following year, and \$156,000.00 for each year thereafter, through 2009 or Final Closure, whichever is later. Based on an audit of the program at the end of each operating year, unexpended funds shall be divided by the Affected Municipalities in accordance with the division of host fees as set forth in Article VI, Section 1. Upon the affirmative vote of three-fourths (3/4 or 75%) of the Affected Municipalities, the Affected Municipalities may opt out of this program after giving sixty (60) days written notice to the Operator of their election. The direct payments shall increase by the amount set forth in this paragraph if this election is made, and the Operator shall have no further liability under this paragraph beyond making the annual payment set forth above.

**8. Free Disposal of Governmental and School District Waste.**

The Operator shall accept for disposal at the site, without charge, up to 7525 tons per year of residential municipal waste generated within the City of Muskego and collected by the City of Muskego or under its residential waste collection contract, which tonnage shall be increased by 217 tons per year, beginning with January 1, 2000, until Final Closure.

The Waukesha County and City of Muskego governmental or departmental waste, Drought Elementary School, and Muskego/Norway School District waste will be brought to the site and disposed of free of charge. Waukesha County waste shall be limited to 600 tons per year for 1999, which limit shall increase by 26 tons per year until Final Closure. City of Muskego waste shall be limited to 400 tons per year for 1999, which limit shall increase by 13 tons per year until Final Closure. Muskego/Norway School District waste shall be limited to 300 tons per year for 1999, which limit shall increase by 10 tons per year until Final Closure. Drought Elementary School waste shall be limited to 12 tons per year for 1999, which limit shall increase by 0.2 tons per year until Final Closure. This disposal shall be limited to the operating hours of

the Active Fill Area or any other Superior Services facility, including landfills or transfer stations, should there be any temporary interruption of the operation of the Active Fill Area prior to Final Closure.

In the event that any City of Muskego residential municipal waste, governmental or school district waste as set forth above is disposed of at the site but is charged for by the Operator, the Operator shall reimburse such entity for all charges for such waste by the 20th day of the month following the disposal of such waste.

**9. Contested Case Hearing Reimbursement of Fees.**

The parties acknowledge that under the terms of the Interim Construction Agreement, the Operator has or shall pay to the City of Muskego the sum of \$200,000.00 to reimburse it for City expenses in reviewing the Feasibility Report, retaining experts to evaluate and comment on the same, and in participating in the Contested Case Hearing.

**10. City of Muskego Residential Waste Convenience Center.**

The Operator shall establish a Residential Waste Convenience Center at the Solid Waste Facility for purposes of accepting and disposing of any residential or yard waste transported to the Residential Waste Convenience Center by any resident of the City of Muskego. The Operator shall construct such facilities and buildings and provide sufficient employees to reasonably accommodate the drop-off of such waste. The Residential Waste Convenience Center shall be open to receive waste, at a minimum, each Friday from 9:00 a.m. to 4:00 p.m. and each Saturday from 8:00 a.m. to 12 noon, except on the holidays identified in Article IV, Section 2.

The Operator shall be responsible for providing the free waste drop-off and disposal until Final Closure of the Active Fill Area, or for a period of 10 years, whichever is longer.

**11. Loomis Drive Reconstruction.**

The Operator agrees that it shall contribute the sum of \$340,000.00 to the City of Muskego for the purposes of defraying the cost of rebuilding that portion of Loomis Drive described in Exhibit "O" attached hereto. The aforementioned payment shall be made within ten (10) days following the City's letting of the construction contract. In the event the cost of the rebuilding is less than \$340,000.00, the balance shall be paid to the City of Muskego.

## 12. Sewer.

So long as leachate generated at the landfill is acceptable for disposal at the Milwaukee Metropolitan Sewerage District ("MMSD"), after pretreatment, all leachate disposal, exclusive of leachate that is recycled at the landfill, shall be accomplished through the use of a sewer connected to the City sewer system. All costs associated with the planning, design and construction of the sewer connection shall be the responsibility of the Operator. At the time of the initial connection of the landfill to the City sewer, all costs associated with any negotiations to obtain approval for any necessary service area amendment and sufficient flow capacity from the MMSD for the landfill shall be the responsibility of the Operator. It is understood that sewer service cannot be provided by the City without the approval of MMSD.

Prior to or at the time of connection to the City sewer system the Operator shall pay all of the costs for the design and installation of the sanitary sewers, force mains, lift stations, stand-by power source and related facilities necessary to manage 17,650 gallons per day of leachate and effluent generation. The Plans, specifications and submittal of all documents relating to the sanitary sewer shall be reviewed and approved by the city engineer for the City of Muskego. The Operator shall be subject to the rates, charges and conditions under the City of Muskego sewer use and connection ordinances applicable to SIC code 4953 industrial users, as well as all other applicable governmental laws, rules and regulations.

## 13. Miscellaneous Benefits.

The parties agree that the Interim Construction Agreement, to which a draft of this Agreement was attached as an Exhibit, contains additional benefits for the Affected Municipalities, including a payment in the amount of \$1,296,000.00 in consideration of the Local Committee's execution of the Interim Construction Agreement and the issuance of a clay extraction permit by the City of Muskego, the establishment of a police firing range, and the funding of a Landfill Compliance Officer.

## ARTICLE VII

### MISCELLANEOUS PROVISIONS

#### 1. Expansion.

No further Expansion of the Active Fill Area shall occur except pursuant to the procedures set forth by law applicable at that time or else as specifically set forth in this Agreement.

#### 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 Ten Million Dollars (\$10,000,000) exclusively limited to the Solid Waste Facility, including the original Emerald Park Landfill and the Superior Emerald Park Landfill, Inc.: Southern Expansion. The adequacy of the policy shall be reviewed by the attorneys for the City of Muskego and the Negotiating or Standing Committee.

#### 3. Load Inspections.

Procedures for excluding the receipt of waste not specifically approved for acceptance at the landfill. Superior Emerald Park Landfill, Inc., accepts municipal solid waste, and therefore will implement a program to detect and prevent the disposal of wastes not specifically approved for acceptance. Unacceptable materials include but are not limited to liquids, sludges, regulated hazardous waste, and PCB Contaminated Sediment, as defined in Exhibit "Q". The program shall include the following:

Random Inspections of Incoming Loads. Random inspections shall be conducted on a basis of two (2) inspections per week (approximately one inspection per 5,000 tons, or less, of waste received). To insure that the inspections are random, a random number will be generated, multiplied by the total number of loads received the preceding week for two (2) separate iterations. The procedure will result in random numbers that will correspond to the incoming loads to be inspected that week.

Deliberate Inspections of Incoming Loads. Deliberate inspections shall be conducted on an as determined basis by the landfill general manager, or site manager. The basis for deliberate inspections may be predicated on the results of Random Load Inspections, or on other criteria based on the experience of the landfill regarding incident(s) of having previously received problem, banned or illegal wastes from specifically identified haulers/transporters.

Inspections shall be conducted in accordance with NR 506.16.

## 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 certified mail, return receipt requested 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 Standing 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, return receipt requested to the addresses noted below. The current names and addresses are:

#### Affected Municipalities:

- A. City of Muskego  
Attn: City Clerk-Treasurer  
P.O. Box 749  
Muskego, WI 53150
- B. City of Franklin  
Attn: City Clerk  
9229 West Loomis Road  
Franklin, WI 53132
- C. County of Waukesha  
Attn: Parks & Land Use Department  
c/o County Clerk  
1320 Pewaukee Road, Room 120  
Waukesha, WI 53188
- D. Town of Norway  
Attn: Town Clerk  
6419 Heg Park Road  
Wind Lake, WI 53185
- E. Racine County  
Attn: County Clerk  
730 Wisconsin Avenue  
Racine, WI 53403

**Operator**

F. Superior Emerald Park Landfill, Inc.  
Gene Kramer, General Manager  
W124 S10629 South 124th Street  
Muskego, WI 53150

**2. Headings**

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

**3. Governing Law.**

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

**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. Other Agreements.**

This Agreement shall replace and supersede the existing Emerald Park Landfill Agreement unless expressly stated to the contrary in this contract, except that the terms of paragraph 4.C. of that contract pertaining to the sewer are incorporated herein by reference as though fully set forth at length. The terms of the Interim Construction Agreement, to which a draft of this Agreement was attached as an Exhibit, shall govern the timing and amount of payments made by the Operator under the Interim Construction Agreement and other benefit programs set forth or referenced therein.

Some of the properties described in Addendum 1 to Exhibit "F" may also qualify for property value protection under the Landfill Agreement between Emerald Park, Inc. and the City of Muskego that was filed with the Waste Facility Siting Board on April 30, 1991 (the "1991 Landfill Agreement"). The property value protection provided by the 1991 Landfill Agreement continues for five (5) years after the waste disposal capacity subject to the 1991 Landfill Agreement is consumed.

Within thirty (30) days after the waste disposal capacity subject to the 1991 Landfill Agreement is consumed, the Operator

shall send a written notice (by certified mail, return receipt requested) to each owner of property that qualifies for property value protection under the 1991 Landfill Agreement. The notice shall inform each owner of: (1) the remaining five-year period of time during which the property qualifies for protection under the 1991 Landfill Agreement; and (2) the necessity to elect to obtain the property value protection under the 1991 Landfill Agreement during that five-year period, if the owner of the property wishes to obtain property value protection under the 1991 Landfill Agreement. Not less than one hundred eighty (180) days prior to the expiration of the five-year period of time, the Operator shall send the same written notice (by certified mail, return receipt requested) to any remaining owner of property that qualifies for the property value protection under the 1991 Landfill Agreement. As set forth in the 1991 Landfill Agreement, no more than five (5) property owners per year shall be eligible to exercise their right to property value protection under the 1991 Landfill Agreement.

The Operator shall defend, indemnify and hold harmless the Affected Municipalities and the members of the SEPLI Siting Committee and the Standing Committee from and against any loss, cost, liability or damage, including actual and reasonable attorneys fees, in anyway related to a claim asserted by any person covered by the property protection plan under the 1991 Landfill Agreement, alleging that such covered person has suffered damage or injury as a result of the administration or termination of the property protection plan under the 1991 Landfill Agreement. In any legal proceedings resulting from the indemnity under this paragraph, the Operator has the right to assume and control the defense of the indemnified claim, including the selection of defense counsel, and to assert any defense on behalf of a particular municipality, individual or entity which that municipality, individual or entity is legally entitled to, including the provisions of § 893.80, Wis. Stats. Each municipality, individual or entity seeking to utilize the indemnity of this section subrogates all applicable counter-claims (excepting separate damage claims not subject to the indemnification and hold harmless provisions) and assigns all applicable rights and defenses to the Operator which each may have.

#### **6. Complete Agreement.**

This Agreement is the complete agreement as to the Active Fill Area pursuant to § 289.33, Wis. Stats., between the Affected Municipalities, the Operator, and the Local Committee.

**7. 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.

**8. 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 Muskego 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 Superior Emerald Park Landfill, Inc.: Southern 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.

**9. 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: \_\_\_\_\_

SUPERIOR EMERALD PARK LANDFILL  
Siting Committee,

DATED: \_\_\_\_\_

SUPERIOR EMERALD PARK LANDFILL, INC.

BY: \_\_\_\_\_

Jacqueline Schweitzer,  
Chairperson and authorized  
by vote of and on behalf of  
the Superior Emerald Park  
Landfill Siting Committee

BY: \_\_\_\_\_

Larry Goswick ,  
Midwest Regional  
Vice-President

**GUARANTEE**

Superior Services, Inc., for valuable consideration, including the mutual covenants and benefits stated in this Agreement to itself and its subsidiary corporation Superior Emerald Park Landfill, Inc., such consideration and receipt of which is hereby acknowledged, does hereby guarantee the performance of Superior Emerald Park Landfill, Inc., in the event that the latter fails to do so. Those obligations shall extend to any obligations provided for in this Agreement, including the operation, closure, post-closure responsibilities, and indemnification responsibilities of Superior Services, Inc.

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

DATED: \_\_\_\_\_

SUPERIOR SERVICES, INC.

BY: \_\_\_\_\_  
\_\_\_\_\_ President

ATTEST: \_\_\_\_\_  
\_\_\_\_\_ Secretary

A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.











**Exhibit "A"**  
**ACTIVE FILL AREA**

LEGAL DESCRIPTION FOR LIMITS OF WASTE  
(Existing and Proposed Expansion)

A parcel of land located in the NE. 1/4 and SE. 1/4 of Section 36, T.5N.,R.20E. in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the East 1/4 corner of said Section 36; thence S1°26'12"E along the east line of the SE 1/4 of said Section 36, 1249.02 feet; thence S88°33'48"W, 601.75 feet to the point of beginning of the parcel to be described; thence S86°04'56"W, 1589.70 feet; thence N0°24'42"W, 847.00 feet; thence S88°47'42"W, 344.00 feet; thence due North, 1590.42 feet to a point of curvature; thence northeasterly along a line which curves to the right (having a radius of 60.00 feet and a chord of 83.47 feet which bears N44°04'33"E) an arc distance of 92.31 feet to a point of tangency; thence N89°09'05"E, 932.88 feet; thence S32°27'28"E, 389.95 feet; thence S0°15'04"W; 416.19 feet; thence S81°00'49"E, 10.58 feet; thence N67°30'10"E, 113.36 feet; thence due East, 483.97 feet; thence S48°05'32"E, 77.05 feet; thence due South 238.71 feet; thence S45°00'00"E, 119.42 feet; thence due South, 1289.41 feet to the point of beginning. Said parcel containing 89.53 acres of land, more or less.

Exhibit "B"

**SUPERIOR EMERALD PARK LANDFILL  
TOTAL FACILITY DESCRIPTION  
WAUKESHA COUNTY, WISCONSIN**

LEGAL DESCRIPTION OF ENTIRE SUPERIOR EMERALD PARK LANDFILL AS OF THE EFFECTIVE DATE OF THE FINAL NEGOTIATED AGREEMENT

Parcels of land located in the NE. 1/4, SE. 1/4, NW. 1/4 and SW. 1/4 of Section 36, T.5N., R.20E. and also the NE. 1/4 of Section 35, T.5N., R.20E., all in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the East 1/4 corner of Section 36, T.5N., R.20E., thence S88°04'17"W along the South line of the NE. 1/4 of said section 36, 50.02 feet to a point on the west right-of-way line of S.T.H. "45" (S. 124th St.), said point also being the point of beginning of the parcel to be described; thence continuing S88°04'17"W along said south line, 379.98 feet; thence S1°26'12"E and parallel with the east line of the SE. 1/4 of said Section 36, 227.00 feet; thence N83°49'06"E, 431.46 feet to a point on the east line of said SE. 1/4; thence S1°26'12"E along said east line, 2310.38 feet; thence S88°38'39"W and parallel with the south line of said SE. 1/4 455.50 feet; thence S1°26'12"E and parallel with the east line of said SE. 1/4 207.00 feet to a point on the south line of said SE. 1/4; thence S88°38'39"W along said south line 865.31 feet; thence N1°21'21"W, 8.25 feet; thence S88°38'39"W on a line parallel with and 8.25 feet north of said south line, 1320.81 feet; thence S88°38'44"W on a line parallel with and 8.25 feet north of the south line of the SW. 1/4 of Section 36, T.5N., R.20E., 1990.98 feet; thence N1°09'57"W. 2658.13 feet to a point on the North line of said SW. 1/4; thence S88°04'17"W along said north line, 665.06 feet to the West 1/4 corner of said Section 36; thence N1°12'10"W along the west line of the NW. 1/4 of said Section 36, 2625.29 feet; thence S88°59'36"W and parallel with the north line of the NE. 1/4 of Section 35, T.5N., R.20E., 297.00 feet; thence N1°12'10"W and parallel to the east line of said NE. 1/4, 33.00 feet to the north line of said NE. 1/4; thence N88°59'36"E along said north line, 297.00 feet to the NE. corner of said NE. 1/4; thence N87°28'33"E along the north line of the NW. 1/4 of Section 36, 1333.01 feet to the NE. corner of the NW. 1/4 of the NW. 1/4 of said Section 36; thence S1°08'35"E along the east line of the NW. 1/4 of said NW. 1/4, 1336.09 feet; thence N87°46'24"E, 1331.47 feet; thence N87°49'03"E, 2309.21 feet; thence S0°29'55"E, 132.00 feet; thence N87°49'03"E, 279.98 feet to a point on the west right-of-way line of S.T.H. "45" (S. 124th St.); thence S0°29'55"E along said west line, 1222.78 feet to the point of beginning.

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**Exhibit "C"**  
**STANDING COMMITTEE**

1. **Purpose.** The Affected Municipalities and Superior Emerald Park Landfill, Inc. (hereinafter referred to as the "Operator"), agree to re-establish and continue to participate in the Standing Committee to monitor the construction and operation of the Solid Waste Facility (hereinafter referred to as Committee or Standing Committee).

2. **Membership.** Membership on the Committee shall consist of five (5) City of Muskego representatives appointed by the City of Muskego, and one (1) representative of each of the other Affected Municipalities (hereinafter these representatives are referred to as Committee Members). The Committee shall elect, from amongst its members, an individual to function in the capacity of chairperson. For any action taken by the Committee, unless otherwise expressly provided, a majority vote of the Committee is required. The Operator may appoint two (2) representatives to the Committee who shall be ad hoc members and shall have no vote.

In the event that additional affected municipalities are added to the membership, the City of Muskego shall have the right to appoint additional members such that the City of Muskego will always have a one member majority on the Committee.

3. **Term.** All members appointed shall serve at the pleasure of the respective entities that appointed them.

4. **Replacement and Removal.** A Committee member may voluntarily resign or be replaced at any time.

Any Committee Member may be removed by the Committee for good cause and upon a three-fourths (3/4) vote of the Committee.

5. **Quorum and Vote.** A majority of the Committee Members shall constitute a quorum, provided that voting shall be governed by the following rules: each member of the Committee present shall have one vote.

6. **Documents.** The Operator shall provide copies of all technical reports and monitoring data supplied to the State of Wisconsin/Department of Natural Resources by the Operator pertaining to the Superior Emerald Park Landfill, including the Plan of Operation, any proposed amendments to the feasibility study or any proposed changes to any special conditions imposed by the State of Wisconsin/Department of Natural Resources. Such copies shall be provided free of charge to the Committee. Such

information shall apply to all activities in the Solid Waste Facilities.

7. **Meetings.** The Committee may establish a schedule for meetings for the purposes of review, explanation and discussion of said technical data and the status of the Solid Waste Facility construction, operation and closure. Special meetings of the Committee may be called by the Chairperson of the Committee or any three members of the Committee upon written notice mailed at least five (5) days prior to the proposed meeting. Said meeting may be called for the purpose of addressing any issue of concern involving the Solid Waste Facility construction, operation or closure. Upon the occurrence of an event deemed by the Chairperson to constitute an Emergency condition, a special meeting may be called with less than five (5) days notice, provided each Committee Member is personally notified. The public may attend any Committee meeting. Any written notice called for in this Agreement shall be deemed effectively provided when either personally delivered or sent by mail to all Committee Members at the addresses listed by them with the Committee.

The Standing Committee shall also appoint a Vice-Chair who shall have the responsibilities of the Chairperson in his/her absence.

The Chairperson shall be responsible for the running of all meetings. The Chairperson shall approve all secretarial invoices and shall have the authority of the Standing Committee to sign any checks, should the Standing Committee have its own account. Any approved invoice shall otherwise be sent to the Clerk of the City of Muskego for payment out of the segregated Standing Committee funds. The secretary shall either be appointed or hired by the Standing Committee. The secretary shall be responsible for notifying the members and providing notice as required by the Open Meetings Law. The secretary shall also record all open meetings and prepare minutes of the meetings, which shall at a minimum include information pertaining to all formal motions and resolutions made, complaints made by or to the Standing Committee regarding operation of the site and representations or promises made by the Operator pertaining to responses to be made to any complaint or objection presented or discussed at a Committee meeting.

8. **Committee Inspections.** Individual Committee Members, with proper identification, shall have the right to conduct on-site inspections of the Solid Waste Facility pursuant to the procedure provided in Article IV, Section 12 of the Agreement.

9. **Violations.** If, in the judgment of the majority of the Committee Members, the Solid Waste Facility is not being constructed or operated in compliance with the Operator's approved Plan of Operation, or with any applicable State statute or regulation, or any other provision of law, whether it be in law or equity, the Committee may serve written notice of such perceived noncompliance upon, and may make recommendations to, the Operator. Similarly, if any aspect of the construction, operation or closure of the Solid Waste Facility causes or is likely to cause, in the judgment of the majority of the Committee, a problem due to noise, dust, debris, odor, maintenance of access road, litter, traffic flow, traffic patterns or inadequate screening or fencing or any other problem, the Committee may serve upon the Operator written notice of the Committee's concern and make recommendations to remedy or address such concern.

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

10. **Enforcement.** The Affected Municipalities and Operator hereby stipulate that the Committee shall have legal standing in its own name to enforce any provision of the negotiated settlement if the Operator fails to remedy the concern of the Standing Committee as hereinbefore stated using the enforcement procedures of this section. Upon receipt of any notice of non-compliance or notice of an issue of concern to the Committee, the Operator shall immediately investigate any allegation of non-compliance or issue of concern made by the Committee and shall, if possible, take action as is necessary to alleviate and/or correct the situation within twenty-four (24) hours. The Operator shall deliver a written report concerning the investigation and any resulting Remedial Action to the Committee within seventy-two (72) hours of receipt of the original notice. The Operator may petition the Committee for an extension of the above time limits and, upon showing sufficient cause, the Committee shall so extend the limits. In the event the situation is impossible of being alleviated or corrected within the above time frames, the time periods shall be automatically extended so long as Operator is diligently working to alleviate or correct the situation. In the event the Operator does not correct the condition to the satisfaction of a majority of the

Committee within the time frames hereinbefore stated, the Committee may pursue such remedies as are available.

11. **Expenses.**

The Standing Committee receives \$10,000.00 per year through the landfill siting agreement to fund the Committee's expenses. In the event the Committee exceeds this budget, then all of the Affected Municipalities that have representation on the Committee, will be responsible in the same proportion of its membership where it exceeds such amount. The Committee shall not exceed its budget without prior approval of all of the Affected Municipalities, unless one or more of the municipalities agree to be responsible for the expense of the Committee which exceeds \$10,000.00 per year. In the event any municipality fails to pay their proportion of the expenses within 60 days, the Standing Committee may apply to the Operator to have any direct payments made to such municipality first used to cover such expenses, with that amount to be deducted by that municipality's fees.

**Exhibit "D"**  
**AIR QUALITY STANDARDS**

The Operator shall comply with all air quality standards required under the Plan of Operation or any modifications thereof or any other requirements of the Department of Natural Resources or United States Environmental Protection Agency.

In addition, the Operator shall specifically comply with all of Administrative Code Regulations pertaining to emerging gases emanating from the site including, but not limited to, Wisconsin Administrative Code Chapters 400 et. seq., 500 et. seq., and 600 et. seq. Notwithstanding the foregoing, the Operator shall only be required to comply with those regulations which the Department imposes upon existing landfills such as the Active Fill Area and subsequent changes to such regulations.

The Operator shall take all reasonable precautions to minimize the amount of dust and particulate matter that leaves the Active Fill Area or its access roads during construction, operation, and closure. The total concentration of the suspended particulates shall not exceed 150 micrograms per cubic meter measured at the boundary of the Solid Waste Facility.

## Exhibit "E"

### WELL WATER TESTING

**Operator's General Requirements.** The Operator guarantees to protect groundwater and drinking water supplies from site-related contamination in excess of applicable standards established under State and Federal statutes and regulations. The Operator shall comply with all background testing and groundwater monitoring as required by the Department in its approvals of the Feasibility Report and Plan of Operation. The Operator shall provide the Standing Committee copies of all test results and communications to or from the Department that relate to such testing. A copy of the results of each well water test required by this Exhibit shall be provided by the Operator, at its cost, to the Affected Municipality in which the well is located, the Standing Committee, and the property owner (or occupant) in question within five (5) days of the receipt of the test results. The Operator shall undertake all testing required by this Agreement in compliance with the Wisconsin Clean Water Act, any Department of Natural Resources or EPA requirements, whichever is the most stringent.

The Operator shall be responsible for the costs of collecting and analyzing the water samples as provided herein. The samples shall be collected by a firm ("Firm") qualified to perform the required water sampling procedures, and selected by the Standing Committee and agreed to by the Operator. The Operator and the Standing Committee shall both be deemed clients of the Firm, except as to the payment obligation, which, except as otherwise provided herein, shall be the Operator's sole responsibility. The Operator and the Standing Committee shall have equal access to the Firm for input as to the services to be rendered. However, if the Standing Committee requests any services in addition to those contemplated within this Agreement or any agreement with the Firm, that shall be the sole obligation of the Standing Committee and the Standing Committee shall enter into a separate contract for these services. The Operator shall have no payment obligation for such additional separate contract services. In addition, the Operator and the Standing Committee shall have equal access as to all information pertaining to the services and/or product provided by the Firm. Any contract or agreement with the Firm shall contain an informed consent provision requiring the Firm to consult with both the Standing Committee and the Operator on an equal basis and shall provide that no information in any way pertaining to the services and products to be provided under this Agreement shall, in any way, be privileged or confidential.

The Standing Committee shall instruct the Firm to deliver the test results to the Standing Committee within sixty (60) days from the receipt of the notice of the Standing Committee's selection.

Within five (5) days of submission of the well water test results, the Firm will prepare a brief letter to each property owner and Standing Committee with a layperson's explanation of the laboratory test results.

**Eligibility of Wells.** One (1) well in each tax-keyed property located within the "Well Water Testing Area," as defined on the map included as Exhibit "E-1", shall be eligible for background water testing under this provision. If any property is served by more than one well, the Standing Committee shall select one (1) of the wells which shall be the test well. The Standing Committee shall maintain a list identifying all properties in the Well Water Testing Area and the specified test well on each property.

The Standing Committee may change this list from time-to-time (e.g., as when new homes are built within the Well Water Testing Area).

**Standing Committee to Select Wells.** The Standing Committee shall make an initial designation of seventy-five (75) wells the first (1st) year of the Agreement, selected from the total list above, that will be tested by the Operator at its expense, as hereinafter provided. Thirty-five (35) wells shall be tested in each subsequent year, unless problems are identified which might require more testing, as detailed below. This selection may be based on expert geological advice regarding the direction of flow of underground water, well water testing results from prior years, unidentified contamination of wells, etc.

Notwithstanding the foregoing, the Operator shall not be required to sample any of the water supply wells serving the properties identified above for the purpose of determining the water quality of well water of these properties, unless it first receives, in the form attached as Addendum 1 to Exhibit "E", written permission from the respective property owner or an occupant. The Firm ("Sampling Agency" - "SA") shall also be directed not to test any well not meeting all applicable codes and ordinances pertaining to wells.

Testing of the first seventy-five (75) wells shall be accomplished within six (6) months of the signing of the Final Negotiated Agreement. The schedule for testing in subsequent years shall be agreed to by the Standing Committee and the Operator, and may be changed from time-to-time based on the accumulated information then available. The testing of wells shall be conducted annually under this provision until Final Closure or 10 years after the execution of this Agreement, whichever is later.

In the event that the owner(s) or user(s) of any well so identified refuses to give the Firm written consent, the Firm shall advise the

Standing Committee, and the Standing Committee shall designate additional wells to reach, if possible, the above specified number of wells to be sampled during that year.

**Standing Committee May Amend Procedure.** The Standing Committee, as a result of new scientific information, may amend the Well Water Testing program and procedure to reflect the then "current state of the art" with respect to laboratory and field test procedures, along with specific testing parameters. If, as a result of an amendment to the Well Water Testing program, the cost of sampling and analysis exceeds \$405.00 per well, plus an increase of 4% per annum starting in January 1, 2000, such excess cost shall be paid by the Standing Committee.

If, at the end of any year, the Well Water Testing costs, exclusive of any costs incurred for testing wells with an exceedance of a primary non-bacterial maximum contaminant level as defined in NR 809, Wis. Adm. Code, or a health-related Enforcement Standard as defined in NR 140.10, Wis. Adm. Code, are less than the adjusted per annum Well Water Testing costs for that year, the difference shall be paid to the Standing Committee Fund within sixty (60) days.

**Sampling Procedures and Data Management.** At the time of laboratory sample collection, a separate container will be used for field testing. The private well sample will be tested in the field for pH, temperature, specific conductivity, color, odor, and turbidity. Field data will be recorded on Groundwater Monitoring Field forms and forwarded to the laboratory to be included in the laboratory report. The laboratory shall analyze the sample for the parameters listed below, in the Analysis Summary. Within five (5) days of receipt of the laboratory report, the laboratory or the Firm (hereinafter described) will prepare a brief letter to each property owner and the Standing Committee with an explanation of the laboratory test results.

Analysis Summary:

Parameter	Detection Limit	Preventive Action Limit (PAL)	Enforcement Standard (ES)
Volatile Organics - EPA Method 524.2	less than 1.0 ppb	Varies by compound	Varies by compound
Total Suspended Solids	1.0 ppm	Not established	Not established
Coliform Bacteria	1/ml	0	0
Chloride	0.5 ppm	125 ppm	250 ppm

Sulfate	2.5 ppm	125 ppm	250 ppm
Lead	.5 ppb	1.5 ppb	15 ppb
Manganese	0.01 ppm	0.025 ppm	0.05 ppm
TKN	.01 ppm	Not established	Not established
Nitrate + Nitrite (as N)	0.05 ppm	2.0 ppm	10.0 ppm
Alkalinity	6.0 ppm	Not established	Not established
Selenium	1.5 ppb	10 ppb	50 ppb
Boron	50 ppb	Not established	Not established
Dissolved Iron			
COD			
Field Temperature			
Field Conductivity @ 25°C			
Field pH			
Field Hardness			
Field Color			
Field Odor			
Field Turbidity			

[Note: The above Detection limits, PALs and ESs are subject to change.]

#### EPA Method 524.2 Parameter list

Common Name	CAS RN	Synonyms
1 Ethylbenzene	100-41-4	
2 Styrene	100-42-5	Ethenylbenzene
3 cis-1,3-Dichloropropylene	10061-01-5	cis-1,3-Dichloropropene; Z-Dichloropropylene
4 trans-1,3-Dichloropropene	10061-02-6	trans-1,3-Dichloropropylene, E-Dichloropropylene
5 n-Propylbenzene	103-65-1	
6 n-Butylbenzene	104-51-8	
7 p-Chlorotoluene	106-43-4	4-Chlorotoluene
8 p-Dichlorobenzene	106-46-7	1,4-Dichlorobenzene
9 1,2-Dibromoethane	106-93-4	EDB; Ethylene dibromide
10 1,2-Dichloroethane	107-06-2	Ethylene dichloride
11 1,3,5-Trimethylbenzene	108-67-8	
12 Toluene	108-88-3	Methylbenzene
13 Chlorobenzene	108-90-7	Monochlorobenzene
14 Bromobenzene	108-96-1	
15 1,2,4-Trichlorobenzene	120-82-1	
16 Dibromochloromethane	124-48-1	Chlorodibromomethane
17 Tetrachloroethylene	127-18-4	Perchloroethylene; Tetrachloroethene; PCE
18 Xylene (total) [see note 1]	1330-20-7	Dimethylbenzene; meta,para-Xylene
19 sec-Butylbenzene	135-98-8	

20	1,3-Dichloropropane	142-28-9	
21	cis-1,2-Dichloroethylene	156-59-2	cis-1,2-Dichloroethene
22	trans-1,2-Dichloroethylene	156-60-5	trans-1,2-Dichloroethene
23	Methyl tert-butyl ether	1634-04-4	MTBE
24	m-Dichlorobenzene	541-73-1	1,3-Dichlorobenzene
25	Carbon tetrachloride	56-23-5	Tetrachloromethane
26	1,1-Dichloropropene	563-58-6	1,1-dichloropropylene
27	2,2-Dichloropropane	594-20-7	
28	1,1,1,2-Tetrachloroethane	630-20-6	
29	Chloroform	67-66-3	Trichloromethane
30	Benzene	71-43-2	
31	1,1,1-Trichloroethane	71-55-6	Methylchloroform
32	Methyl bromide	74-83-9	Bromomethane
33	Methyl chloride	74-87-3	Chloromethane
34	Methylene bromide	74-95-3	Dibromomethane
35	Bromochloromethane	74-97-5	
36	Chloroethane	75-00-3	Ethyl chloride
37	Vinyl chloride	75-01-4	Chloroethene
38	Methylene chloride	75-09-2	Dichloromethane
39	Bromoform	75-25-2	Tribromomethane
40	Bromodichloromethane	75-27-4	Dichlorobromomethane
41	1,1-Dichloroethane	75-34-3	
42	1,1-Dichloroethene	75-35-4	Vinylidene chloride; 1,1-Dichloroethylene
43	Trichlorofluoromethane	75-69-4	Fluorotrichloromethane, Freon 11
44	Dichlorodifluoromethane	75-71-8	Freon 12, Difluorodichloromethane
45	1,2-Dichloropropane	78-87-5	
46	1,1,2-Trichloroethane	79-00-5	
47	Trichloroethylene	79-01-6	Trichloroethene; TCE
48	1,1,2,2-Tetrachloroethane	79-34-5	
49	1,2,3-Trichlorobenzene	87-61-6	
50	Hexachlorobutadiene	87-68-3	
51	Naphthalene	91-20-3	
52	1,2,4-Trimethylbenzene	95-36-3	
53	o-Chlorotoluene	95-49-8	2-Chlorotoluene
54	o-Dichlorobenzene	95-50-1	1,2-Dichlorobenzene
55	1,2-Dibromo-3-Chloropropane	96-12-8	DBCP
56	1,2,3-Trichloropropane	96-18-4	
57	Tert-Butylbenzene	98-06-6	
58	Isopropylbenzene	98-82-8	
59	p-Isopropyltoluene	99-87-6	p-Cymene; 1-Methyl-4-(1-methylethyl) benzene
	2-chloroethylvinyl ether	110-75-8	Note: No detect in presence of HCL

Note (1) Xylene (total): This entry includes o-Xylene (CAS 106-42-3), m-Xylene (CAS 108-38-3), p-Xylene (CAS 106-42-3), and unspecified Xylenes (dimethylbenzenes) (CAS 1330-20-7).

### Initial Response to Well Water Contamination.

[A] If the test of a sample collected by the Firm, Operator, Wisconsin Department of Natural Resources ("Department"), or a third party from a private water supply well (said test to have been conducted in accordance with Department protocols for sampling and analysis, including the use of a Department-certified laboratory) indicates an exceedance of a primary non-bacterial maximum contaminant level as defined in NR 809 of the Wis. Adm.

Code, or a health-related Enforcement Standard as defined in NR Code, or a health-related Enforcement Standard as defined in NR 140.10 of the Wis. Adm. Code, then:

The Firm shall, upon notice from the Standing Committee, secure a sample from said well and test the same [utilizing the procedure stated above] plus the additional parameters in the below table to confirm the exceedance. The Firm shall deliver the test results to the Standing Committee and the Operator within thirty (30) days of said notice. If the results of this test confirm the exceedance, then the exceedance will be said to have been documented.

Additional Parameters for Non-Compliance Wells:

Parameter	Detection Limit	Preventive Action Limit (PAL)	Enforcement Standard (ES)
Iron Bacteria	1/ml	0	0
Nitrate (as N)	0.5 ppm	2.0 ppm	10.0 ppm
Sulfur Bacteria	1/ml	0	0

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

[B] If the results of the Firm's test under subparagraph [A] document the exceedance, then the Operator shall forthwith initiate a "First Response" and deliver, at its sole cost, potable water to residents and livestock residing upon the property served by the well. This "First Response" shall be for the interim period until the full scope of the contamination is determined. However, the Operator's obligation to provide potable water to livestock shall be contingent upon the City of Muskego, City of Franklin, and/or other municipal water sources selling water to the Operator at a cost as is then determined by the Wisconsin Public Service Commission.

The foregoing "First Response" procedure for providing water upon the documentation of an exceedance shall only be binding upon the Operator if: (i) the well at which the exceedance was detected is within the Well Water Test Area, and (ii) the well owner and

tenant, if any, reasonably cooperates with the Operator in the investigation under subparagraphs [D] and [E].

[C] If the results of the Firm's test under subparagraph [A] document the exceedance, then the Operator shall also test the well water for the following inorganic substances: arsenic, cadmium, chromium, mercury, barium, silver, copper and zinc.

[D] If upon further investigation, including additional testing by the Operator, it is determined by the Department that the exceedance is caused by a source other than a landfill, then the Operator's obligation to provide potable water will cease and the following sections shall not apply.

**Determining the Scope of Contamination.** Once an individual well has been identified as contaminated, the Standing Committee shall immediately select five (5) additional wells for testing, located either in close proximity to the contaminated well, or in the hypothesized path the contaminants traveled between the landfill and the contaminated well. These tests shall be above and beyond the number performed in the normal Well Water Testing program.

The purpose of this additional testing is to more completely delineate the entire scope of the drinking water contamination so that an appropriate remedy can be obtained. The Operator shall be responsible for requiring the Firm, at the Operator's sole cost, to expeditiously test the newly-selected wells in the same manner as the contaminated well(s).

The Standing Committee shall continue selecting new wells for testing, in sets of five (5), as long as at least one (1) of the wells in the last previous set tested was contaminated. The wells selected need NOT be confined to the Well Water Testing Area.

The Standing Committee may, in its sole discretion, select fewer than five (5) wells for testing; however, if none of the newly selected wells is contaminated, testing at the Operator's expense shall be deemed completed.

The Standing Committee shall notify the Operator, once it is satisfied that the full extent of the problem has been determined. The Operator shall thereafter have one (1) month from said notice to present proposals for a permanent remedy to the Standing Committee. The proposal presented shall include a comprehensive solution in the form of a technical plan, with associated costs and scheduling included. The Operator shall be responsible for implementing the plan.

If the Operator does not present a viable plan within the allotted month, the Standing Committee shall take steps to create one of its own. Those steps may include working with contractors, consultants and other professionals the Standing Committee deems necessary to accomplish an adequate "Work Plan" to remedy the contamination. All costs for this planning and subsequent implementation are the responsibility of the Operator and shall be paid within thirty (30) days of being invoiced.

The Standing Committee and the Affected Municipality(s) shall be the official source(s) of information released to the public about such an occurrence. All such information shall be freely distributed by the Standing Committee throughout the fact-finding process. The Operator shall pay all costs incurred by the Standing Committee to communicate with affected residents in the affected and surrounding areas (e.g., cost of copying, mailing, publications, etc.).

**Permanent Remedy for Groundwater Contamination.** The Operator shall take appropriate measures to provide a permanent potable water supply, equivalent to that the owner(s) enjoyed before the landfill-related problem(s) occurred. This includes delivering water to each affected property (whether inside or outside of the Well Water Testing Area) via underground pipes connected to the existing plumbing, as though the new connection was the existing water supply, and with sufficient water pressure and flow capacity to allow the owner to utilize all the existing facilities on the property in a fashion to which they were accustomed.

This remedy might be affected by removing the source of contamination and restoring the contaminated well(s); by drilling new individual wells; by drilling new community or neighborhood wells; or by obtaining water from an already existing source (e.g., the local city water utility). In no way shall water hauled to a property in a vehicle be considered adequate for a permanent solution.

The Permanent Solution shall be expedited with all reasonable haste, and the Standing Committee shall oversee the scheduling of the project and take action to see to the Operator's completion of the Permanent Solution according to the proposed schedule. The Standing Committee shall keep all affected residents informed about the status of the situation on a monthly basis.

**Addendum to Exhibit "E"**  
**ACCESS AND WELL WATER SAMPLING AGREEMENT**  
**Property Protection Program**  
**Superior Emerald Park Landfill**  
**Muskego, Wisconsin**

I, \_\_\_\_\_,  
owner/occupant of the property located at \_\_\_\_\_,  
\_\_\_\_\_ grant the Sampling  
Agency (SA), and their agents, employees, and/or independent  
contractors the right to temporarily interrupt the well  
owner/occupant's water supply for the purpose of well inspection  
and sampling. Such temporary interruption shall only occur when  
the well owner/occupant and SA agree to a mutually convenient time  
within the restrictions placed on such sampling by the Superior  
Emerald Park Landfill Standing Committee or any regulatory agency  
requiring that such sampling occur.

SA, its agents, employees, and/or contractors will take all  
responsible steps to prevent:

- polluting the waters of well(s) on the premises.
- damaging the well(s), pump(s) and/or casing(s) located on  
the property.

SA agrees to correct any of the above-noted problems arising  
due to the negligent acts or willful misconduct of SA, its agents,  
employees, and/or independent contractors. Well owner/users,  
however, shall not hold SA and/or its independent contractor liable  
for any diminution in water quality or quantity from the sampled  
well, or for failure, interruption or shortage of water, or any





## Proposed Well Water Test Area Parcel List

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	
1	E-Nor	01-001-000	Alex	George V.	S98 W12712 Loomis Dr.	Muskego, WI 53150	Land - No well
2	Nor	01-003-000	Meyers	Blanch	8916 N. Raynor Ave	Franksville, WI 53126	
3	Nor	01-004-000	Hintz	Jack & Kathleen	8832 N. Raynor Ave	Franksville, WI 53126	
4	New	01-005-000	Gaffney	Fredrick	1939 W. Oakwood Rd.	Oak Creek, WI 53154	Rental
5	New	01-006-000	DeBack	Carol	W198 S10957 Racine Ave	Muskego, WI 53150	
6	New	01-007-000	DeBack	Carol	W198 S10957 Racine Ave	Muskego, WI 53150	
7	New	01-008-000	DeBack	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	
8	New	01-008-010	Hart	Jeffery & Kimberly	7562 Seaspring Dr. #201	Huntington Beach, CA 92648	Land
9	Nor	01-008-020	Feustel	Cory & Jodi	21923 Eight Mile Rd.	Muskego, WI 53150	
10	Nor	01-008-030	Torres	Ysidro	21719 Eight Mile Rd	Muskego, WI 53150	
11	New	01-008-040	Habitat for Humanity of Wauk Co. Inc.		P.O. Box 1143	Menomonee Falls, WI 53052	Land
12	New	01-009-000	DeBack	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	
13	New	01-010-000	DeBack	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	21806 Eight Mile Rd.
14	Nor	01-011-000	Datka	Myron & Amy	8702 N. Raynor Ave	Franksville, WI 53126	
15	New	01-012-000	Datka	Myron & Amy	8702 N. Raynor Ave	Franksville, WI 53126	
16	Nor	01-013-000	Sanford	Dennis & Judith	8608 N. Raynor Ave	Franksville, WI 53126	
17	12	01-014-000	Drought	Gene & Gerald	21636 Seven Mile Rd.	Franksville, WI 53126	
18	13	01-015-000	Drought	Gene & Gerald	21636 Seven Mile Rd.	Franksville, WI 53126	
19	14	01-016-000	Drought	Dale	21510 Seven Mile Rd.	Franksville, WI 53126	
20	E-Nor	01-017-000	Ellerton	Harold W.	8412 Raynor Ave.	Franksville, WI 53126	
21	16	01-017-001	Waldron	Donald & Barbara	21414 Seven Mile Rd.	Franksville, WI 53126	
22	21	01-017-002	Schaefer	Family Living Trust	21224 Seven Mile Rd.	Franksville, WI 53126	
23	15	01-017-003	Waldron	Donald & Barbara	21414 Seven Mile Rd.	Franksville, WI 53126	
24	17	01-017-004	De Back	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	
25	15	01-017-006	Waldron	Donald & Barbara	21414 Seven Mile Rd.	Franksville, WI 53126	
26	23	01-017-010	Duerr	Tim & April	11920 W. Arthur St	West Allis, WI 53227	
27	20	01-017-011	Wolfert	Gregory & Cherye	25903 W. Loomis Rd.	Wind Lake, WI 53185	
28	23	01-017-020	Duerr	Tim & April	11920 W. Arthur St	West Allis, WI 53227	
29	19	01-018-000	Hunjadi	Richard & Carol	21324 Seven Mile Rd.	Franksville, WI 53126	
30	18	01-019-000	Hunjadi	Donald	21332 Seven Mile Rd.	Franksville, WI 53126	
31	Nor	01-020-000	Mente	Clarence J.	8502 N. Raynor Ave	Franksville, WI 53126	
32	E-Nor	01-021-000	Waukesha Block Co.		Raynor Ave	Franksville, WI 53126	
33	E-Nor	01-022-000	Waukesha Block Co.		Raynor Ave	Franksville, WI 53126	
34	24	01-024-000	Datka	Robert G.	8122 Raynor Ave	Franksville, WI 53126	
35	22	01-026-000	Brulan	Richard & Mardell	21204 Seven Mile Rd.	Franksville, WI 53126	
36	25	01-027-000	Gale	Eve Spanic	8108 Raynor Ave	Franksville, WI 53126	

## Proposed Well Water Test Area Parcel List

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	
37	E-Nor	01-028-000		Drought School			
38	Nor	01-031-000	Ambramowski	Harold	8808 N. Raynor Ave	Franksville, WI 53126	
39	New	02-001-000	De Back	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	22037 Eight Mile Rd.
40	Nor	02-001-010	Barwick	Robert & Susan	22037 Eight Mile Rd.	Muskego, WI 53150	
41	New	02-001-020	DeBack	Dean & Carol	N162 W19309 Oakland Dr.	Jackson, WI 53037	2 Family
42	Nor	02-001-030	Antezak	Paul & Dawn	22217 Eight Mile Rd.	Muskego, WI 53150	
43	Nor	02-001-040	Ottoson Jr.	Robert & Elizabeth	22207 Eight Mile Rd	Muskego, WI 53150	
44	Nor	02-001-051	Hough	Herbert & Brenda	22123 Eight Mile Rd	Muskego, WI 53150	
45	New	02-002-000	Schill	Albert	22013 Eight Mile Rd.	Muskego, WI 53150	Rental
46	New	02-004-000	De Back	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	22057 Eight Mile Rd.
47	Nor	02-005-000	Kopidowski	Wayne & Lisa	22429 Eight Mile Rd	Muskego, WI 53150	
48	Nor	02-005-010	Menako	James & Debra	22243 Eight Mile Rd	Muskego, WI 53150	
49	Nor	02-005-020	Sekula	Mike	22439 Eight Mile Rd	Muskego, WI 53150	
50	New	02-005-030	Mehako	James & Debra	22243 Eight Mile Rd	Muskego, WI 53150	
51	Nor	02-006-001	Funk Jr	Roy	22619 Eight Mile Rd	Muskego, WI 53150	
52	Nor	02-006-010	Ludwig	Lois	22505 Eight Mile Rd	Muskego, WI 53150	
53	New	02-006-020	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
54	New	02-006-021	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
55	New	02-006-022	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
56	New	02-006-023	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
57	New	02-006-024	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
58	Nor	02-006-031	Young	Jesse & Cheryl	22637 Eight Mile Rd	Muskego, WI 53150	
59	4	02-006-033	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	
60	1	02-006-132	Laffin/Pradarelli	Daniel/Gina	6198 Revere Rd	Racine, WI 53402	
61	2	02-006-232	Sellner	Mark & Lori	22737 Eight Mile Rd.	Muskego, WI 53150	
62	3	02-007-000	Deavers	Dale A.	22825 Eight Mile Rd.	Muskego, WI 53150	
63	7	02-008-011	Peters	Mark & Rosemary	27402 Malchine Rd.	Waterford, WI 53185	
64	6	02-008-012	Peters	Jonathan Paul	S69 W22945 National Ave	Big Bend, WI 53103	
65	5	02-008-013	Swartz	David & Sharon	22933 Eight Mile Rd.	Muskego, WI 53150	
66	W-Nor	02-009-000	Rasmusson	Ronald	5410 Sunny Lane	Waterford, WI 53185	Land - No well
67	W-Nor	02-010-000	Lange	James & Amy	22930 Seven Mile Rd.	Muskego, WI 53150	
68	W-Nor	02-010-010	Lange	James & Amy	22930 Seven Mile Rd.	Muskego, WI 53150	Land - No well
69	W-Nor	02-011-000	Huckstorf	Gerald & Deborah	22502 Seven Mile Rd.	Muskego, WI 53150	
70	W-Nor	02-011-100	Huckstorf	Gerald & Deborah	22502 Seven Mile Rd.	Franksville, WI 53126	Land - No well
71	8	02-012-000	Davitz	Harvey	22428 Seven Mile Rd.	Franksville, WI 53126	
72	9	02-013-000	Schubring	Brian & Michelle	22020 Seven Mile Rd.	Franksville, WI 53126	

## Proposed Well Water Test Area Parcel List

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>		
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>
73	10	02-013-010	Bajarek	Frank	25505 W. Loomis Rd.	Wind Lake, WI 53185
74	11	02-014-000	Hayne	William & Jenilynne	22204 Seven Mile Rd.	Franksville, WI 53126
75		2257 974	Andrews	Roger & Sylvia	S98 W12532 Loomis Rd	
76	n-msk	2257 976	Berka	Judith	W125 S9808 North Cape	Muskego, WI 53150
77		2257 977	Meinen Jr	Albert L.	W125 S9800 N. Cape	
78		2257 978 001	Loomis-Martins LLC		W125 S9782 N. Cape	
79	n-msk	2257 980	Kloskowski	Scott & Jean	W125 S9819 North Cape	Muskego, WI 53150
80		2257 981	Ritzmann Family Rev Trust		W125 S9839 N. Cape	
81		2257 982	Erdmann	Dale & Mark	S98 W12608-16 Loomis Rd	
82		2257 984	Alex	George & Karen	S98 W12712 Loomis Rd	
83		2257 985	Wagner	Clarence J.	5820 S. 109th St.	Hales Corners, WI 53150
84		2257 986	Slak	Margaret L.	S98 W12772 Loomis Rd.	Muskego, WI 53150
85		2257 987	Brien	Karl & Dawn	S98 W12808 Loomis Rd.	Muskego, WI 53150
86		2257 988	Bartes	Laverne J.	S98 W12878 Loomis Rd.	
87		2257 989	Bartes	LeVerne J.	S98 W12878 Loomis Rd.	Muskego, WI 53150
88		2257 990	Weissbrodt	Mark A.	S98 W12904 Loomis Rd.	Muskego, WI 53150
89		2257 992	Eckstein	John F.	S98 W12970 Loomis Rd.	Muskego, WI 53150
90		2259 979	TCVFD		S100 W13444 Loomis Rd	
91		2259 980	Boehm	Robert C.	W124 S10227 S. 124th St.	Muskego, WI 53150
92		2259 981	Machulak	Walter & Audrey	W124 S10077 S. 124th St.	Muskego, WI 53150
93		2259 982	Eigenberger	Claude A.	S99 W13201 Loomis Rd.	Muskego, WI 53150
94		2259 983	Jung	Norman	S99 W13277 Loomis Dr.	Muskego, WI 53150
95		2259 984	Martins	Gerald	S100 W13399 Loomis Dr.	Muskego, WI 53150
96		2259 985	Martins	Gerald L.	S100 W13399 Loomis Dr.	Land
97		2259 986	Lentz	Joseph	S100 W13421 Loomis Dr.	Muskego, WI 53150
98		2259 987	Wertz	Margaret	S100 W13499 Loomis Dr.	Muskego, WI 53150
99		2259 988	Tesch	Barbara L.	S100 W13475 Loomis Dr.	Muskego, WI 53150
100		2259 989	Lossman	Larry & Connie	S100 W13497 Loomis Dr.	Muskego, WI 53150
101		2259 990	Dibb	Donald	S100 W13547 Loomis Dr.	Muskego, WI 53150
102		2259 991	Jankowski	Russell/Donna	S102 W13815 Loomis Dr.	Land
103		2259 992	Jankowski	Russell/Donna	S102 W13815 Loomis Dr.	Muskego, WI 53150
104		2259 993 001	Marold	Alice L.	S102 W13945 Loomis Dr.	Muskego, WI 53150
105		2259 994	Kaiser	Jos J.	S101 W13814 Loomis Dr.	Commercial
106		2259 995	Counter	Donald & Peggy	S99 W13259 Loomis Dr.	Muskego, WI 53150
107		2259 995 001	Arbinger	Jeffrey & Kathleen	S99 W13381 Loomis Dr.	Muskego, WI 53150
108		2259 995 002	Golf Clubs of Am	c/o Scott Krause		Land

## Proposed Well Water Test Area Parcel List

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	
109		2259 995 003	Baillargeon	Joseph			Land
110		2259 996	Lund	Verner L.	S100 W13510 Loomis Dr.	Muskego, WI 53150	
111		2259 997	Paul	Michael	S100 W13474 Loomis Dr.	Muskego, WI 53150	
112		2259 999	Schultz	Virginia	S100 W13402 Loomis Dr.	Muskego, WI 53150	
113		2260 989	Malkowski	Edmund	W124 S10293 S. 124th St.	Muskego, WI 53150	
114		2260 990	Eigenberger	Claude	S99 W13201 Loomis Rd.		Land
115		2260 991	Zuehlsdorf	Paul	S99 W13089 Loomis Rd.		
116		2260 992	Taylor/Schmid	Jacqueline/ B A	Loomis Rd.		Land
117		2260 993	White (rev trust)	Ruth I.	S99 W12953 Loomis Rd.	Muskego, WI 53150	
118		2260 994	Peuse	Ronald	S99 W12917 Loomis Rd.	Muskego, WI 53150	
119		2260 995	Lang	Gene & Karen	S99 W12897 Loomis Rd.	Muskego, WI 53150	
120		2260 996	Brace	Ellsworth W.	S99 W12857 Loomis Rd.	Muskego, WI 53150	
121		2260 997	Banaszynski	Andrew	S99 W12817 Loomis Rd.	Muskego, WI 53150	
122		2260 998	Krause	Evelyn/Margaret	W125 S9905 North Cape	Muskego, WI 53150	
123		2260 998 001	Bethlehem Lutheran Church		W124 S9995 North Cape	Muskego, WI 53150	
124		2260 998 002	Luznicky/Earl	John/Tom	S99 W12707 Loomis Rd.		Durham Hill Nursery
125		2260 999	Bouraxis	Paul	W125 S9912 N. Cape		Commercial
126		2264 998	Pellman	Marvin	S102 W14040 Loomis Dr.	Muskego, WI 53150	
127		2297 993	Martin	Dale & Maureen	S103 W14578 Loomis Dr.	Muskego, WI 53150	
128		2297 994	Campbell	Thomas P.	S103 W14697 Loomis Dr.	Muskego, WI 53150	
129		2297 994 001	Lyman	Jack	S103 W14727 Loomis Dr.	Muskego, WI 53150	
130		2297 995	Wriedt	Charles	S103 W14459 Loomis Dr.	Muskego, WI 53150	
131		2297 996	Lewandowski	Shirley			Land
132		2297 997	Lewandowski	Shirley			Land
133		2297 998	Albrecht	Donald L.	S103 W14305 Loomis Dr.	Muskego, WI 53150	
134		2297 999	Albrecht	Donald L.	S103 W14305 Loomis Dr.	Muskego, WI 53150	
135		2297 999 001	Albrecht	Allan & K.	S103 W14363 Loomis Dr.	Muskego, WI 53150	
136	w-msk	2298 977	Baggio	James & Dana	S105 W15578 Loomis Dr.	Muskego, WI 53150	
137		2298 978 001	Campbell	Kent & Roseann	S103 W14823 Loomis Dr.	Muskego, WI 53150	
138		2298 979	Moran	Gerald & Sharon	S104 W15043 Loomis Dr.	Muskego, WI 53150	
139		2298 980	Wieselmann Trust		S104 W15103 Loomis Dr.	Muskego, WI 53150	
140	w-msk	2298 981	Clemence	Bonnie D. & Bruce	S104 W15379 Loomis Dr.	Muskego, WI 53150	
141		2298 981 001	Bowmil	Stephen & Catherine	S104 W15169 Loomis Dr.	Muskego, WI 53150	
142	w-msk	2298 982 001	Strem	David	W152 S10407 Thode Dr.	Muskego, WI 53150	
143	w-msk	2298 983	Kieckbusch	Travis & Heidi	W152 S10385 Thode Dr.	Muskego, WI 53150	
144	w-msk	2298 984	Harry/Hribar	Leonard/Debra	W152 S10431 Thode Dr.	Muskego, WI 53150	



Exhibit "F"

PROPERTY VALUE PROTECTION PLAN

All Owners of record of properties described in Addendum 1 to this Exhibit shall be beneficiaries of this Property Value Protection Plan. The Operator shall notify all of said owners of their benefits under this Plan, by certified mail, return receipt requested, within 30 days after the last Affected Municipality executes the Final Negotiated Agreement or within 120 days after the Agreement is executed by the Emerald Park Negotiating Committee, whichever occurs sooner. A second notice shall be submitted to said owners by certified mail, return receipt requested, within 30 days of the day that waste is initially received or disposed of in the Active Fill Area.

However, the Operator shall have no obligation to guarantee the value of or to purchase any property for which a final subdivision plat was approved and recorded or the property was otherwise subdivided after the date Superior Services/SEPLI executes the Final Negotiated Agreement, unless the resulting parcel is owned by the same person following the subdivision as before, but only one such parcel shall qualify for the protection. For the purposes of this Agreement, "otherwise subdivided" shall mean any parcel created by a recorded certified survey map or created by a metes and bounds division parcel conveyed by a recorded deed.

The protection under this plan applies to the properties described in Addendum 1 whether vacant or not, and also applies to a property described in Addendum 1 that is vacant as of the Effective Date of the Final Negotiated Agreement, but which is subsequently improved with a non-commercial or non-industrial structure.

The Property Owners listed in the attached Property Value Protection list (Addendum 1) shall automatically qualify under the following Plan.

Some of the properties described in Addendum 1 to this Exhibit may also qualify for property value protection under the Landfill Agreement between Emerald Park, Inc. and the City of Muskego that was filed with the Waste Facility Siting Board on April 30, 1991 (the "1991 Landfill Agreement"). The property value protection provided by the 1991 Landfill Agreement continues for five (5) years after the waste disposal capacity subject to the 1991 Landfill Agreement is consumed.

Within thirty (30) days after the waste disposal capacity subject to the 1991 Landfill Agreement is consumed, the Operator shall send a written notice (by certified mail, return receipt requested) to each owner of property that qualifies for property value protection under the 1991 Landfill Agreement. The notice shall inform each owner of: (1) the remaining five-year period of time during which the property qualifies for protection under the 1991 Landfill Agreement; and (2) the necessity to elect to obtain

the property value protection under the 1991 Landfill Agreement during that five-year period, if the owner of the property wishes to obtain property value protection under the 1991 Landfill Agreement. Not less than one hundred eighty (180) days prior to the expiration of the five-year period of time, the Operator shall send the same written notice (by certified mail, return receipt requested) to any remaining owner of property that qualifies for the property value protection under the 1991 Landfill Agreement. As set forth in the 1991 Landfill Agreement, no more than five (5) property owners per year shall be eligible to exercise their right to property value protection under the 1991 Landfill Agreement.

The Operator shall defend, indemnify and hold harmless the Affected Municipalities and the members of the SEPLI Siting Committee and the Standing Committee from and against any loss, cost, liability or damage, including actual and reasonable attorneys fees, in anyway related to a claim asserted by any person covered by the property protection plan under the 1991 Landfill Agreement, alleging that such covered person has suffered damage or injury as a result of the administration or termination of the property protection plan under the 1991 Landfill Agreement. In any legal proceedings resulting from the indemnity under this paragraph, the Operator has the right to assume and control the defense of the indemnified claim, including the selection of defense counsel, and to assert any defense on behalf of a particular municipality, individual or entity which that

municipality, individual or entity is legally entitled to, including the provisions of § 893.80, Wis. Stats. Each municipality, individual or entity seeking to utilize the indemnity of this section subrogates all applicable counter-claims (excepting separate damage claims not subject to the indemnification and hold harmless provisions) and assigns all applicable rights and defenses to the Operator which each may have.

Addendum 1 to Exhibit "F"

Property Value Protection Plan Map  
and  
Tax Key Numbers of Properties Within Plan Boundaries

Actual ownership as of the date of the filing of the Final Agreement with the Waste Facility Siting Board shall supersede the attached listing of Property Owners for purposes of qualifying under this Plan.

Addendum 2 to Exhibit "F"  
PROPERTY VALUE PROTECTION PLAN  
(Expansion Area)

1. Effective Date of Plan. This Plan shall become effective and binding on Guarantor only upon the occurrence of all of the following:

A. Execution of the written Final Negotiated Agreement negotiated by the Local Committee appointed by the municipalities pursuant to § 289.33(7), Wis. Stats., and Guarantor and the City of Muskego; or upon issuance of a Final Arbitration Award;

B. The issuance of all necessary licenses, approvals, permits, etc., if any, as may be required by the City of Muskego to establish and operate the Expansion pursuant to the aforesaid agreement;

C. Issuance by the Wisconsin Department of Natural Resources ("DNR") of a license to the Guarantor for the Expansion described in the Guarantor's Solid Waste Facility permit, said Expansion having been the subject of the negotiations between the Guarantor and the Local Committee.

2. Exercise of Guarantee. In the event that the Property Owners wish to exercise the guarantee of the Property Value Protection Plan, they shall notify Guarantor of same in writing by certified mail and thereafter they shall make a good faith effort to sell said Property for 120 days. This good faith effort to sell

can be done in either of two ways: (1) they may advertise and attempt to sell their Property without the employment of a real estate broker, or (2) they may enter into a residential listing contract with a licensed real estate broker.

In either event, the asking price of said Property, as advertised or set out in the listing contract, shall be mutually agreed to by the Property Owners and the Guarantor. If the parties are unable to agree as to the price of the Property, then the Property Owners shall hire, at Guarantor's expense, a qualified professional appraiser who shall be instructed to determine the fair market value of the Property as follows:

A. Assume that no landfilling or solid waste disposal activities are taking place anywhere near the Property;

B. Any comparables selected by the appraiser shall be located a sufficient distance away from the Emerald Park Landfill site or any other landfill site so that the selling price was not, in the opinion of the appraiser, influenced by the presence of the Emerald Park Landfill site or any other landfill site;

C. The use, zoning classification and the Adopted Master Plan of the Property on the Effective Date of this Agreement shall be the sole factors to be used by the appraiser in determining the highest and best use of the Property;

D. An appraisal in the form of those customarily used by mortgage lending institutions in the Milwaukee Metropolitan area (i.e., Fannie Mae 10-25);

E. The appraisal shall be prepared in full compliance with any and all state standards and state regulations which pertain to the preparation of an appraisal of the Property, except those standards and regulations which are specifically pre-empted by these instructions; and

F. The appraiser shall note the condition of the premises, both interior and exterior, at the time of the appraisal.

If Guarantor accepts the appraised value, then the Property Owners shall attempt to sell their Property, in either of the two (2) ways described above, at the appraised value.

If the Guarantor does not accept the appraised value it may retain, at its own expense, a qualified professional appraiser who shall be similarly instructed to determine the fair market value of the Property, assuming that no landfilling activities were being undertaken or would be undertaken at the Emerald Park Landfill. In such event, the Property Owners may then elect and shall attempt to sell their Property in either of the two (2) ways described above, at an asking price equal to the arithmetic average of the two (2) appraised values.

Notwithstanding the foregoing, if the Property Owners do not accept the arithmetic average of the appraised values, then the

parties shall instruct the two (2) previously-selected appraisers to choose a third qualified professional appraiser to appraise the Property using the same instructions as previously given to the other appraisers, and that appraisal shall be binding. The appraisal fee for the third appraiser shall be paid by Guarantor.

For the purpose of this section, "qualified" shall mean a person who is unrelated to the Property Owners, is licensed as may be required by the State of Wisconsin, has no business or other relationship with the Guarantor, and who is a member of at least one (1) national appraisal association.

After the asking price is agreed to or determined through the appraisal process, if Guarantor offers to buy the property for that price, then the Property Owners must either sell the property to the Guarantor or forgo the right to recover any advertising costs from the Guarantor. The Property Owners shall have ninety (90) days in which to make this election, in writing.

If the Property Owners elect to attempt to sell their Property themselves, they shall place a "For Sale" sign on the Property and shall advertise the Property for sale in the classified section of *The Milwaukee Journal Sentinel* or other newspaper not less than once per week for the 120-day period. Guarantor may supplement this advertising and undertake attempts to find a purchaser for said Property during this period.

Alternatively, if the Property Owners elect to use a broker, they shall give the Guarantor notice of the broker with whom they

wish to list their Property prior to the execution of any listing contract. The broker shall be licensed in Wisconsin, not related to the Property Owners, and shall be a member of the Board of Realtors Multiple Listing Exchange, unless such MLS membership is waived by the Guarantor. Both the Guarantor and Property Owners shall act in good faith concerning any attempt to obtain the fair market value of said Property.

Said listing contract shall extend for a term of 120 days and shall specifically provide: (1) that the broker shall list the Property in the Multiple Listing Exchange and shall agree to keep said Property so listed until the occurrence of either the sale of the Property or the expiration of the listing contract, and (2) that the broker shall be paid his/her commission or other payments by the Guarantor, in the event the Guarantor purchases said Property at any time during the term of the listing contract. The Property Owners shall cooperate with the broker in obtaining a purchaser pursuant to the terms as set out in said listing agreement and shall make, in good faith, all reasonable efforts necessary to conclude a sale pursuant to said terms. No provision hereunder shall be construed to grant the Guarantor any option to purchase rights or rights of first refusal as against any potential third party purchaser during the term of the listing contract. If the Property Owners advertises the Property themselves and sells the same at fair market value or with the consent of the Guarantor

as provided for in this Agreement, the Guarantor shall reimburse all actual advertising expenses of the Property Owners.

The Guarantor shall hold harmless, indemnify and defend any Property Owners against a suit by a broker who seeks a commission not permitted under the terms of this Agreement.

3. Offers to Purchase. The Property Owners shall provide the Guarantor with a copy of every Offer to Purchase which they receive for their Property and agree not to accept the same until the Guarantor has given its approval. The Guarantor may approve of an Offer to Purchase at a price below the agreed upon asking price established by the procedure set out in Section 3. In such event, the Guarantor agrees to pay to the Property Owners at the closing, the difference in cash between the selling price set out in the Offer to Purchase and the sales price as established in Section 3.

4. Guaranteed Purchase After 120 Days. If the Property Owners have attempted to sell their Property under either of the methods provided in Section 3 for a period of at least 120 days, then Property Owners may request, in writing, that the Guarantor purchase their Property. However, Guarantor shall have no obligation to purchase the Property until 120 days have expired from the issuance by the Wisconsin Department of Natural Resources of a license to the Guarantor for the Expansion and the issuance of all necessary approvals, permits, etc. as may be required by the Affected Municipalities to establish and operate the Expansion. It is the intention of the Guarantor to avoid panic selling prior to

the licensing of the Expansion, and the Property Owners agree that any attempts which they make to sell their Property prior to the time that the Guarantor receives the aforesaid licenses, permissions and approvals for the Expansion, will not be considered in meeting the requirement for sales attempts for 120 days. Guarantor, upon request, will notify the Property Owners, in writing, of the date when it has received the aforesaid licenses, permission and approvals for the Expansion.

The Property Owners shall provide proof of advertising for sale or a copy of the listing contract and an affidavit of good faith attempt to sell said Property. Provided the Property Owners have complied with the foregoing procedure, the Guarantor shall purchase the Property at the price established by the procedure set out above in Section 3, subject to the conditions set out below. In addition, the Guarantor shall reimburse all actual advertising and out-of-pocket expenses of the Property Owners. If the Property Owners attempted to sell the property themselves, the Guarantor shall, at closing, reimburse the Property Owners for all advertising expenses they incurred.

A. **Evidence of Title.** Upon 15 days after making such written request for the Guarantor to purchase their Property, the Property Owners shall provide to the Guarantor a commitment for a title insurance policy to be issued in the name of the Guarantor in the amount of the purchase price as provided above. After receipt of such commitment, the

Guarantor shall have 30 days to notify the Property Owners of any defects in title caused by the Property Owner by way of a mortgage, judgment lien, repair order, delinquent real estate taxes, or the like, which make the same unmerchantable. Any such defects shall be cured at the expense of the Property Owners. If any defect cannot be cured and the Guarantor is unwilling to waive the same, then the Guarantor shall have no obligation to purchase and the Property Owners shall have no obligation to convey said Property.

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

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

ii. Underground storage tanks or any structural, mechanical, or other defects of material significance affecting the property, including but not limited to inadequacy for normal residential use of mechanical systems, waste disposal systems and well, unsafe well water according to State standards, and the presence of any dangerous or toxic materials or conditions affecting the Property.

Further, the Property Owners shall pay at closing all conveyancing costs typically paid by a seller, including but not limited to: real estate transfer tax and recording fees. The Property Owners shall also execute at closing a standard affidavit as to liens and possession and shall provide lien waivers from all contractors, subcontractors and materialmen who have provided services or materials for said Property within six (6) months prior to closing. Real estate taxes for the year of closing shall be prorated based upon the real estate taxes assessed and levied for the prior year and if the residential Property is a part of a larger tax parcel, then the tax proration shall be based upon the taxes for the improvement, plus the percentage of the taxes which approximates the percentage of the land comprising the Property compared to the total land included in the tax parcel. The Property Owners shall be responsible for and

shall pay all utilities through the date of closing. Possession and physical occupancy of the premises shall be given to the Guarantor at closing. Prior to the closing, the Property Owners shall give the Guarantor, or its agent, the right to inspect the Property for the purpose of determining the existence of any damage to the premises which may have occurred between the date of the first appraisal and the date of the closing. The Property Owners shall be responsible for all damage in excess of normal wear and tear and any claim for such damage shall be presented to the Property Owners prior to closing, or such claim shall be waived. The Property Owners shall repair such damage prior to closing or the reasonable cost of such repair shall either be deducted from the sale price or, at the Property Owners' option, be escrowed from the sales proceeds with a non-party pending judicial determination of any dispute regarding liability therefor or cost thereof.

5. **Termination of Guarantor's Obligations.** This Property Value Protection Plan shall terminate and Guarantor shall have no obligation to purchase or guarantee the purchase price upon the occurrence of all of the following events: (1) The expiration of five (5) years after Final Closure of the last Expansion or any Active Fill Area or related landfilling activities at the Solid Waste Facility; (2) Guarantor serves notice of same upon the Property Owners; and (3) the Property Owners do not notify Guarantor of their exercise of the guarantee pursuant to Section 3

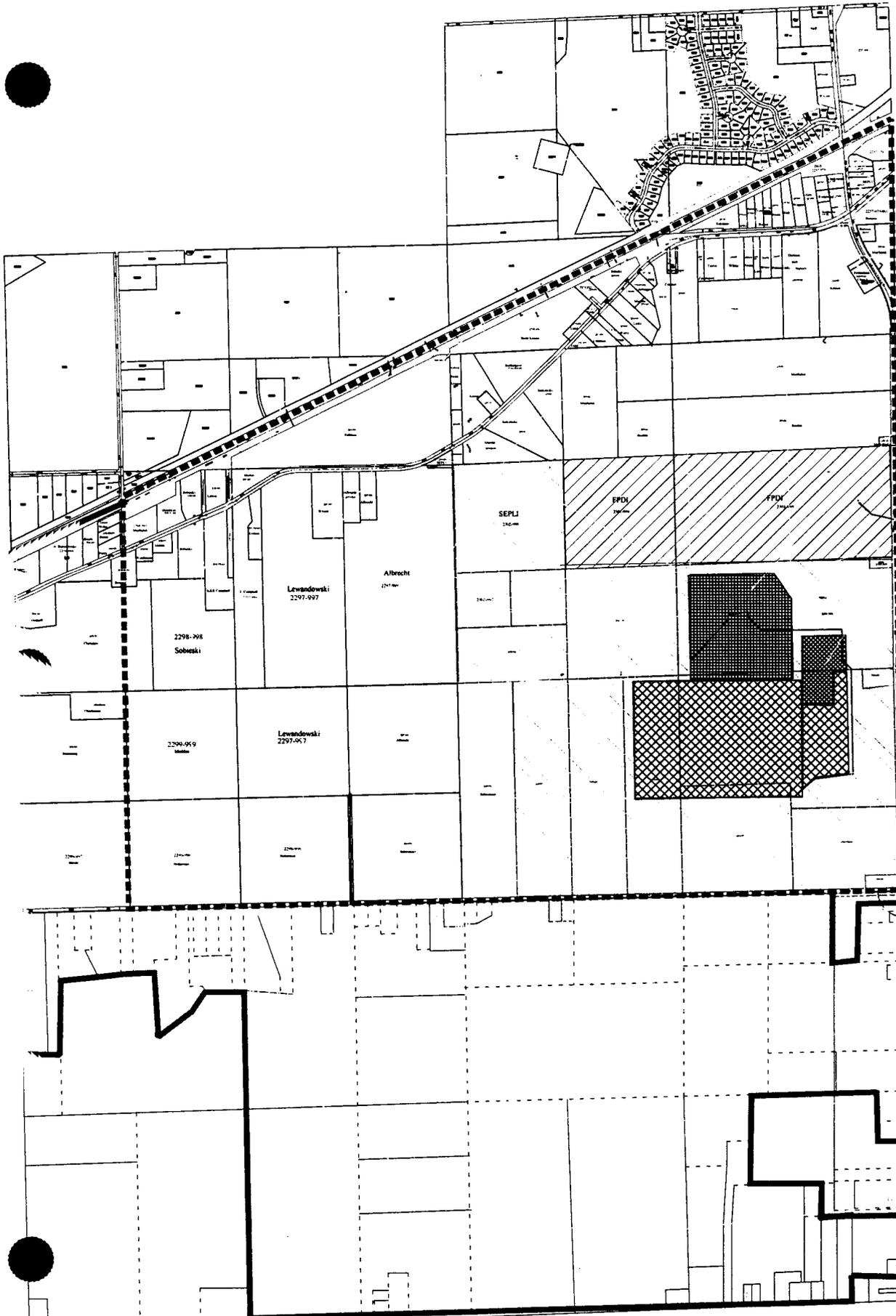
above within 60 days after service pursuant to (2) above. The notice under (2) above shall be served in the same manner as required for a summons under Ch. 801, Wis. Stats. and shall inform the Property Owners of the exercise of the guarantee and the termination provisions hereunder. Upon timely notice of their exercise of the guarantee by the Property Owners, the terms of the Property Value Protection Plan shall remain in full force and effect.

6. Assignment or Transfer. The guarantee given by the Guarantor pursuant to this Exhibit "F" and its Addenda is personal to the property owners and terminates when the property is sold, conveyed or otherwise transferred, unless the sale, conveyance or transfer is (a) to a spouse, parent, child, brother, sister, son-in-law or daughter-in-law, or (b) to an heir, beneficiary, personal representative, guardian or trustee.

In the event of a sale, conveyance or transfer to one of those described in (a) or (b), the new property owner shall be entitled to the same property value protection and guarantee as the preceding Property Owners.

7. Subsequent Agreements. Any subsequent Final Negotiated Agreement regarding a further expansion of the Emerald Park Landfill may supersede the terms of this Exhibit "F."

# Property Protection Area Map



**Proposed Property Protection Area Parcel List**

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Comments</u>
1	Nor	01-003-000	Meyers	Blanch	8916 N. Raynor Ave	Franksville, WI 53126	
2	Nor	01-004-000	Hintz	Jack & Kathleen	8832 N. Raynor Ave	Franksville, WI 53126	
3	New	01-005-000	Gaffney	Fredrick	1939 W. Oakwood Rd.	Oak Creek, WI 53154	Rental
4	New	01-006-000	DeBack	Carol	W198 S10957 Racine Ave	Muskego, WI 53150	
5	New	01-007-000	DeBack	Carol	W198 S10957 Racine Ave	Muskego, WI 53150	
6	New	01-008-000	DeBack	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	
7	New	01-008-010	Hart	Jeffery & Kimberly	7562 Seaspring Dr. #201	Huntington Beach, CA 92648	Land
8	Nor	01-008-020	Feustel	Cory & Jodi	21923 Eight Mile Rd.	Muskego, WI 53150	
9	Nor	01-008-030	Torres	Ysidro	21719 Eight Mile Rd	Muskego, WI 53150	
10	New	01-008-040	Habitat for Humanity of Wauk Co. Inc.		P.O. Box 1143	Menomonee Falls, WI 53052	Land
11	New	01-009-000	DeBack	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	
12	New	01-010-000	DeBack	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	21806 Eight Mile Rd.
13	Nor	01-011-000	Datka	Myron & Amy	8702 N. Raynor Ave	Franksville, WI 53126	
14	New	01-012-000	Datka	Myron & Amy	8702 N. Raynor Ave	Franksville, WI 53126	
15	Nor	01-013-000	Sanford	Dennis & Judith	8608 N. Raynor Ave	Franksville, WI 53126	
16	12	01-014-000	Drought	Gene & Gerald	21636 Seven Mile Rd.	Franksville, WI 53126	
17	13	01-015-000	Drought	Gene & Gerald	21636 Seven Mile Rd.	Franksville, WI 53126	
18	14	01-016-000	Drought	Dale	21510 Seven Mile Rd.	Franksville, WI 53126	
19	16	01-017-001	Waldron	Donald & Barbara	21414 Seven Mile Rd.	Franksville, WI 53126	
20	21	01-017-002	Schaefer	Family Living Trust	21224 Seven Mile Rd.	Franksville, WI 53126	
21	15	01-017-003	Waldron	Donald & Barbara	21414 Seven Mile Rd.	Franksville, WI 53126	
22	17	01-017-004	De Back	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	
23	15	01-017-006	Waldron	Donald & Barbara	21414 Seven Mile Rd.	Franksville, WI 53126	
24	23	01-017-010	Duerr	Tim & April	11920 W. Arthur St	West Allis, WI 53227	
25	20	01-017-011	Wolfert	Gregory & Cherye	25903 W. Loomis Rd.	Wind Lake, WI 53185	
26	23	01-017-020	Duerr	Tim & April	11920 W. Arthur St	West Allis, WI 53227	
27	19	01-018-000	Hunjadi	Richard & Carol	21324 Seven Mile Rd.	Franksville, WI 53126	
28	18	01-019-000	Hunjadi	Donald	21332 Seven Mile Rd.	Franksville, WI 53126	
29	Nor	01-020-000	Mente	Clarence J.	8502 N. Raynor Ave	Franksville, WI 53126	
30	24	01-024-000	Datka	Robert G.	8122 Raynor Ave	Franksville, WI 53126	
31	22	01-026-000	Brulan	Richard & Mardell	21204 Seven Mile Rd.	Franksville, WI 53126	
32	25	01-027-000	Gale	Eve Spanic	8108 Raynor Ave	Franksville, WI 53126	
33	Nor	01-031-000	Ambramowski	Harold	8808 N. Raynor Ave	Franksville, WI 53126	
34	New	02-001-000	De Back	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	22037 Eight Mile Rd.
35	Nor	02-001-010	Barwick	Robert & Susan	22037 Eight Mile Rd.	Muskego, WI 53150	
36	New	02-001-020	DeBack	Dean & Carol	N162 W19309 Oakland Dr.	Jackson, WI 53037	2 Family
37	Nor	02-001-030	Antezak	Paul & Dawn	22217 Eight Mile Rd.	Muskego, WI 53150	
38	Nor	02-001-040	Ottoson Jr.	Robert & Elizabeth	22207 Eight Mile Rd	Muskego, WI 53150	

### Proposed Property Protection Area Parcel List

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Comments</u>
39	Nor	02-001-051	Hough	Herbert & Brenda	22123 Eight Mile Rd	Muskego, WI 53150	
40	New	02-002-000	Schill	Albert	22013 Eight Mile Rd.	Muskego, WI 53150	Rental
41	New	02-004-000	De Back	Harold	W198 S10957 Racine Ave	Muskego, WI 53150	22057 Eight Mile Rd.
42	Nor	02-005-000	Kopidlowski	Wayne & Lisa	22429 Eight Mile Rd	Muskego, WI 53150	
43	Nor	02-005-010	Menako	James & Debra	22243 Eight Mile Rd	Muskego, WI 53150	
44	Nor	02-005-020	Sekula	Mike	22439 Eight Mile Rd	Muskego, WI 53150	
45	New	02-005-030	Mehako	James & Debra	22243 Eight Mile Rd	Muskego, WI 53150	
46	Nor	02-006-001	Funk Jr	Roy	22619 Eight Mile Rd	Muskego, WI 53150	
47	Nor	02-006-010	Ludwig	Lois	22505 Eight Mile Rd	Muskego, WI 53150	
48	New	02-006-020	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
49	New	02-006-021	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
50	New	02-006-022	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
51	New	02-006-023	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
52	New	02-006-024	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	Land
53	Nor	02-006-031	Young	Jesse & Cheryl	22637 Eight Mile Rd	Muskego, WI 53150	
54	4	02-006-033	Malchine	Kevin & Michael	27402 Malchine Rd.	Waterford, WI 53185	
55	1	02-006-132	Laffin/Pradarelli	Daniel/Gina	6198 Revere Rd	Racine, WI 53402	
56	2	02-006-232	Sellner	Mark & Lori	22737 Eight Mile Rd.	Muskego, WI 53150	
57	3	02-007-000	Deavers	Dale A.	22825 Eight Mile Rd.	Muskego, WI 53150	
58	7	02-008-011	Peters	Mark & Rosemary	27402 Malchine Rd.	Waterford, WI 53185	
59	6	02-008-012	Peters	Jonathan Paul	S69 W22945 National Ave	Big Bend, WI 53103	
60	5	02-008-013	Swartz	David & Sharon	22933 Eight Mile Rd.	Muskego, WI 53150	
61	8	02-012-000	Davitz	Harvey	22428 Seven Mile Rd.	Franksville, WI 53126	
62	9	02-013-000	Schubring	Brian & Michelle	22020 Seven Mile Rd.	Franksville, WI 53126	
63	10	02-013-010	Bajarek	Frank	25505 W. Loomis Rd.	Wind Lake, WI 53185	
64	11	02-014-000	Hayne	William & Jenilynne	22204 Seven Mile Rd.	Franksville, WI 53126	
65	n-msk	2257 976	Berka	Judith	W125 S9808 North Cape	Muskego, WI 53150	
66	n-msk	2257 980	Kloskowski	Scott & Jean	W125 S9819 North Cape	Muskego, WI 53150	
67		2257 985	Wagner	Clarence J.	5820 S. 109th St.	Hales Corners, WI 53150	
68		2257 986	Slak	Margaret L.	S98 W12772 Loomis Rd.	Muskego, WI 53150	c/o Teresa Seib
69		2257 987	Brien	Karl L. & Dawn	S98 W12808 Loomis Rd.	Muskego, WI 53150	
<b>70</b>		<b>2257 988</b>	<b>Bartes</b>	<b>Laverne J.</b>	<b>S98 W12878 Loomis Rd.</b>	<b>Muskego, WI 53150</b>	
71		2257 989	Bartes	LeVerne J.	S98 W12878 Loomis Rd.	Muskego, WI 53150	
72		2257 990	Weissbrodt	Mark A.	S98 W12904 Loomis Rd.	Muskego, WI 53150	
73		2257 992	Eckstein	John F.	S98 W12970 Loomis Rd.	Muskego, WI 53150	
74		2259 980	Boehm	Robert C.	W124 S10227 S. 124th St.	Muskego, WI 53150	
75		2259 981	Machulak	Walter & Audrey	W124 S10077 S. 124th St.	Muskego, WI 53150	
76		2259 982	Eigenberger	Claude A.	S99 W13201 Loomis Rd.	Muskego, WI 53150	

### Proposed Property Protection Area Parcel List

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Comments</u>
77		2259 983	Jung	Norman	S99 W13277 Loomis Dr.	Muskego, WI 53150	
78		2259 985	Martins	Gerald	S100 W13399 Loomis Dr.	Muskego, WI 53150	
79		<b>2259 985</b>	<b>Martins</b>	<b>Gerald</b>	<b>S100 W13399 Loomis Dr.</b>	<b>Muskego, WI 53150</b>	
80		2259 986	Lentz	Joseph	S100 W13421 Loomis Dr.	Muskego, WI 53150	
81		2259 987	Wertz	Margaret	S100 W13499 Loomis Dr.	Muskego, WI 53150	
82		2259 988	Tesch	Barbara L.	S100 W13475 Loomis Dr.	Muskego, WI 53150	
83		2259 989	Lossman	Larry & Connie	S100 W13497 Loomis Dr.	Muskego, WI 53150	
84		2259 990	Dibb	Donald	S100 W13547 Loomis Dr.	Muskego, WI 53150	
85		<b>2259 991</b>	<b>Jankowski</b>	<b>Russell/Donna</b>	<b>S102 W13815 Loomis Dr.</b>	<b>Muskego, WI 53150</b>	
86		2259 992	Jankowski	Russell/Donna	S102 W13815 Loomis Dr.	Muskego, WI 53150	
87		2259 993 001	Marold	Alice L.	S102 W13945 Loomis Dr.	Muskego, WI 53150	
88		2259 995	Counter	Donald & Peggy	S99 W13259 Loomis Dr.	Muskego, WI 53150	
89		2259 995 001	Arbinger	Jeffrey & Kathleen	S99 W13381 Loomis Dr.	Muskego, WI 53150	
90		<b>2259 995 002</b>	<b>Golf Clubs of Am</b>	<b>c/o Scott Krause</b>	<b>S100 W14020 Loomis Dr.</b>	<b>Muskego, WI 53150</b>	
91		<b>2259 995 003</b>	<b>Baillargeon</b>	<b>Joseph &amp; P</b>		<b>Muskego, WI 53150</b>	
92		2259 996	Lund	Verner L.	S100 W13510 Loomis Dr.	Muskego, WI 53150	
93		2259 997	Paul	Michael	S100 W13474 Loomis Dr.	Muskego, WI 53150	
94		2259 999	Schultz	Virginia	S100 W13402 Loomis Dr.	Muskego, WI 53150	
95		2260 989	Malkowski	Edmund	W124 S10293 S. 124th St.	Muskego, WI 53150	
96		<b>2260 990</b>	<b>Eigenberger</b>	<b>Claude</b>	<b>S99 W13201 Loomis Rd.</b>	<b>Muskego, WI 53150</b>	
97		<b>2260 991</b>	<b>Zuehlsdorf</b>	<b>Paul</b>	<b>S99 W13089 Loomis Rd.</b>	<b>Muskego, WI 53150</b>	
98		<b>2260 992</b>	<b>Taylor/Schmid</b>	<b>Jacqueline/B A</b>	<b>249 Anapalau Pl</b>	<b>Hawaii 96825</b>	
99		2260 993	White (rev trust)	Ruth I.	S99 W12953 Loomis Rd.	Muskego, WI 53150	
100		2260 994	Peuse	Ronald	S99 W12917 Loomis Rd.	Muskego, WI 53150	
101		2260 995	Lang	Gene & Karen	S99 W12897 Loomis Rd.	Muskego, WI 53150	
102		2260 996	Brace	Ellsworth W.	S99 W12857 Loomis Rd.	Muskego, WI 53150	
103		2260 997	Banaszynski	Andrew	S99 W12817 Loomis Rd.	Muskego, WI 53150	
104		2260 998	Krause	Evelyn/Margaret	W125 S9905 North Cape	Muskego, WI 53150	
105		2264 998	Pellman	Marvin	S102 W14040 Loomis Dr.	Muskego, WI 53150	
106		2297 993	Martin	Dale & Maureen	S103 W14578 Loomis Dr.	Muskego, WI 53150	
107		2297 994	Campbell	Thomas P.	S103 W14697 Loomis Dr.	Muskego, WI 53150	
108		2297 994 001	Lyman	Jack	S103 W14727 Loomis Dr.	Muskego, WI 53150	
109		2297 995	Wriedt	Charles	S103 W14459 Loomis Dr.	Muskego, WI 53150	
110		<b>2297 996</b>	<b>Lewandowski</b>	<b>Shirley</b>		<b>Hales Corners, WI 53150</b>	
111		<b>2297 997</b>	<b>Lewandowski</b>	<b>Shirley</b>		<b>Hales Corners, WI 53150</b>	
112		2297 998	Albrecht	Donald L.	S103 W14305 Loomis Dr.	Muskego, WI 53150	
113		2297 999	Albrecht	Donald L.	S103 W14305 Loomis Dr.	Muskego, WI 53150	
114		2297 999 001	Albrecht	Allan & K.	S103 W14363 Loomis Dr.	Muskego, WI 53150	

**Proposed Property Protection Area Parcel List**

	<u>Cmte</u>		<u>Owner</u>	<u>Owner</u>			
	<u>ID</u>	<u>Tax Key No.</u>	<u>Last Name</u>	<u>Frist Name</u>	<u>Street Address</u>	<u>Municipality, ZIP</u>	<u>Comments</u>
115	w-msk	2298 977	Baggio	James & Dana	S105 W15578 Loomis Dr.	Muskego, WI 53150	
116		2298 978 001	Campbell	Kent & Roseann	S103 W14823 Loomis Dr.	Muskego, WI 53150	
117		2298 979	Moran	Gerald & Sharon	S104 W15043 Loomis Dr.	Muskego, WI 53150	
118		2298 980	Wieselmann Trust		S104 W15103 Loomis Dr.	Muskego, WI 53150	
119	w-msk	2298 981	Clemence	Bonnie D. & Bruce	S104 W15379 Loomis Dr.	Muskego, WI 53150	
120		2298 981 001	Bowmil	Stephen & Catherine	S104 W15169 Loomis Dr.	Muskego, WI 53150	
121	w-msk	2298 982 001	Strem	David	W152 S10407 Thode Dr.	Muskego, WI 53150	
122	w-msk	2298 983	Kieckbusch	Travis & Heidi	W152 S10385 Thode Dr.	Muskego, WI 53150	
123	w-msk	2298 984	Harry/Hribar	Leonard/Debra	W152 S10431 Thode Dr.	Muskego, WI 53150	
124	w-msk	2298 985	Beuth	George & Judy L.	10212 W FRIAR LN	Franklin, WI	
125	w-msk	2298 986	Banaszynski	Anthony V.	S104 W15370 Loomis Dr.	Muskego, WI 53150	
126	w-msk	2298 988	Godsell	Mark	S105 W15585 Loomis Dr.	Muskego, WI 53150	
127		2298 997 001	Goodwin	Brent & Kelly	S104 W15020 Loomis Dr.	Muskego, WI 53150	
<b>128</b>		<b>2298 998</b>	<b>Sobieski</b>	<b>Steven</b>	<b>P.O. Box 221</b>	<b>Muskego, WI 53150</b>	
129		2299 996	Holterman	Joseph & Tracy	S110 W14718 Union Church Dr.	Muskego, WI 53150	
130	w-msk	2299 997	Rohde	Elmer J.	S110 W15262 Union Church Dr.	Muskego, WI 53150	
131	w-msk	2299 998	Sonnentag	George A.	S106 W16105 Loomis Dr.	Muskego, WI 53150	
132	w-msk	2299 998 001	Oberhauser	John B. & Stephanie	S107 W16108 Loomis Dr.	Muskego, WI 53150	
133		2299 999	Madden	Eileen & Mark	S110 W14718 Union Church Dr.	Muskego, WI 53150	
134		2300 999	Schweitzer	Harvey & Jacqueline	S110 W14230 Union Church Dr.	Muskego, WI 53150	
135		2303 996	Schweitzer	Harvey & Jacqueline	S110 W14230 Union Church Dr.	Muskego, WI 53150	
Note: This list subject to change as new information becomes available within the defined geographic boundary.							

## Exhibit "G"

### LANDFILL CLOSURE PLANS

Site closure will consist of placing the final cover and gas management system components, and establishing vegetation. The site will be closed in increments as substantial areas reach final grades. Closure of the landfill will occur in three stages: (1) closure of the areas of Phase 1, 2 and 3 that have reached final waste grades; (2) placement of the final cover system on those portions of Phase 4 and 5 that are at closure grades, and (3) placement of the final cover system on Phase 6 at the completion of waste filling activities.

Concurrent with the placement of the grading layer of the final cover, the landfill gas collection system features will be installed. Placement on the final cover components will also include construction of surface water drainage structures, monitoring devices, and a final cover access road, as required. The phased closure of the landfill will reduce leachate generation rates and help to control off-site migration of landfill gas. The provisions of Plan Sheets 6 through 9 listing of closure activities for each of the phases, are incorporated herein by reference.

Prior to final closure of each phase, intermediate cover consisting of on-site soil will be placed over areas that have received waste and that will remain inactive. Areas that will remain inactive for a period of 6 months or longer over a growing season will be vegetated.

Exhibit "H"

ZONING PERMITS, CONDITIONAL USE PERMITS  
AND SUMMARY OF EXISTING, PERMITTED USES

(To be supplied at a later date)

Exhibit "I"

HOUSEHOLD HAZARDOUS WASTE (HHW) COLLECTION PROGRAM

The Household Hazardous Waste Collection Program is being provided to reduce the risk of future of groundwater contamination at the SEPI Landfill through the proper disposal of hazardous materials such as, old paints, solvents, pesticides, and chemicals from the surrounding service area. The Program consists of one Permanent HHW Collection Facility open to Participating Jurisdictions a minimum of 8 hours twice per month and two one day satellite collections per quarter provided by the Operator.

The following definitions pertain to this program:

Materials Exchange - means a specific location at the Permanent HHW Collection Facility where residents may obtain unspent materials for their use.

Participating Jurisdictions - means the municipalities who may utilize the HHW Collection Program, including the Cities of Muskego and Franklin, Waukesha County and the Towns of Raymond and Norway.

Permanent HHW Collection Facility - means a facility provided by the Operator at a fixed location for the receipt and processing of HHW materials from residents.

Satellite HHW Collection Site - means a site utilized for a one day collection at which collected materials are received by the Operator, packaged and shipped at the close of the day and the site returned to its normal daily use.

I. PROGRAM DESCRIPTION:

Permanent HHW Collection Facility - The Operator shall provide a Permanent HHW Collection Facility and associated materials exchange at \_\_\_\_\_ (to be determined at a later date). The facility shall be designed to accommodate 75 to 100 vehicles per collection day and include space for storage of containerized materials.

The Operator shall provide:

staff, supplies, equipment and disposal services necessary to operate the permanent facility.  
properly trained and qualified personnel necessary to staff and administer this program, to accomplish the following:

1. Insure adequate traffic control.
2. Insure that only eligible persons (i.e., Residents from Participating Jurisdictions bringing residentially generated materials) participate in this program and maintain a list of residents who use the facility by municipality.
3. Collect, identify, segregate, and package the collected waste.
4. Complete all appropriate forms and reports.

All equipment and safety items necessary to perform these services including personal protective equipment to all exposed personnel. The Contractor shall promptly clean and properly dispose of any spilled materials and waste. Prior to the first collection, the Contractor shall establish a containment plan to be approved by the County.

- Provide all materials necessary for the implementation of this program, including but not limited to all containers, packaging materials, labeling forms, manifests, forms, etc.
- Act as the "Generator", for record keeping, paperwork and liability purposes, of all waste accepted by the Operator during the operation of the HHW collection program from residents of the Participating Jurisdictions.
- Segregate hazardous, non hazardous and recyclable materials, package all hazardous wastes in accordance with DOT requirements, prepare container content sheets, manifests, certifications and other shipping documents, transport and dispose of collected hazardous wastes.
- Provide space at the Permanent HHW Collection Facility for a product exchange, e.g. unopened materials in original containers, for pickup by residents during normal facility operating hours.
- Provide a list of the treatment and/or disposal facilities that the Operator intends to utilize. The selected treatment and/or disposal facilities shall be appropriately licensed and permitted to store and dispose of hazardous waste collected in accordance with federal regulations, The preferred method of waste management is reuse or recycling, followed by RCRA incineration or chemical treatment. Land disposal is to be minimized to the greatest extent possible.

- Provide a site contingency plan and train all site personnel in site safety procedures such as evacuation signals and routes.
- Provide written evidence to the Standing Committee that the Operator is Licensed as follows:
  - a. Valid Environmental Protection Agency ("EPA") identification numbers for transportation and storage of hazardous and acutely hazardous wastes; and
  - b. A valid Wisconsin permit for transportation of hazardous wastes.
- Administer and collect surveys from residents each collection day to obtain information such as resident's municipality, street address, zip code, types of materials delivered and effectiveness of program advertisements.
- Provide reports as follows:
  - Provide quarterly reports to the Standing Committee which include, but are not limited to, date and number of households serviced per day, household hazardous waste by type and total pounds/gallons for lab packed and bulked materials, including number and type of drums. Provide an annual report summarizing the information above, provide a table indicating household hazardous waste by type and total pounds for lab packed and bulked materials including number and type of drums, a graph showing waste volume by category; and a pie chart of total costs by category, including disposal, transportation, equipment/supplies, labor and set up charges.

Satellite Collection Sites - As provided in Article VI, Section 5, the EPI Standing Committee will approve the Operator's proposed sites to hold Satellite collections. The Operator will manage two one day collections each quarter, for a total of 8 days at each site per year. The Operator is responsible for all of the items described under the Permanent Collection Facility, except the materials exchange requirement.

## II. Acceptable Materials

The Operator shall accept only the following materials from eligible residents unless authorized by the Standing Committee:

Automotive Products:	Antifreeze (used) Gasoline/Kerosene (under 5 gallons)
Home Products:	Acids/bases (undiluted) Chemicals - hobby/photo Lead paint Oil based paint, lacquers, varnished (one quart or larger) Strippers/degreasers Thinners/solvents Mercury/thermometers (with silver liquid)
Lawn and Garden/ Outdoor Products	Pool chemicals (unmixed) Rodent bait Weed and bug killers Wood preservatives (penta, Creosote)

### III. INDEMNIFICATION

The Operator shall defend, hold harmless and fully indemnify the Standing Committee and Participating Jurisdictions, its officers, agents, and employees against all claims, actions, and suits brought or asserted against them for death or bodily injury, damage to property (including contamination or adverse effects on the environment) or violation of governmental laws, regulations or orders, and all judgments, penalties, fines forfeitures, costs and expenses (including reasonable attorney fees) resulting therefrom where such claim, action or suit arises from Operator's actions, inactions or responsibilities, including but not limited to any negligent, willful or intentional act or omission or its failure to perform any obligation requires by this agreement.

### IV. INSURANCE REQUIREMENTS

The Operator agrees to keep in force and effect insurance policies, as outlined below, issued by a company or companies authorized to do business in the state of Wisconsin. Such insurance shall be primary.

Upon execution of this agreement, the Operator shall furnish a Certificate of Insurance naming the Standing Committee and the Participating Jurisdictions as additional insureds and upon request, certified copies of the required insurance policies. The certificate shall reference this contract.

1. Worker's Compensation and Employer's Liability Insurance - Statutory worker's compensation benefits and employer's liability insurance with a limit of liability not less than \$500,000 each accident. Operator shall require subcontractors not protected under its insurance to take out and maintain such insurance. The Operator shall also provide proof of any subcontractor's certificate of insurance to the Standing Committee before any services are performed by any subcontractor.
2. Commercial General Liability Insurance - Policy shall be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual, independent contractors coverage. Limits of liability not less than \$5,000,000 each occurrence and aggregate.
3. Automobile Liability Insurance - Coverage for all owned, scheduled, hired, and non-owned private passenger autos and commercial vehicles. Limit of liability not less than \$5,000,000 combined single limit.
4. Pollution/Environmental Impairment Liability Insurance - Policy shall provide pollution liability/environmental impairment coverage for injuries/damages/remediation arising out of the collection program including sudden or non-sudden releases at the collection site, treatment, or disposal sites. Limits of liability not less than \$3,000,000 each occurrence/claim and \$6,000,000 aggregate.

#### V. Promotion and Education Program

The Operator shall promote the use of the HHW Collection Program through an effective education program. This program shall be prepared by the Operator and reviewed/approved by the Standing Committee prior to implementation.

Exhibit "J"

CITY OF MUSKEGO LANDFILL FUND

Direct Payment Distribution

The Direct Payment specified in Article VI is to be apportioned and paid to the Affected Municipalities according to Exhibit "N".

All Direct Payments and any rebates paid by the Operator to the City of Muskego are subject to the following:

- (1) **Tipping Fee Rebate** - Any rebate paid by the Operator or any disposal rate reduction passed directly to the City by any City wide waste/recycling hauler are to be used to directly reduce the residential refuse/recycling fee charged to each residential unit.
- (2) **Well Water Testing Reserve Fund** - Under this Agreement the Operator agrees to pay the cost of well water testing per Exhibit "E" until Final Closure or ten (10) years after execution of this agreement, whichever is later. Should any additional site expansion not be pursued by the Operator or approved by the Department, the City agrees to pay the cost of Exhibit "E" well water testing for forty (40) years beyond the Operator's requirement. To fund this possible future obligation the city will establish a dedicated interest bearing reserve fund. \$0.055 (5.5 cents) per ton of the Direct Payment paid to the city will be deposited directly to the fund. Once the fund achieves a balance of \$678,000 no further deposits are required, but any interest earned on said funds shall be added to the fund. The Standing Committee or the City, should the Standing Committee not exist, shall be responsible for well water testing during the forty (40) year time period. Should any Law, Administrative Code or future expansion agreement require the Operator to perform the well water testing then the City's obligation to perform such well water testing shall cease and the Well Water Testing Fund may be dissolved and the proceeds distributed per paragraph (4) of this exhibit. At the end of the testing period all remaining funds may be distributed per paragraph (4).
- (3) **Landfill Fund** - By the end of the first year of direct payment under this agreement, the City shall direct sufficient funds from the direct payment such that the Landfill Fund has a minimum unencumbered balance of \$200,000. For each additional year that direct payments are received, a minimum of \$0.25 (25 cents) per ton of the Direct Payment paid to the city shall be deposited directly to the fund until such time that the

landfill fund achieves and maintains a minimum \$1,000,000 unencumbered balance. Disbursements from the Landfill Fund are to be used to pay the direct costs associated with any City enforcement, legal, engineering, administrative and consulting expenses or any other expenses associated with any landfill located in the City of Muskego. No further deposits are required to the landfill fund following the WDNR certifying Final Closure of the last remaining landfill in the City. The fund may be dissolved and distributed per paragraph (4) five years after the above WDNR certification.

- (4) **Distribution of Remaining Funds** - Annually, the City's Common Council shall allocate all remaining Direct Payments and interest from the above Landfill Fund when its balance is in excess of the requirements of paragraph (3) to fund the following:

**Park Dedication Fund** - Not less than 10% of the City's annual net Direct Payment received from the Operator shall be paid to the City's Park Dedication Fund. In addition, the City may utilize proceeds from the dissolved Well Water Testing Fund or dissolved landfill fund for these purposes.

**Land and Open Space Conservation Fund** - Upon receipt of the first Direct Payment due the City under this agreement, the City will establish a Land and Open Space Conservation Fund. The purpose of this interest bearing fund is to purchase land and or conservation easements that will provide for open space preservation. Expenditures from this fund can be made in partnership with federal, state or local agencies and municipalities. Annually, during this agreement, not less than 10% of the City's annual net Direct Payment will be paid to the Land and Open Space Conservation Fund. In addition, the City may utilize proceeds from the dissolved Well Water Testing Fund or dissolved landfill fund for these purposes.

**Storm Water Management/Flood Control** - Such amounts of the Direct Payment received by the City may, by action of the Common Council, be used for Storm Water Management/Flood Control capital projects subject to the above required payments. In addition, the City may utilize proceeds from the dissolved Well Water Testing Fund or dissolved landfill fund for these purposes.

**City Capital Projects** - Subject to the above limitations, Direct Payments may be used solely for capital acquisition and improvement projects. In addition, the City may utilize proceeds from the dissolved Well Water Testing Fund or dissolved landfill fund for these purposes.

**Exhibit "K"**  
**CITY OF MUSKEGO**  
**STORM WATER MANAGEMENT ORDINANCE**  
**CITY OF MUSKEGO**  
**STORM WATER MANAGEMENT ORDINANCE**

**\*\* FINAL DRAFT \*\***  
**(5/22/99)**

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**AN ORDINANCE TO CREATE CHAPTER 34 OF  
THE MUNICIPAL CODE OF THE CITY OF MUSKEGO  
(STORM WATER MANAGEMENT)**

The Common Council of the City of Muskego, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1: Chapter 34 of the Municipal Code of the City of Muskego, Wisconsin is hereby created to read as follows:

34.01 AUTHORITY

- (1) This ordinance is adopted by the City of Muskego under the authority granted by s. 62.234 Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under s. 62.23, Wis. Stats. Except as specifically provided for in s. 62.234 Wis. Stats., s. 62.23 Wis. Stats. applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The City of Muskego hereby designates the City Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt storm water management requirements that may be imposed by Wisconsin Pollutant Discharge Elimination System (WPDES) Permits issued by the Department of Natural Resources under s. 147.021 Wis. Stats.

34.02 FINDINGS OF FACT

- (1) The City of Muskego finds that uncontrolled storm water runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the community. Specifically, uncontrolled storm water runoff can:
  - (a) degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flows;
  - (b) diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients and other urban pollutants;
  - (c) alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
  - (d) reduce the quality of groundwater by increasing pollutant loads;

- (e) threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities;
- (f) threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes;
- (g) undermine floodplain management efforts by increasing the incidence and levels of flooding;
- (h) diminish the public enjoyment of natural resources.

### 34.03 PURPOSE AND INTENT

- (1) PURPOSE. The purpose of this ordinance is to set forth storm water requirements and criteria which will prevent and control water pollution, diminish the threats to public health, safety, welfare, and aquatic life due to runoff of storm water from development or redevelopment.
- (2) INTENT. It is the general intent of the City of Muskego that this ordinance achieve its purpose through:
  - (a) regulating long-term, post-construction storm water discharges from land development activities;
  - (b) controlling the quantity, peak flow rates, and quality of storm water discharges from land development activities;
  - (c) providing services to maintain and enhance the quality of life within the community. To this end the City of Muskego will manage storm water to protect, maintain and enhance the natural environment; diversity of fish and wildlife; human life; property; and recreational use of waterways within the City of Muskego.

### 34.04 DEFINITIONS

- (1) "Agricultural use" means bee keeping; commercial feed-lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participation in the mile production termination program under 7 USC 1446 (d); and vegetable raising. (s. 91.01(1) Wisconsin State Statutes).
- (2) "Best Management Practice" means the most effective, practical measures to control nonpoint sources of pollutants that runoff from land surfaces.
- (3) "Business day" means a day which offices of the City of Muskego are routinely and customarily open for business.

- (4) "Cease and desist order" means a court issued order to halt land developing activity that is being conducted without the required permit.
- (5) "Commercial land development" means all development excluding residential development and agricultural use.
- (6) "Common plan of development" means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.
- (7) "Discharge volume" means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- (8) "Existing land use condition" means the condition of the proposed development site and the adjacent properties that is present at the time of the storm water permit application. This term applies only for the purpose of properly sizing the storm water conveyance system in accordance to the requirements of this ordinance in 34.06(1)(b)
- (9) "Fee in lieu" means a payment of money to the City of Muskego in place of meeting all or part of the storm water performance standards required by this ordinance.
- (10) "Governing body" means the City of Muskego Common Council.
- (11) "Infiltration" means the process by which rain or surface runoff penetrates into the underlying soil.
- (12) "Land development activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This term does not include agricultural cropping activities, and/or parking lots associated with agricultural activities.
- (13) "Maintenance agreement" means a legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (14) "Natural wetlands" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include existing, mitigation and restored wetlands.
- (15) "Non-storm water discharge" means a discharge to the storm sewer system created by some process other than the runoff from precipitation.
- (16) "Non-structural measure" means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants, in storm water that does not require the design or installation of fixed storm water management facilities.

- (17) "Off-site" means lands located outside the subject property boundary described in the permit application for land development activity.
- (18) "On-site" means lands located within the subject property boundary described in the permit application for land development activity.
- (19) "Peak flow or peak flow discharge rate" means the maximum rate at which a unit volume of storm water is discharged. This is usually expressed in terms of cubic feet per second (cfs).
- (20) "Performance security" means cash or an irrevocable letter of credit submitted to the City of Muskego, in a form acceptable to the City, by the permit holder to assure that requirements of the ordinance are carried out in compliance with the storm water management plan and to recover any costs incurred by the City for design, engineering, preparation, checking and review of plans and specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance.
- (21) "Permit" means a written authorization made by the City of Muskego to the applicant to conduct land development activities.
- (22) "Permit application fee" means a sum of money paid to the City of Muskego by the permit applicant for the purpose of recouping expenses incurred by the authority in administering the permit.
- (23) "Post-development land use condition" means the extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence precipitation runoff and infiltration.
- (24) "Pre-development land use condition" means land which has runoff characteristics equivalent to runoff Curve Numbers (CNs) of: 30, 58, 71, and 78 for Hydrologic Soil Groups A, B, C, and D, respectively (as described in the USDA Soil Survey of Milwaukee and Waukesha Counties, Wisconsin, 1971). This term is used for the purpose of matching of pre- and post-development storm water peak flows as required by this ordinance in 34.06(1)(a).
- (25) "Pre-treatment" is the practice of reducing pollutants in storm water before discharging the storm water to a wetland or another pollution control structure.
- (26) "Residential land development" means that which is created to house people, including the residential dwellings as well as all affected portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartment, and trailer parks.
- (27) "Stop work order" means an order issued by the City of Muskego which requires that all construction activity on the site be stopped.
- (28) "Storm water conveyance system" means any method employed to carry storm water runoff from a development to the waters of the State. Examples of methods include: swales, channels, and storm sewers.

- (29) "Storm water management plan" means a document provided by the land developer, land owner, or permit holder that identifies what actions will be taken to reduce storm water quantity and pollutant loads from the post-development land use condition to levels meeting the requirements of this ordinance.
- (30) "Storm water runoff" means that portion of precipitation that does not soak into the soil, and thus flows off the surface of the land and into the natural or artificial conveyance network.
- (31) "Storm water management measure" means structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (32) "Wetland functional value" means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.

#### 34.05 APPLICABILITY AND JURISDICTION

- (1) **APPLICABILITY.** This ordinance applies to land development and redevelopment activities which meet the applicability criteria specified in this section. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.
  - (a) residential land development;
  - (b) commercial land development
  - (c) land development activity which in the opinion of the City Engineer is likely to result in storm water runoff which causes undue channel erosion, increases water pollution or which endangers downstream property or public safety.
- (2) **JURISDICTION.** This ordinance applies to land development activities within the boundaries of the City of Muskego
- (3) **WAIVERS.** Requests to waive the storm water management plans requirements shall be submitted to the City of Muskego for approval. Waivers may be granted if it can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

#### 34.06 STORM WATER MANAGEMENT STANDARDS

- (1) **STORM WATER DISCHARGE RATE.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of storm water discharged from the site as described

in this ordinance. Infiltration of storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.

- (a) Storm water runoff from the site shall be managed such that the peak flow generated from a 100 year storm under "post-development" conditions shall not exceed the peak flow generated from a 2 year storm under "pre-development" conditions (as defined in 34.04 (23)) for the 24 hour duration storm.
- (b) All storm water conveyance systems within the proposed development, shall be designed to completely contain the peak storm flows as described in 34.06(1)(b)(1., 2., and 3). Calculations for determining peak flows for conveyance system sizing shall use Curve Numbers based on the existing or future proposed land use for off-site areas (whichever results in the highest peak flows), and the proposed land use for the on-site areas. Appropriate Curve Numbers are described in Urban Hydrology for Small Watersheds, TR-55 (Technical Release 55) published by the Engineering Division, United States Natural Resource Conservation Service (formerly known as the Soil Conservation Service) United States Department of Agriculture, June 1992.

An alternative method that may be used is the Rational Method as described in Chapter 13 of the Wisconsin Department of Transportation Facilities Development Manual.

- 1. For open channel conveyance systems the peak flow from the 25 year, 24 hour storm shall be completely contained within the channel bottom and banks.
  - 2. For storm sewer pipes the peak flow from the 10 year, 24 hour storm shall be completely contained within the pipes with no surcharging
  - 3. For storms greater than the 10 year, 24 hour event, and up to the 100 year, 24 hour event, ponding shall not exceed existing or proposed street right of way, which ever is less. In no case shall the depth of water exceed 12 inches at the outer edge of pavement.
- (c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of 34.06(1)(a) and (b) shall be computed by procedures based on the principals and procedures described in Urban Hydrology for Small Watershed, TR-55 (Technical Release 55) published by the Engineering Division, United States Natural Resource Conservation Service (formerly known as the Soil Conservation Service) United States Department of Agriculture, June 1992. An alternative method that may be used is the Rational Method as described in Chapter 13 of the Wisconsin Department of Transportation Facilities Development Manual. Other calculation methods must be approved by the City of Muskego Public Works Committee.

- (d) The rainfall distributions for the storm events shall be based on the SCS Type II storms as described in Urban Hydrology for Small Watershed, TR-55 (Technical Release 55) published by the Engineering Division, United States Natural Resource Conservation Service (formerly known as the Soil Conservation Service) United States Department of Agriculture, June 1992.
  - (e) Increases or decreases in the hydrology of natural wetlands shall be minimized. Existing wetlands shall not be incorporated in the proposed storm water management practice for peak flow control. Peak flow shall be managed prior to discharge to an existing wetland. Should any changes to natural wetlands be proposed, the impact of the proposal on wetland functional values shall be assessed. Significant changes to wetland functional values shall be avoided (as defined by Wisconsin Administrative Code NR 103)
- (2) **STORM WATER DISCHARGE QUALITY.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of storm water discharged from the site. On-site management practices shall be used to meet the following minimum standard:
- (a) Storm water management measures shall be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using the Source Loading and Management Model (SLAMM) or other models as approved by the City of Muskego Public Works Committee.
  - (b) Discharge of urban storm water pollutants to natural wetlands without pre-treatment shall be avoided to the extent practical. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Muskego Public Works Committee. Significant changes to wetland functional values due to storm water pollutant loads shall be avoided.
  - (c) Storm water discharges shall be pre-treated prior to discharge to an infiltration best management practice. Storm water infiltration is prohibited under the following circumstances:
    1. Storm water is generated from highly contaminated source areas at manufacturing industrial sites;
    2. Storm water is carried in a conveyance system that also carries contaminated, non-storm water discharges;
    3. Storm water is generated from construction sites.

- (d) Storm water ponds and infiltration devices shall not be located closer to water supply wells than indicated in State Administrative Code NR 811.16(4) and 812.08(4) and the City of Muskego Municipal Code 28.02 (2) and 17:9.11.
- (3) EXCEPTIONS. The minimum requirements for on-site storm water management practices established in 34.06 (1) and (2) may be waived in whole or in part by the City of Muskego upon written request of the applicant, provided that at least one of the following conditions applies:
- (a) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the City of Muskego and that is required to be implemented by local ordinance.
  - (b) Provisions are made to manage storm water by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to the requirements of this ordinance, and has a legally obligated entity responsible for long-term operation and maintenance of the storm water practice.
  - (c) Innovative storm water management systems that do not meet 34.06(1) or (2) are reviewed and acted upon by the City Engineer and approved by the Public Works Committee.
- (4) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES. Where the City of Muskego waives all or part of the minimum on-site storm water management requirements under 34.06(3)(a), or where the waiver is based on the provision of adequate storm water facilities provided by the City of Muskego downstream of the proposed development, as provided for under 34.06(3)(b), the applicant shall be required to pay a fee in an amount as determined by the City of Muskego pursuant to s. 66.076 Wisconsin Stats. and any other applicable law.
- (5) GENERAL CONSIDERATIONS FOR ON-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing storm water runoff.
- (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, (as determined by the Public Works Committee) to meet the requirements of this section.
  - (b) Storm water management measures used in developing the storm water management plan should be considered according to the following order of preference. Limitations to this order of preference that may be recognized include natural site characteristics, financial feasibility, type of development, legal rights in redirecting storm water flows, and other restrictions specified in 34.06(2) and The Wisconsin Stormwater Manual, Part Two: Technical Design Guidelines for Stormwater BMP's (Wisconsin Department of Natural Resources, in preparation.)

1. On-site infiltration measures for rooftop, sidewalk, parking lot and driveway runoff,
2. On-site and off-site infiltration style conveyance measures,
3. Off-site wet detention measures,
4. On-site wet detention measures,
5. Extended detention measures,
6. Off-site infiltration measures.

**34.07 PERMITTING REQUIREMENT, PROCEDURES AND FEES**

- (1) **PERMIT REQUIRED.** No one may undertake a land development activity subject to this ordinance without receiving a permit from the City of Muskego prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEE.** Unless specifically excluded by this ordinance, any land owner or operator desiring a permit shall submit to the City of Muskego a permit application made on a form provided by the City of Muskego for that purpose.
  - (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following information as set forth in Table 1.

<b>Table 1</b>					
<b>Land Development Activity</b>	<b>Permit <sup>a</sup></b>	<b>Storm Water Management Plan</b>	<b>Grading Plan <sup>b</sup></b>	<b>Maintenance Agreement <sup>c</sup></b>	<b>Fee</b>
Agricultural Use	--	--	--	--	--
Commercial	X	X	X	X	X
1 & 2 Family Residential	X	--	X	--	--
Multi Family Residential	X	X	X	X	X
Subdivision Development	X	X	X	X	X

<sup>a</sup> Combined grading and drainage plan to be reviewed by city staff.

<sup>b</sup> Unless previously provided by Certified Survey Map, subdivision design, or other.

<sup>c</sup> If storm water management plan requires maintainable structures.

(b) The storm water management plan shall be prepared to meet the requirements of 34.08 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of 34.09 of this ordinance, and fees shall be those established by the City of Muskego.

(c) Fees for the above noted permits shall be in such amount as may be established by the City of Muskego Common Council from time to time by separate resolution.

(3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The City of Muskego shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within 30 business days of the receipt of a complete permit application, including all documents as required by 34.07(2)(a), the City of Muskego shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of Muskego shall base the decision on requirements set forth in 34.06, 34.08, and 34.09 of this ordinance.

(b) If the storm water permit application, plan and maintenance agreement are approved, the City of Muskego shall issue the permit.

(c) If the storm water permit application, plan or maintenance agreement are disapproved, the applicant may revise the storm water management plan or agreement, or may appeal the decision of the City of Muskego as provided for in 34.11 of this ordinance.

(d) If additional information is submitted, the City of Muskego shall have 30 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(e) Failure by the City of Muskego to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean disapproval of the submittal.

(4) **STORM WATER PRACTICE INSTALLATION AND MAINTENANCE PERFORMANCE SECURITY.** The City of Muskego may, at its discretion, require the submittal of a cash or letter of credit performance security prior to issuance of the permit in order to insure that the storm water practices are installed and maintained by the permit holder as required by the storm water management plan. The amount of the installation performance security shall be determined by the City of Muskego, not to exceed the total estimated construction cost of the storm water management practices approved under the permit unless otherwise specified in the permit. The amount of the maintenance performance security shall be determined by the City of Muskego, not to exceed the maintenance costs estimated in the storm water plan for the period during which the permit holder has maintenance responsibility. The amount of said security shall also include the estimated amount of costs to the City as defined in 34.04(20). The performance security shall contain forfeiture

provisions for failure to complete work specified in the storm water management plan. Conditions for the release of performance security are as follows:

- (a) The performance security, minus any costs incurred by the City of Muskego to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans, and specifications; supervision and inspection to insure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer in the State of Wisconsin that the storm water practice(s) have been installed in accordance with the approved plan and other applicable provisions of this ordinance and after approval of the City Engineer. The City of Muskego may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.
- (5) PERMIT CONDITIONS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City of Muskego may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the City of Muskego to suspend or revoke this permit may be appealed in accordance with 34.11 of this ordinance.
- (a) Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
  - (b) The permit holder shall design, install, and maintain all structural and nonstructural storm water management measures in accordance with the approved storm water management plan, storm water management guide, maintenance agreement, and this permit.
  - (c) The permit holder shall notify the City of Muskego at least 3 business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the City of Muskego so that practice installations can be inspected during construction.
  - (d) Completed storm water management practices must pass a final inspection to determine if they are in accordance with the approved storm water management plan, storm water management guide and ordinance. The inspection must be made by the City of Muskego, or other competent professionals identified by the City of Muskego. The City of Muskego shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. The permit holder is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the

plans, City of Muskego, state and federal requirements. The certificate must be signed by the permit holder, the contractor, the designer engineer, and authorized City representative.

- (e) The permit holder shall notify the Public Works Committee of any significant modifications it intends to make to an approved storm water management plan. The Department of Public Works and Engineering may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution.
  - (f) The permit holder shall maintain all storm water management practices specified in the approved storm water management plan until the practices either become the responsibility of the City of Muskego, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
  - (g) The permit holder authorizes the City of Muskego to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to placing associated costs upon the tax roll as a special lien against the property which may be collected as special charges pursuant to s. 66.60(16) Wis. Stats by the City of Muskego or to charging such costs against the letter or credit, or cash posted for the project.
  - (h) If so directed by the City of Muskego, the permit holder shall repair at the permit holder's own expense all damage to adjoining municipal facilities and drainage ways caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
  - (i) The permit holder shall permit property access to the City of Muskego for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
  - (j) Where necessary, it shall be the responsibility of the permit holder to obtain from adjacent property owners any easements or other required property interests concerning flowage of water. Issuance of this permit does not create or affect any such rights.
  - (k) The permit holder is subject to the enforceable actions detailed in 34.10 of the storm water management ordinance if the permit holder fails to comply with the terms of this permit.
- (6) **PERMIT DURATION.** Permits issued under this section shall be valid from the date of issuance through the date the City of Muskego notifies the permit holder that all storm water management practices (including landscaping materials) have passed the final inspection required under Permit Condition.

#### 34.08 STORM WATER MANAGEMENT PLANS

- (1) **PLAN REQUIREMENTS.** The storm water management and grading plan required under 34.07 of this ordinance shall contain any such information the City of Muskego may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon water resources and drainage systems, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management and grading plans shall contain at a minimum the information described within the storm water management permit application provided by the City of Muskego.

All site investigations, plans, designs, computations, and drawings for storm water management measures shall be certified by a registered professional engineer in the State of Wisconsin and be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the City of Muskego.

- (2) **EXCEPTIONS.** The City of Muskego may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 34.06(3) of this ordinance.

#### 34.09 MAINTENANCE AGREEMENT

- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required for storm water management practices under 34.07(2) of this ordinance shall be an agreement between the City of Muskego and the permittee. The agreement shall be recorded as a property deed restriction by the permit applicant with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the storm water management practices.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following provisions:
  - (a) The landowner(s), agent(s), or assign(s) shall maintain storm water management practices in accordance with the storm water practice maintenance provisions contained in the approved storm water management plan submitted under 34.07(2) of this ordinance.
  - (b) The City of Muskego is authorized to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved storm water management plan.
  - (c) The City of Muskego shall maintain public records of the results of the site inspections, shall inform the landowner(s), agent(s), or assign(s) responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management practice into proper working

condition and a reasonable time frame during which the corrective action must be taken.

- (d) The City of Muskego is authorized to perform the corrected actions identified in the inspection report if the landowner(s), agent(s), or assign(s) does not make the required corrections in the specified time period. The City of Muskego shall specially charge the landowner(s), agent(s), or assign(s) for the cost of such work which may be collected as special charges pursuant to s. 66.60(16) Wis. Stats. by the City of Muskego.
- (3) **TERMINATION OF AGREEMENT.** The maintenance agreement shall be terminated at such time that responsibility for maintenance of the storm water management practice is legally transferred to the City of Muskego or agency acceptable to the City of Muskego, through a written, binding agreement. The termination date of the maintenance agreement required under 34..09(1) shall be the date upon which the legal transfer of maintenance responsibility to the City of Muskego or agency is made effective.

#### 34.10 ENFORCEMENT AND PENALTIES

- (1) Any land development activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with said provisions.
- (2) The City of Muskego shall notify the responsible owner or operator in writing of any non-complying land development activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the City of Muskego, the permit holder shall correct work which does not comply with the storm water management plan or other provisions of this permit within 30 days. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the City of Muskego in the notice.
- (4) The City of Muskego is authorized to post a stop work order on all land development activity in violation of this ordinance, or to request the City of Muskego attorney or corporation counsel to obtain a cease and desist order.
- (5) The City of Muskego may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.
- (6) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City of Muskego or by a court of competent jurisdiction.

- (7) The City of Muskego is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the City of Muskego attorney for the commencement of further legal proceedings.
- (8) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Muskego Municipal Code 25.04. Each day that the violation exists shall constitute a separate offense.
- (9) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by injunctive order at the suit of the City of Muskego pursuant to s. 62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
- (10) When the City of Muskego determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan submitted and approved pursuant to 34.07 of this ordinance, or has failed to comply with schedules set forth in said storm water management plan, the City of Muskego or a party designated by the City of Muskego may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Muskego shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to 34.07 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

#### 34.11 APPEALS

- (1) **BOARD OF APPEALS.** The Zoning Board of Appeals, created under chapter one of the City of Muskego Municipal Code pursuant to s. 62.23(7)(e) Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Engineering Department in administering this ordinance. The Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.

Upon appeal, the Board may authorize variances from the provisions of this ordinance which are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

- (2) **WHO MAY APPEAL.** Appeals to the board of appeals or adjustments may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Muskego affected by any decision of the City of Muskego.

**SECTION 2:** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or

portion thereof of the ordinance which shall remain in full force and effect. Any other ordinance whose terms conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: This ordinance is in full force and effect from and after passage and publication.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 1999

CITY OF MUSKEGO

\_\_\_\_\_  
David L. DeAngelis, Mayor

ATTEST:

\_\_\_\_\_  
Clerk-Treasurer

**Exhibit "L"**

**City of Muskego General Noise Ordinance**  
(As may be amended from time to time)

9.05 LOUD AND UNNECESSARY NOISE PROHIBITED.

(1) No person shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley, or park or any private residence.

(2) Operation of Motor Vehicles. It shall be a violation of this section for a person to operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively, or the motor to race excessively.

(3) No person shall operate construction or excavation equipment between the hours of sunset and 7:00 A.M. Monday through Friday, between the hours of sunset and 8:00 A.M. on Saturday, and between the hours of sunset and 10:00 A.M. on Sunday if the noise from such equipment would tend to unreasonably disturb or annoy anyone living in the vicinity of the construction or excavation site. (Ord. #801 - 07/22/93)

The requirements of this Subsection may be waived or modified by the Mayor or Common Council if in the opinion of the Mayor or Common Council extra ordinary circumstances make it necessary for the overall public welfare to waive or modify the time limits of this Subsection. If the waiver or modification is granted by the Mayor, the Common Council may modify or overrule the same by a 2/3 vote of all the members of the Common Council. (Ord. #885 02-01-96)

**Exhibit "M"**  
**ACKNOWLEDGED TRANSPORTERS COMPLIANCE POLICY**

The Operator shall require any Acknowledged Transporters, other than the Operator or any affiliate of Superior Services, Inc., to agree to the Acknowledged Transporter vehicular requirements in the form as set forth below. These requirements shall be distributed to any Acknowledged Transporter, other than the Operator or any affiliate of Superior Services, Inc., the first time the Acknowledged Transporter uses the Solid Waste Facility and every six (6) months thereafter, either through personal delivery of the requirements at the scale or in the billing statement. The requirements shall be posted at all times at the scale window.

**Acknowledged Transporter Vehicular Requirements**

I agree, as a representative of \_\_\_\_\_ (contract hauler), that I/our company and/or our representatives will cooperate with Superior Services, Inc. and operate in conformance with the vehicular requirements of the Emerald Park Landfill Final Negotiated Agreement and local ordinances to ensure that as a hauler disposing of waste at the Superior Emerald Park Landfill our company will comply with the vehicle requirements imposed by the Operator, as stated below. I further acknowledge that the Operator is under obligation to cooperate with the Affected Municipalities in order to substantially minimize Solid Waste transported in such third party vehicles from discharging, leaking, spilling, falling or blowing out of such transport vehicles on public or private lands in the County.

I, \_\_\_\_\_ (contract hauler/individual), agree to conduct the transportation of waste based on the following:

5. Contract Hauler will operate its transport vehicles so as to substantially eliminate the potential for discharge of waste onto public or private property in the County.
6. All transport vehicles will be equipped with proper side boards, gates, straps and/or tarps to allow for the safe transport of waste to or from the Solid Waste Facility. This equipment shall meet or exceed DNR or Wisconsin Department of Transportation specifications.
7. Operating hours will be from 7:00 a.m. to 5:00 p.m., Monday through Friday, and 7:00 a.m. to 12:00 p.m. on Saturday. All vehicles shall cross the scale no later than 15 minutes prior to the end of the day.

8. Contract Hauler will only approach and leave the Solid Waste Facility utilizing Highway 45.
9. All loads/trucks will be fully contained and/or tarped as they enter the Solid Waste Facility and will be either swept out inside the Active Fill Area of the landfill or tarped when they leave the Solid Waste Facility.
6. Any failure to comply with these requirements will result in a turn-back of the truck from the Solid Waste Facility.

This compliance policy may be amended to conform with any approvals made pursuant to the Agreement or any modifications of the Agreement.

Exhibit "N"

DIRECT PAYMENT RATE SCHEDULE

From the first Direct Payment paid by the Operator, such amounts as approved by the Siting Committee, shall be used to pay unpaid or unreimbursed negotiating expenses. The remainder of the first Direct Payment and all future Direct Payments shall be divided amongst the Affected Municipalities as follows:

City of Muskego	70.7%
Waukesha County	15.0%
Town of Norway	9.1%
City of Franklin	2.7%
Racine County	2.5%

If any municipality does not approve the Final Agreement within sixty (60) days after the Operator signs the Agreement, or if any municipality does not approve a Final Offer in arbitration, then that municipality shall forfeit any entitlement to direct payment of Host Fees listed above, with such percentage being apportioned pro rata amongst the remaining municipalities.

Exhibit "O"

LOOMIS DRIVE RECONSTRUCTION DESCRIPTION

The Loomis Drive reconstruction consists of the segment bounded on the West by the intersection of Hwy. G and Loomis Drive and continuing east along Loomis Drive approximately 2.19 mile to the western end of the City of Muskego 1996/1997 sewer extension. Included in the project is an overlay of the section of Muskego Dam Road that intersects with Loomis Drive and continues west to the intersection of Hwy. G.

**Exhibit "P"**

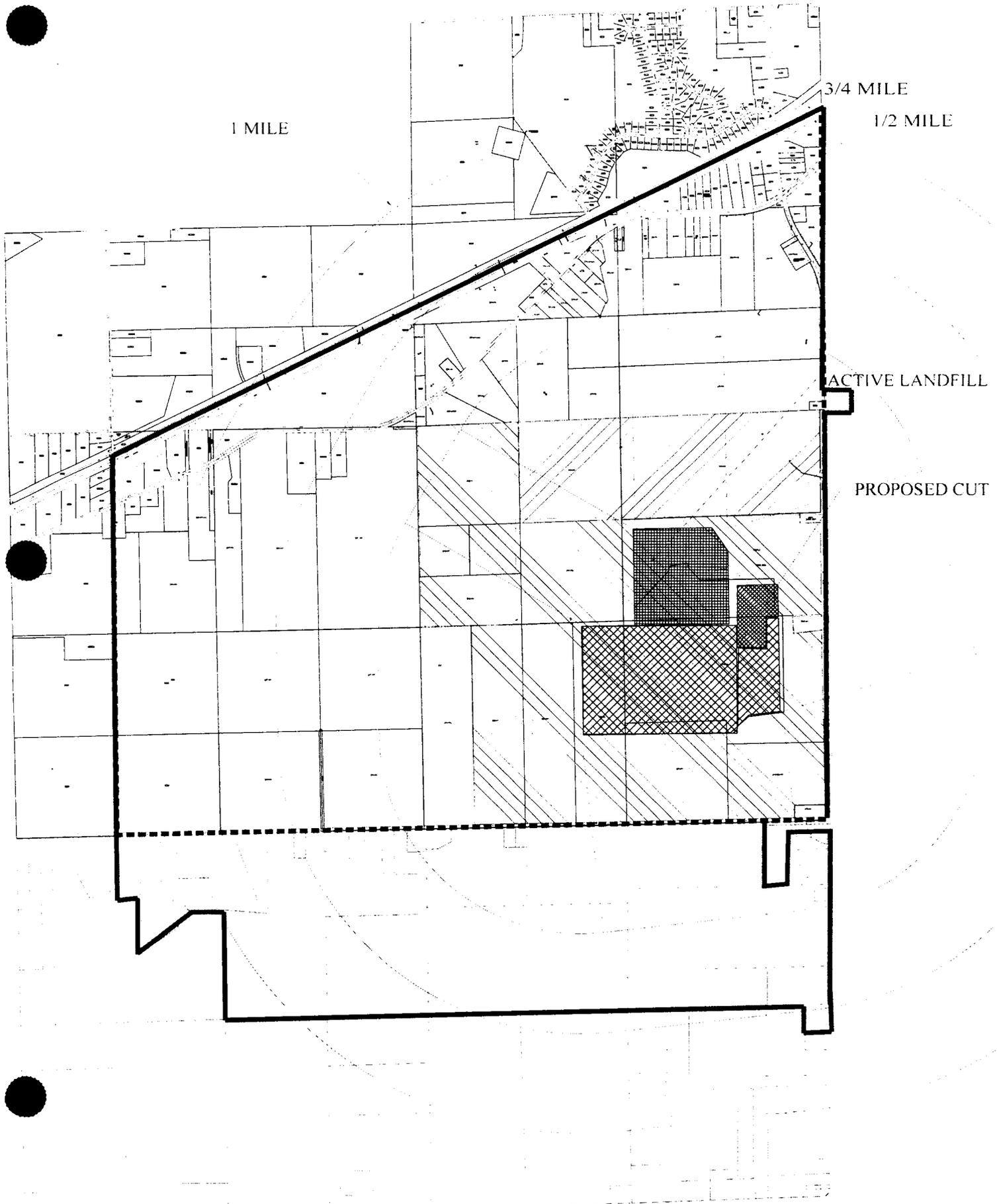
**SOCIOLOGICAL PAYMENTS**

The Affected Municipalities recognize that the proposed Landfill Expansion at Emerald Park Landfill will have an adverse impact on the quality of life of certain Residential Properties which are listed in Attachment 1 to this Sociological Impact Payment Exhibit. For each party listed, SEPLI agrees to pay the sum of \$3,000.00, made payable to the Owner(s) of record as of December 31, of any year in which waste is disposed at the permitted facility. Payment is to be made on or before January 15, 2000, and January 15 each year thereafter. Payments shall continue through the year in which the permitted air space is consumed plus any additional year in which final capping operations occur. The payment will increase by the amount of 5.2% each year, beginning in the year 2001. Drought School and Bethlehem Lutheran Church will be included in this program.

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 SEPLI shall qualify. "Owner-occupied" shall include properties held in trusts, solely-owned corporations, partnerships or limited liability entities, or the above-named schools or churches.

The sociological payments will continue and are transferable to purchasers or transferees of the qualified property. In the event SEPLI 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.

# Sociological Map



**PROPOSED SEPLI SOCIOLOGICAL IMPACT PARCELS**

	<b>Tax Key</b>	<b>Owner Last Name</b>	<b>Owner First Name</b>	<b>Owner Address</b>	<b>Municipality, State Zip</b>
1	2297 999 01	Albrecht	Allan & K.	S103 W14363 Loomis Dr.	Muskego, WI 53150
2	2297 998	Albrecht	Donald	S103 W14305 Loomis Dr.	Muskego, WI 53150
3	2259 995 001	Arbinger	Jeff & Kathleen	S99 W13381 Loomis Dr.	Muskego, WI 53150
4	2260 997	Banaszynski	Andrew	S99 W12817 Loomis Rd.	Muskego, WI 53150
5	2257 989	Bartes	LaVerne	S98 W12878 Loomis Rd.	Muskego, WI 53150
6	2259 980	Boehm	Robert	W124 S10227 S. 124th St.	Muskego, WI 53150
7	2298 981 001	Bowmil	Stephen & Catherine	S104 W15169 Loomis	Muskego, WI 53150
8	2260 996	Brace	Ellsworth	S99 W12857 Loomis Rd.	Muskego, WI 53150
9	2257 987	Brien	Karl & Dawn	S98 W12808 Loomis Rd.	Muskego, WI 53150
10	2298 978 001	Campbell	Kent & Roseann	S103 W14823 Loomis Dr.	Muskego, WI 53150
11	2297 994	Campbell	Thomas	S103 W14697 Loomis Dr.	Muskego, WI 53150
12	2259 995	Counter	Donald & Peggy	S99 W13259 Loomis Dr.	Muskego, WI 53150
13	2259 990	Dibb	Donald	S100 W13547 Loomis Dr.	Muskego, WI 53150
14	2257 992	Eckstein	John	S98 W12970 Loomis Rd.	Muskego, WI 53150
15	2259 982	Eigenberger	Claude	S99 W13201 Loomis Rd.	Muskego, WI 53150
16	2298 997 001	Godwin	Brent & Kelly	S104 W15020 Loomis Dr.	Muskego, WI 53150
17	2299 996	Holterman	Joseph & Tracy	S110 W14718 Union Church	Muskego, WI 53150
18	2259 992	Jankowski	Russell & Donna	S102 W13815 Loomis Dr.	Muskego, WI 53150
19	2259 983	Jung	Norman	S99 W13277 Loomis Dr.	Muskego, WI 53150
20	2260 998	Krause	Evelyn & Margaret	W125 S9905 North Cape	Muskego, WI 53150
21	2260 995	Lang	Gene & Karen	S99 W12897 Loomis Rd.	Muskego, WI 53150
22	2259 986	Lentz	Joseph	S100 W13421 Loomis Dr.	Muskego, WI 53150
23	2259 989	Lossman	Larry & Connie	S100 W13497 Loomis	Muskego, WI 53150
24	2259 996	Lund	Verner	S100 W13510 Loomis Rd.	Muskego, WI 53150
25	2297 994 001	Lyman	Jack	S103 W14727 Loomis Dr.	Muskego, WI 53150
26	2259 981	Machulak	Walter & Audrey	W124 S10077 S. 124th St.	Muskego, WI 53150
27	2299 999	Madden	Eileen	S110 W14800 Union Church	Muskego, WI 53150
28	2260 989	Malkowski	Edmund	W124 S10293 S. 124th St.	Muskego, WI 53150
29	2259 993 001	Marold	Alice	S102 W13945 Loomis Dr.	Muskego, WI 53150
30	2297 993	Martin	Dale & Maureen	S103 W14578 Loomis Dr.	Muskego, WI 53150
31	2259 984	Martins	Gerald	S100 W13399 Loomis Dr.	Muskego, WI 53150
32	2298 979	Moran	Gerald & Sharon	S104 W15043 Loomis Dr.	Muskego, WI 53150
33	2259 997	Paul	Michael	S100 W13474 Loomis Dr.	Muskego, WI 53150
34	2260 994	Peuse	Ronald	S99 W12917 Loomis Rd.	Muskego, WI 53150
35	2259 999	Schultz	Virginia	S100 W13402 Loomis Dr.	Muskego, WI 53150
36	2300 999	Schweitzer	Harvey & Jacqueline	S110 W14230 Union Church	Muskego, WI 53150
37	2257 986	Slak	Margaret	S98 W12772 Loomis Rd.	Muskego, WI 53150
38	2259 988	Tesch	Barbara	S100 W13475 Loomis Dr.	Muskego, WI 53150
39	2257 990	Weissbrodt	Mark	S98 W12904 Loomis Rd.,	Muskego, WI 53150



**Exhibit "Q"**  
**PCB IMPACTED SEDIMENTS**

"PCB-Impacted Sediments" are defined as those sediments containing PCBs at any concentration from remediation projects authorized for disposal in Wisconsin landfills which comply with the requirements of U.S. EPA Region 5's Approval to the Department to Dispose of PCB-Impacted Sediment in a Wisconsin Landfill, dated January 24, 1995, or any subsequent amendment by EPA-Region V to such approval, or under TSCA.

# **ARBITRATION AWARD**

[SEP 3 1999]

**STATE OF WISCONSIN**  
**BEFORE THE WASTE FACILITY SITING BOARD**

In the Matter of the Arbitration  
Of a Dispute Between

SUPERIOR EMERALD PARK LANDFILL, INC.

Petitioner,

Case No. 155-99-02

and

SUPERIOR EMERALD PARK LANDFILL, INC.  
SITING COMMITTEE

Respondent.

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Arbitration Petition Filed May 17, 1999 in Madison, Wisconsin.

Final Offers Filed June 24, 1999 in Madison, Wisconsin.

Public Meeting Held July 20, 21, and 22, 1999 in Muskego, Wisconsin.

Decided September 1, 1999 in Madison, Wisconsin.

Appearances:

Davis & Kuelthau, S.C. 111 East Kilbourn Avenue, Suite 1400, Milwaukee,  
Wisconsin, 53202, by Attorney William J. Roush, Jr., appearing on behalf of  
Superior Emerald Park Landfill, Inc.

Hudec Law Offices, S.C., P.O. Box 167, East Troy, Wisconsin, 53120, by Attorney  
Patrick J. Hudec, appearing on behalf of Superior Emerald Park Landfill, Inc., Siting  
Committee.

ARBITRATION AWARD

In April, 1996, the Superior Emerald Park Landfill, Inc., Siting Committee (Committee), comprised of representatives from the City of Muskego, the City of Franklin and Waukesha County, began negotiating with Superior Emerald Park Landfill, Inc., (SEPLI) about its proposed solid waste landfill expansion located within Section 36, Township 5 North, Range 20 East, City of Muskego, Wisconsin. Milwaukee County, the only other affected municipality, waived its rights to participate in the negotiation-arbitration process. During the next two years, these parties met to negotiate.

In June 1998, a change in sec. 289.01(1)(b), Wis. Stats., broadened the definition of affected municipalities and increased the boundary of an affected municipality from 1200 feet to 1500 feet. With this change in the law, the Town of Norway and Racine County became affected municipalities and joined the siting committee.

SEPLI and the Committee continued negotiation and resolved several issues, but failed to reach a settlement. Failing to negotiate an agreement, SEPLI filed a Petition for Arbitration with the Board on January 4, 1999. The Committee opposed the petition. After hearing oral arguments, the Board denied the Petition and ordered the parties to continue negotiations for at least sixty (60) days. In April, the parties signed an Interim Construction Agreement (ICA) which called for the continuation of negotiations through

May 16, at which time SEPLI could file a second Arbitration Petition without objection from the Committee. On May 17, SEPLI filed a second Petition for Arbitration of the following five issues:

1. Direct Payments
2. Sociological Payments
3. Out-of-State Waste Premium
4. Waste Volume Surcharge
5. Plan of Operation Enforcement

On May 25, the Board considered the Petition, heard oral arguments and ordered Final Offers. Each party filed its Final Offer on June 24 and each party subsequently filed Pre-Hearing Briefs on July 13.

The Waste Facility Siting Board then held a public meeting in the City of Muskego, Waukesha County, on July 20, 21, and 22, 1999 to hear oral argument in support of the parties respective Final Offers. Five members of the Board were present for the three-day public meeting. Prior to the public meeting, the five Board members and one representative from each party toured the area of the proposed landfill expansion. The public meeting was televised, taped, and a stenographic transcript was made. Each party filed a Post-Hearing Brief on August 16 and a Response Brief on August 23.

The Waste Facility Siting Board is created by and obtains its authority from sec. 289.33, Wis. Stats. As an agency created by the legislature, the Board has only those powers which are expressly conferred or which are necessarily implied by the statutes under which it operates. Any reasonable doubt as to the existence of an implied power in an agency should be resolved against the exercise of such authority. State Public Intervenor v. DNR, 177 Wis 2d. 666, 671, 503 N.W. 2d 305, 308 (Ct. of App. 1993), Rev'd on other grounds 184 Wis. 2d 407, 515 N.W. 2d 897 (1994).

Unlike some statutes that create agencies and their powers, sec. 289.33, Stats., does not grant the Board broad regulatory or oversight authority. See, e.g., sec. 196.02, Stats., granting the Public Service Commission the "jurisdiction to supervise and regulate every public utility in this state and to do all things necessary and convenient to its jurisdiction." The Waste Facility Siting Board is an agency of limited jurisdiction with specified responsibilities and authorities. Among its arbitration authorities, sec. 289.33(10), Stats., grants the Board the authority to consider a unilateral petition for arbitration; order final offers within 90 days; hold a public meeting to provide each party an opportunity to present supporting arguments for its final offer; make an arbitration award that is binding on the applicant and the participating municipalities; and arbitrate only the following items enumerated in sec. 289.33(8)(b), Stats:

1. Compensation to any person for substantial economic impacts

which are a direct result of the facility including insurance and damages not covered by the waste management fund.

- 1m. Reimbursement of reasonable costs, but not to exceed \$20,000, incurred by the local committee relating to negotiation, mediation and arbitration activities under this section.
2. Screening and fencing related to the appearance of the facility. This item may not affect the design capacity of the facility.
3. Operational concerns including, but not limited to, noise, dust, debris, odors and hours of operation but excluding design capacity.
4. Traffic flows and patterns resulting from the facility.
5. Uses of the site where the facility is located after closing the facility.
6. Economically feasible methods to recycle or reduce the quantities of waste to the facility. At facilities for which the applicant will not provide or contract for collection and transportation services, this item is limited to methods provided at the facility.
7. The applicability or nonapplicability of any pre-existing local approvals.

Where the legislature intended the Board to administer, it so specified; where the legislature intended the Board to make substantive decisions, it so specified. Where the legislature does not specifically confer a power, it is evidence of legislative intent not to

permit the exercise of the power. State ex rel. Hapris v. Larson, 64 Wis 2d 521, 527, 219 N.W. 2d 335 (1974). Absent in the responsibilities and authorities the legislature gave the Board is the authority to arbitrate a breach of contract.

During the public meeting, the Committee offered numerous witnesses who testified that SEPLI's Final Offer breached the Interim Construction Agreement. SEPLI disputed a breach of the ICA. Whether or not a breach occurred, the Board does not have subject matter jurisdiction to arbitrate a breach of the ICA.

The Committee argues that the ICA is enforceable under sec. 788.01, Stats. of the Arbitration Chapter. Section 788.01, Stats., does not apply to the Board and is not a grant of authority to the Board to enforce or arbitrate a breach of contract. The legislature specified that only sections 788.09 to 788.15 of the arbitration statute apply to the Board's arbitration awards. Sec. 289.33(10)(r), Stats.

Because the Board lacks jurisdiction to arbitrate a breach of contract and can arbitrate only specified issues, the Board, in making its award, will consider the five items submitted for arbitration within the language of sec. 289.33(8)(b), Stats., rather than within the language of the ICA.

To decide between the Final Offer of Superior Emerald Park Landfill, Inc., and the Final Offer of the Superior Emerald Park Landfill, Inc., Siting Committee. The arbitrator applies a test of reasonableness to all issues.

Despite the flaws of the Final Offer chosen or the merits of the Final Offer not chosen, the Board must choose one Final Offer over the other. The Board cannot add to the offers but has authority to delete those items which are not subject to arbitration under sec. 289.33(8)(b), Stats., or are not consistent with the legislative findings under sec. 289.33(1), Stats., and the legislative intent under sec. 289.33(2), Stats., sec. 289.33(10)(p), Stats.

Based upon the record and all issues in each final offer, the Arbitrator, the Members of the Waste Facility Siting Board, issues the following

AWARD

The Arbitration Award shall, and does hereby, adopt the Final Offer of Superior Emerald Park Landfill, Inc., which is incorporated herein by reference, except that the Arbitration Award shall delete the following items which are not subject to arbitration or are not consistent with legislative findings and intent:

1. Out of State Waste Premium. The Board deletes the item of Out of State Waste Premium because it is not arbitrable.

Section 289.33(g)(a)(2). Wis. Stats., expressly states that the need for the proposed landfill facility is not a negotiable item. The Wisconsin Court of Appeals found that if need is not negotiable, it can not be revived as an arbitrable item in the guise of geographic limitation on the source of waste. Madison Landfills, Inc. v. Libby Landfill Negotiating Committee, 179 Wis 2d 815, 836, 509 N.W. 2d 307 (Ct App. 1993). affd 188 Wis 2d 613, 524 N.W. 2d 883 (1994). Similarly, if need is not negotiable, it can not be revived as an arbitrable item in the guise of a government imposed surcharge on the source of waste. The Board finds that neither the source of waste nor a surcharge on the source of waste is an arbitrable operational concern under sec. 289.33(8)(b), Stats.

A state-imposed premium on out of state waste also raises constitutional issues. The United States Supreme Court has twice ruled that a government imposed surcharge

on out of state waste is unconstitutional under the Commerce Clause. Oregon Waste Systems, Inc., v. Department of Environmental Quality, 511 U.S. 93 (1994), Chemical Waste Management, Inc. v. Hunt, 504 U.S. 334 (1992). Although SEPLI agreed to the out of state waste premium in the ICA, the Wisconsin Court of Appeals has noted that an applicant's self-imposed premium does not raise constitutional questions as would government-imposed premiums on the source of waste. See Madison Landfills, Inc., Libby Landfill Negotiating Committee, supra, at 836. note 9.

2. Waste Volume Surcharge. The Board deletes the item of Waste Volume Surcharge because it is not arbitrable.

Based on the record, a surcharge on waste volume in excess of one million tons is a premium imposed to control the volume of waste received at the Emerald Park Landfill. The Determination of Need and Design Capacity are issues reserved exclusively for the Department of Natural Resources. Neither Need nor Design Capacity is negotiable or arbitrable as an operational concern under sec. 289.33(g), Stats.

For the reasons stated above, the Waste Facility Siting Board deletes the language of the above sections from the Final Offer of Superior Emerald Park Landfill, Inc.

Dated at Madison, Wisconsin this 1<sup>st</sup> day of September, 1999.

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THE WASTE FACILITY SITING BOARD

Don A. Trettin, Chairman

Carol D. Cutshall, Vice Chairperson

Robert D. Thomas, Secretary

John David Jelinski, Member

Terry W. Grosenheider, Member

**STATE OF WISCONSIN**  
**BEFORE THE WASTE FACILITY SITING BOARD**

**In the Matter of the Petition Requesting  
Initiation of Arbitration Pursuant to  
Wis. Stat. 289.33, Involving a Dispute  
Between:**

SUPERIOR EMERALD PARK LANDFILL, INC.,  
  
Petitioner,

**FINAL OFFER IN ARBITRATION  
SUBMITTED BY SUPERIOR  
EMERALD PARK LANDFILL, INC.**

and

SUPERIOR EMERALD PARK LANDFILL  
SITING COMMITTEE,

Other Party.

---

Superior Emerald Park Landfill, Inc., ("SEPLI"), by its attorneys Davis & Kuelthau, S.C., by Attorney William S. Roush, Jr., hereby submits the following as its Final Offer in the above captioned arbitration proceeding before the Waste Facility Siting Board:

1. SEPLI incorporates herein by reference the stipulated Final Offer submitted by SEPLI and the Siting Committee of even date herewith.

2. **Plan of Operation Enforcement under Article 11, Section 4.** With respect to this item, SEPLI offers the following:

**"4. Plan of Operation Enforcement.**

"The Operator had Feasibility Reports and Addenda thereto prepared and submitted to the Department in April, 1996, and prior to the Disposal of any waste in the Active Fill Area it will be necessary for the Operator to submit and obtain the Department's approval of a Plan of Operation. It is the parties' intent that the Plan

of Operation for the Active Fill Area and all future modifications and amendments to such Plan of Operation, as approved by the Department, be incorporated by reference and that the same may be separately enforceable by the City of Muskego."

3. **Direct Payments under Article VI, Section 1.** With respect to this item, SEPLI offers the following:

**"1. Direct Payment.**

"In consideration of the Affected Municipalities: (1) serving as the host and neighboring municipalities, (2) waiving their Local Approvals and Pre-existing Local Approvals, as set forth elsewhere in this Agreement, and (3) accepting the consequences and numerous responsibilities associated with the location of a sanitary landfill in or in proximity to the municipalities, and in consideration of all other matters as set forth in this Agreement, the Operator has agreed to provide, the following compensation and benefits:

**"A.** A Direct Payment shall be paid to the Affected Municipalities as set forth in Exhibit "N" at a rate equivalent to the amount of \$2.56, less \$0.19 attributable to the present value of the Sociological Payments made pursuant to paragraph 2, below, or a net payment of \$2.37 per ton of solid waste or other materials Disposed of at the Solid Waste Facility. Up to 118,750 cubic yards per year of Beneficially Reused Materials, including contaminated soils, foundry sands and shredder fluffs, may be placed or utilized in the landfill without being subject to or included in the calculation of the Direct Payment. This rate shall be applicable upon the commencement of waste disposal in the expansion area. Subsequent to 1999 and each year thereafter, the rate of Direct Payment shall be increased at the rate of 5.2%, compounded annually, every January 1, beginning the year 2000.

**"B.** Payment shall be made based upon the tonnage as determined by the weigh scale as provided for hereinafter in this agreement. The actual tonnage shall be the basis upon which payments in each month are based. Payment shall be made on a monthly basis, and the first payment shall be due thirty (30) days after the close of the first month that waste is disposed of in the expansion area, after the Commencement Date. Thereafter, payment shall be received within thirty (30) days from the date that the actual tonnage is to be determined for each monthly payment period.

"In the event the payment is not made when due, interest shall accrue on such obligation at a rate equal to the prime interest rate plus 2%. The same will apply in the event that a dispute requires resolution by court action, arbitration or other resolution, until such amount is paid. The Affected Municipalities and the Standing

Committee may review documentation pertaining to the tonnages reported on a monthly basis as the year progresses, and the Affected Municipalities and Standing Committee shall have the right to challenge such amounts at any time, either on a monthly basis or through a year-end reconciliation of the tonnages reported by usage of the weigh scale. Any annual review shall be accomplished on or before March 1 of the following calendar year. Any dispute between the Operator and the Affected Municipalities shall be resolved by a neutral third party who has no direct or indirect relationship with the Operator or the Affected Municipalities. The Affected Municipalities shall have the right to nominate the neutral third party, but the neutral third party must be agreed to by the Operator. The decision of the neutral third party shall be based on information and methodologies commonly used for making such a determination of actual tonnages disposed, and the determination of the neutral third party shall be final and binding on the Operator and the Affected municipalities. Any costs incurred by or in retaining the neutral third party to make the determination on actual tonnages disposed shall be shared equally by the Operator and the Affected Municipalities. Any underpaid amounts shall be paid within sixty (60) days from the date of the determination, at the then current rate, plus interest thereon from the date the amounts should have been paid, at a rate equal to the prime rate of interest plus 2%.

"All Direct Payments shall be paid to the Affected Municipalities as set forth in Exhibit "N". The Operator shall take no position regarding the distribution or usage of any funds that are required to be paid under this contract with the Operator's responsibility being to make the payments required and as directed by the Affected Municipalities or as specifically set forth in this Agreement or in Exhibit "N" attached hereto.

"The Operator shall submit detailed statements pertaining to the waste received each month, breaking down such information as to the types of waste, the source of such waste by state, the gate tonnage received based upon the Operator's daily records, and as provided for in Article IV (1)(A), and any other supporting documents or provisions of this section. In the event that neither the weigh scale nor the computer generated information is available for any day that waste is received, then the Operator shall make a Direct Payment based upon the average amount of tonnage received per day during the preceding sixty (60) business days of operation of the Solid Waste Facility.

"The Operator shall provide to the City of Muskego and Waukesha County and Standing Committee all documents submitted to the Department pertaining to the recording and documentation of the waste received. The reporting of tonnage to the Department shall have no bearing on amounts paid to the Affected Municipalities as the parties stipulate that the means of payment to the Affected Municipalities as the parties stipulate that such reporting formulas are different. Information supplied

to the Affected Municipalities or the Standing Committee of amounts submitted to the DNR are stipulated to be for informational purposes only.

"If, at any time, the Affected Municipalities or Standing Committee so desire, they may retain an independent consulting firm to perform computations in order to verify the Operators reported tonnages. Such firms may independently test the weigh scale, computer generated information off of said scale, or may use field or aerial surveys to verify reported tonnages based on air space, volume consumed within the Active Fill Area. The Affected Municipalities or Standing Committee retaining the independent consulting firm shall pay all costs unless such independent consulting firm's computations reveal that the Operator's reported air space or tonnage used has been understated by 10% or greater. If so understated, the costs of such consulting firm shall be born by the Operator and the Operator shall pay the costs of such independent consulting firm within thirty (30) days after presentation of such bill. The Operator shall also prepare a written report and any documentation necessary explaining the cause of such error. With respect to underpaid amounts that are not disputed by the Operator, such underpaid amounts shall be paid within sixty (60) days at the then current rate, plus interest thereon from the date the amounts should have been paid, at a rate equal to the prime rate of interest plus 2%.

"Notwithstanding the foregoing, the Operator shall be required to install, maintain and certify (biannually) a certified weigh scale for measuring and recording Solid Waste disposed at the Active Fill Area. The weigh scale shall be equipped with sufficient computer software and hardware capabilities to record, generate and summarize all information hereinbefore set forth pertaining to Solid Waste documentation requirements. The Affected Municipalities and the Standing Committee shall have access to all computer-generated data or written reports pertaining to waste received at the Solid Waste Facility. The Operator shall keep records and logs of all trucks coming to the Solid Waste Facility and include the following data:

- "A. Name of Acknowledged Transporter.
- "B. Time and date of disposal.
- "C. Truck weight (gross weight, truck weight and net Solid Waste weight).
- "D. Origin of waste by state.
- "E. Type of Waste.

"Weight shall be declared per truck in numerical order of their receipt on a daily basis with the truck ownership and any information which is relevant and kept

by the Operator on a regular basis to assist the Standing Committee in reviewing declared garbage weights at the Solid Waste Facility. The Affected Municipalities and Standing Committee may, at their expense, establish video tape equipment and place personnel on-site, as such times as they choose, to monitor the reporting of Solid Waste received at the Active Fill Area for disposal.

"Any payment that is received late shall accrue interest at a rate equal to the prime rate of interest plus 2%, until paid."

4. **Sociological Payments under Article VI, Section 2.** With respect to this item, SEPLI offers the following:

**"2. Sociological Payments**

"The Operator shall pay to the Affected Residents certain sociological payments as set forth in Exhibit "P" of this Agreement. Said Exhibit includes the beneficiaries of such sociological payments and the amount of those payments."

5. **Premium for Out-of-State Waste under Article VI, Section 3.** With respect to this item, SEPLI offers the following:

**"3. Premium for Out-of-State Waste.**

"There shall be no premium or surcharge paid to the Affected Municipalities with respect to waste that is generated outside of the State of Wisconsin and disposed of at the Solid Waste Facility."

6. **Waste Volume Surcharge under Article VI, Section 4.** With respect to this item, SEPLI offers the following:

**"4. Waste Volume Surcharge.**

"There shall be no premium or surcharge paid to the Affected Municipalities with respect to the volume of waste that is disposed of at the Solid Waste Facility during a given calendar year."

Respectfully submitted this 24th day of June, 1999.

DAVIS & -KUELTHAU, S.C.

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

William S. Roush, Jr.  
State Bar No: 100 1662

Attorneys for the Petitioner  
Superior Emerald Park Landfill, Inc.

P. O. ADDRESS

Davis & Kuelthau, S.C.  
111 East Kilbourn Avenue, Suite 1400  
Milwaukee, Wisconsin 53202

# **SETTLEMENT AGREEMENT**

**STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY**

---

**CITY OF MUSKEGO,  
A Municipal Corporation  
W182 S8200 Racine Avenue  
Muskego, WI 53150,**

**CASE NO: 99 CV 1476  
Plaintiff**

**v.**

**SUPERIOR EMERALD PARK LANDFILL, INC.  
A Wisconsin Corporation  
125 South 84<sup>th</sup> Street, Suite #200  
Milwaukee, WI 53214,**

**Defendant**

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**STIPULATION**

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1. The parties in the above-entitled action stipulate that the following municipalities be allowed to intervene as Plaintiffs in the above action, and that said intervening Plaintiffs adopt, by reference, the Complaints filed by the City of Muskego in the present action:
  - a. The Town of Norway, a municipal corporation organized under Chapter 60 of the laws of the State of Wisconsin, with its principal place of business located at 6549 Heg Park Road, Wind Lake, Wisconsin;
  - b. The City of Franklin, a municipal corporation organized under Chapter 62 of the laws of the State of Wisconsin, with its principal place of business located at 9229 West Loomis Road, Franklin, Wisconsin;

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- c. The County of Racine, a body corporate organized under Chapter 59 of the laws of the State of Wisconsin with its principal place of business located at 730 Wisconsin Avenue, Racine, Wisconsin;
  - d. The County of Waukesha, a body corporate organized under Chapter 59 of the laws of the State of Wisconsin with its principal place of business located at 1320 Pewaukee Road, Waukesha, Wisconsin.
2. The parties stipulate to the vacation of the Order for Default Judgment which was entered by the Honorable Patrick L Snyder on September 13, 1999.
  3. The parties have executed a Settlement Agreement and Mutual Release which is attached hereto and incorporated by reference herein.
  4. The parties stipulate to the dismissal of the above-entitled action on the merits and with prejudice and to the preclusion of any claims that were or might have been asserted by the Plaintiff, City of Muskego, the intervening municipalities, and the Defendant, Superior Emerald Park Landfill, Inc.

Dated: 3-3-00

Dated: 3-3-00

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Attorney Timothy J – Pruitt  
State Bar No: 1013442  
Town of Norway

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Attorney Jesse Wesolowski  
State Bar No: 01003204  
City of Franklin

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Dated: 3-3-00

Dated: 3-6-00

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Attorney Mark Janiuk  
State Bar No: 1015818  
County of Racine

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Attorney Steven R. Schmitz  
State Bar No: 1017181  
County of Waukesha

Dated: 3-14-00

Dated: 3-13-00

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Attorney H. Stanley Riffle  
State Bar No: 1012704  
City of Muskego

---

Attorney William S. Rouch, Jr.  
State Bar No: 1001662  
Superior Emerald Park Landfill, Inc.

**STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY**

---

**CITY OF MUSKEGO,  
A Municipal Corporation  
W182 S8200 Racine Avenue  
Muskego, WI 53150,  
Plaintiff**

**CASE NO: 99 CV 1476**

**V.**

**SUPERIOR EMERALD PARK LANDFILL, INC.  
A Wisconsin Corporation  
125 South 84th Street, Suite #200  
Milwaukee, WI 53214,  
Defendant**

---

**ORDER**

---

Based on the stipulation of the parties in the above-entitled action,  
IT IS HEREBY ORDERED that:

1. The Town of Norway, the City of Franklin,, the County of Racine and the County of Waukesha shall be permitted to intervene in the present action as Plaintiffs and, as such, they adopt the Complaints filed by the City of Muskego;
2. The Order for Default Judgment which was entered by the Honorable Patrick L Snyder on September 13, 1999, is hereby vacated.
3. The Settlement Agreement and Mutual Release which has been executed by the parties is hereby accepted by the Court and incorporated by reference herein to the Court's order.

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4. The above-entitled action is hereby dismissed on the merits and with prejudice, and any claims that were or might have been asserted by the Plaintiff,, City of Muskego, the intervening municipalities and the Defendant, Superior Emerald Park Landfill, Inc., are hereby precluded.

Dated this *21* day of *March* 2000.

**BY THE COURT:**

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Kathryn W. Foster  
Circuit Court Judge

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (hereinafter the "Agreement") is entered into as of the date of execution by the last signatory, by and between SUPERIOR EMERALD PARK LANDFILL, INC. (hereinafter "Superior"), a Wisconsin corporation, with its principal place of business located at W124 S10629 South 124<sup>th</sup> Street, Muskego, Wisconsin, 53150; the CITY OF MUSKEGO, a municipal corporation, organized and existing under the laws of the State of Wisconsin, with its principal place of business located at W182 S8200 Racine Avenue, Muskego, Wisconsin, 53150; the CITY OF FRANKLIN, a municipal corporation, organized and existing under the laws of the State of Wisconsin with its principal place of business located at 9229 West Loomis Road, Franklin, Wisconsin, 53132; WAUKESHA COUNTY, a political subdivision of the State of Wisconsin, with its principal place of business located at 1320 Pewaukee Road, Waukesha, Wisconsin, 53186; RACINE COUNTY, a political subdivision of the State of Wisconsin, with its principal place of business located at 730 Wisconsin Avenue, Racine, Wisconsin, 53403; the TOWN OF NORWAY, a township, organized and existing under the laws of the State of Wisconsin, with its principal place of business located at 5419 Heg Park Road, Wind Lake, WI 53185; and the SUPERIOR EMERALD PARK LANDFILL SITING COMMITTEE (hereinafter the "Siting Committee"), a landfill siting committee formed pursuant to § 289.33, Wis. Stats., consisting of representatives appointed by the City of Muskego, the City of Franklin, Waukesha County, Racine County and the Town of Norway.

**WHEREAS**, on April 10, 1999, Superior and the Siting Committee entered into a contract known as the Interim Construction Agreement, which contract was also entered into by the City of Muskego on April 14, 1999, and which contract was, according to its terms, independently enforceable by each of the City of Muskego, the City of Franklin, Waukesha County, Racine County and the Town of Norway; and

**WHEREAS**, on July 21, 1999, the City of Muskego commenced an action against Superior in the Circuit Court for Waukesha County, claiming that Superior had breached the Interim Construction Agreement, which claim is vigorously disputed by Superior; and

**WHEREAS**, on or about September 15, 1999, Superior gave notice to each of the City of Muskego, the City of Franklin, Waukesha County, Racine County, the Town of Norway and the Siting Committee, pursuant to § 893.80, Wis. Stats., that Superior had specific claims for damages and other relief against each of them, which claims they vigorously dispute; and

**WHEREAS**, in order to avoid costly and protracted litigation, Superior, the City of Muskego, the City of Franklin, Waukesha County, Racine County, the Town of Norway and the Siting Committee are all mutually desirous of resolving their disputed claims according to the terms of this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants exchanged herein, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, Superior, the City of Muskego, the City of Franklin, Waukesha County, Racine County, the Town of Norway and the Siting Committee, do hereby mutually covenant and agree as follows:

1. **Definitions.** As used herein, the following terms shall be defined as follows:

a. **Affected Municipalities** shall mean the City of Muskego, the City of Franklin, Waukesha County, Racine County, the Town of Norway, and their respective officers, employees, agents and elected officials.

b. **Arbitration Award** shall mean that certain arbitration award issued by the Wisconsin Waste Facility Siting Board on September 1, 1999, which incorporated by reference the final offer in arbitration submitted by Superior Emerald Park Landfill, Inc., and the terms and conditions of the Negotiated Agreement that was stipulated to by Superior and the Superior Emerald Park Landfill Siting Committee, by a Stipulation filed with the Waste Facility Siting Board on June 24, 1999.

c. **Design Capacity** shall mean the total waste disposal capacity of the Expansion, as determined by the approved Plan of Operation for the Expansion and any modifications thereto, exclusive of daily, intermediate and final cover.

d. **Expansion** shall mean the expansion to the existing Superior Emerald Park Landfill that was the subject of the Feasibility Approval issued by the Wisconsin Department of Natural Resources on July 29, 1999, and the Plan of Operation that will be issued by the Wisconsin Department of Natural Resources to permit construction and operation of the expansion that was the subject of the Feasibility Approval.

e. **Feasibility Approval** shall mean the final determination of feasibility issued by the Wisconsin Department of Natural Resources on July 29, 1999, for an expansion of the Superior Emerald Park Landfill.

f. **Plan of Operation** shall mean the Plan of Operation, and all conditions attendant thereto, that is issued by the Wisconsin Department of Natural Resources to permit construction and operation of the expansion to the Superior Emerald Park Landfill that was the subject of the Feasibility Approval.

g. **Superior** shall mean Superior Emerald Park, Inc., together with its parent, subsidiary and affiliated corporations, and its officers, directors, employees, and agents.

2. **Payments by Superior.** Beginning with the commencement of waste disposal in the Expansion, and continuing until the Design Capacity of the Expansion is consumed, Superior shall pay to the Affected Municipalities the sum of \$0.10 per ton for each ton of solid waste disposed of in the Expansion, exclusive of 68,750 tons per year of Beneficially Reused Materials. The \$0.10 per ton of solid waste shall be increased at the rate of 5.2% compounded annually, every January 1, beginning the year 2000. Such payment shall be independent of and in addition to any other obligations that Superior may have under the Arbitration Award. Payment shall be made on a monthly basis, and the first payment shall be due thirty (30) days after the close of the first month that waste is first disposed of in the Expansion. Thereafter, payment shall be received within thirty (30) days from the date that the actual tonnage is to be determined for each monthly payment period.

In the event more than 68,750 tons of Beneficially Reused Material, including contaminated soils, foundry sands, shredder fluffs, or other high volume industrial waste as defined by applicable regulations promulgated by the Wisconsin Department of Natural Resources, is brought to the landfill and beneficially reused in construction and/or operation within the Design Capacity of the Expansion in any calendar year, then for each ton of Beneficially Reused Material placed in the Expansion, over and above 68,750 tons per calendar year, Superior shall pay the Affected Municipalities the sum of \$2.47 per ton. The \$2.47 per ton for Beneficially Reused Materials exceeding 68,750 tons per calendar year shall be increased at the rate of 5.2% compounded annually, every January 1, beginning with the year 2000. Such payment shall be independent of and in addition to any other obligations that Superior may have under the Arbitration Award. Payment shall be made on a monthly basis, and the first payment shall be due thirty (30) days after the close of the first month that waste is first disposed of in the Expansion. Thereafter, payment shall be received within thirty (30) days from the date that the actual tonnage is to be determined for each monthly payment period.

3. **Continuation of Free Waste Disposal.** In the event the Design Capacity of the Expansion is consumed before a period of ten (10) years from the date waste is first placed in the Expansion, Superior shall continue to provide free solid waste disposal for City of Muskego residential waste, City of Muskego governmental and departmental waste, Muskego/Norway School District Waste, Drought School District Waste, and Waukesha County Waste, for the remainder of such 10-year period, at the tonnage rates established by the Arbitration Award. Superior's obligation in this regard is independent of and in addition to any other obligation it may have under the Arbitration Award.

Superior shall have no obligation to make any payments or pay any fees to the Affected Municipalities with regard to solid waste for which Superior provides free solid waste disposal service to the City of Muskego, the Muskego/Norway School District Waste, the Drought School District Waste, or Waukesha County, under this Agreement or the Arbitration Award. With respect to any solid waste for which free disposal service is provided, the Affected Municipalities shall notify Superior of the identity and contact information of the solid waste transporter, the type and frequency of the collection and transportation service, and the number and size of containers utilized in the collection and transportation of any solid waste for which free disposal service is to be provided. The Affected Municipalities shall also promptly notify Superior of any changes in such information. At the time that it calculates and makes Direct Payments to the Affected Municipalities, Superior shall provide the Affected Municipalities with a summary report of the amount of solid waste for which free disposal service was provided and was excluded from the calculation of payments or fees paid to the Affected Municipalities.

In the event that Superior applies for a further expansion of the landfill, the Affected Municipalities covenant and agree that they will not unreasonably withhold any local approval or permit required for the further expansion of the landfill. If any of the Affected Municipalities unreasonably withholds, as determined by a court of competent jurisdiction, a local approval or permit for the further expansion of the landfill, then Superior shall have no obligation whatsoever to provide free solid waste disposal to any person after the Design Capacity of the Expansion is consumed.

4. **Dismissal of Pending Litigation.** As soon as this Agreement has been executed by all parties, the City of Muskego, Superior and the Affected Municipalities shall forthwith prepare and file in the Circuit Court for Waukesha County, in Case No. 99-CV- 1476, a stipulation and order to allow the intervention of the Affected Municipalities in the action, to vacate the Order for Default Judgment entered by the Hon. Patrick L. Snyder in the action, and for the entry of judgment dismissing, on the merits and with prejudice, any claims that were or might have been asserted by the City of Muskego or the Affected Municipalities in the action. Within five (5) after this Agreement has been executed by all parties, the Superior Emerald Park Landfill Siting Committee shall file a motion for the entry of judgment voluntarily dismissing, on the merits and with prejudice, the actions styled: *In the Matter of the Arbitration of a Dispute Between: Superior Emerald Park Landfill Negotiating Committee and Superior Emerald Park Landfill, Inc.*, Dane County Circuit Court Case No. 99-CV-2841, and *In the Matter of the Arbitration of a Dispute Between Superior Emerald Park Landfill Negotiating Committee and Superior Emerald Park Landfill, Inc.*, Waukesha County Circuit Court Case No. 99-CV-2376.

5. **Mutual Releases.** Superior, each of the individual Affected Municipalities, and the Siting Committee, do hereby mutually, fully, finally and forever release, dismiss, discharge and relinquish, any claims, counterclaims, cross-claims, or causes of action, whether known or unknown, that any of them may have against any other party to this Agreement, in any way whatsoever related to or arising out of the siting and approval of the Expansion, the proceedings before the Waste Facility Siting Board that resulted in the Arbitration Award, or the Interim Construction Agreement. It is the parties' intent that this mutual release be construed as broadly as possible to include, but not be limited to, any claim, counterclaim, cross-claim, or cause of action for damages, costs, loss or other legal relief, equitable or injunctive relief, or any other type of relief available at common law, or in equity, or under any state or federal statute or regulation, or under any municipal or county ordinance.

The mutual releases exchanged hereunder shall not be construed to in any way affect the legal effect or enforceability of the Arbitration Award or the legal effect or enforceability of this Agreement.

6. **Notice to Parties.** Under this Agreement, any notices required by the terms and conditions of this Agreement are, at a minimum, to contain the address and names of the parties as noted below, are to be sent by certified mail, return receipt requested 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 Superior, the Affected Municipalities and the Siting 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, return receipt requested to the addresses noted below. The current names and addresses are:

a. **Affected Municipalities:**

- i. City of Muskego  
Attn: City Clerk-Treasurer  
P.O. Box 749  
Muskego, WI 53150
- ii. City of Franklin  
Attn: City Clerk  
9229 West Loomis Road  
Franklin, WI 53132
- iii. County of Waukesha  
Attn: Parks & Land Use Department  
c/o County Clerk 1320 Pewaukee Road, Room 120  
Waukesha, WI 53188
- iv. Town of Norway  
Attn: Town Clerk  
6419 Heg Park Road  
Wind Lake, WI 53185
- v. Racine County  
Attn: County Clerk  
730 Wisconsin Avenue  
Racine, WI 53403

b. **Superior Emerald Park Landfill, Inc.**

Superior Emerald Park Landfill, Inc.  
Attn: Gene Kramer, General Manager  
W124 S10629 South 124th Street  
Muskego, WI 53150

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

8. **Governing Law.** This Agreement and the provisions contained therein will be construed, enforced and governed, in all respects, in accordance with the laws and statutes of the State of Wisconsin.

9. **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.

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10. **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.
11. **Binding Effect.** This Agreement will bind Superior, the Affected Municipalities, the Siting Committee, and their respective legal heirs, representatives, successors and assigns.
12. **Execution In Counterparts.** This Agreement may be executed in separate counterparts, each of which shall be deemed an original.

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SUPERIOR EMERALD PARK LANDFILL,

Approved this 13<sup>th</sup> day of March, 2000

BY: [Document signed -Signature not scanned]  
NAME: Paul Jenks  
TITLE: Chief Operating Officer

ATTEST: [Document signed -Signature not scanned]  
NAME: Scott S. Cramer  
TITLE: Secretary

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CITY OF MUSKEGO

Approved this 3 day of March, 2000

BY: *[Document signed –Signature not scanned]*  
David L. DeAngelis, Mayor

ATTEST: *[Document signed –Signature not scanned]*  
Jean K. Marena, Clerk

(A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.)

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CITY OF FRANKLIN

Approved this 21 day of December, 1999.

BY: *[Document signed –Signature not scanned]*  
Frederick F. Klimetz, Mayor

ATTEST: *[Document signed –Signature not scanned]*  
Sandra L. Claus, Clerk

(A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.)

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WAUKESHA COUNTY

BY: *[Document signed –Signature not scanned]*

BY: *[Document signed –Signature not scanned]*

Daniel M. Finley, County Executive

Patricia E. Madden, County Clerk

1-28-00  
Date

1-31-00  
Date

(A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.)

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RACINE COUNTY

Approved this 31<sup>st</sup> day of January, 2000

BY: *[Document signed -Signature not scanned]*  
James Jacobson  
County Executive  
Corporation Counsel

ATTEST: *[Document signed -Signature not scanned]*  
Joan C. Bennert, Clerk  
Racine County Clerk

(A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.)

Date 1-28-00  
Certified to be correct as to form.  
By Mark Jurach  
Racine County Corporation Counsel

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TOWN OF NORWAY

Approved this 10<sup>th</sup> day of January, 2000

BY: *[Document signed –Signature not scanned]*  
William J Hassey, Chair

ATTEST: *[Document signed –Signature not scanned]*  
Kathryn A. Gibbs, Clerk

(A certified copy of the approving resolution shall be attached and appended to this Agreement and incorporated by reference.)

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SUPERIOR EMERALD PARK LANDFILL SITING COMMITTEE

Approved this 13<sup>th</sup> day of March, 2000

BY: *[Document signed –Signature not scanned]*  
Jacqueline R. Schweitzer, Chair

ATTEST: *[Document signed –Signature not scanned]*  
Diane Kwiecinski

**LETTER  
OF  
UNDERSTANDING**

*Davis Kuelthau, s.c.*

ATTORNEYS AT LAW

111 E. Kilbourn, Suite 1400 Milwaukee, WI 53202-6613  
414-276-0200 Cable Address SHIPLAW\*Fax 414-276-9369  
www.daviskuelthau.com

Writer's Direct Dial: 414-225-1460

E-Mail: [wsr@daviskuelthau.com](mailto:wsr@daviskuelthau.com)

January 20, 2000

Attorney H. Stanley Riffle  
Arenz, Molter, Macy & Riffle, S.C.  
720 North East Avenue  
P.O. Box 1348  
Waukesha, WI 53187-1348

Re: **City of Muskego v. Superior Emerald Park Landfill, Inc.**  
Case No.: 99 CV 1476

Dear Mr. Riffle:

Pursuant to our discussions on the potential ambiguities in the Settlement Agreement and Mutual Release, this letter will confirm the following with respect to the parties' mutual intent as to the proper interpretation of the various documents:

1. On Page 3, in the first paragraph, the Agreement refers to \$2.47 per ton for BRM in excess of the BRM exemption. It further states that this amount is independent of the obligations Superior has under the Arbitration Award. To clarify, it is the parties' mutual intent that the amount of \$2.47 is not a cumulative amount or an amount in addition to the \$2.37 but rather a substitute amount to be used in place of the \$2.37.
2. On page 4, paragraph 4 does not include a statement that the Settlement Agreement and Mutual Release will be incorporated by reference into the Order for Judgment dismissing the action. This will confirm the parties' mutual intent and agreement that the Order for Judgment will include such a statement.
3. Certain obligations created by the Interim Construction Agreement have been extinguished or modified by the *Stipulation as to Agreed Upon Issues for Negotiated Agreement* that was filed with the Waste Facility Siting Board (WFSB) on June 24, 1999, the Arbitration Award issued by the WFSB on September 1, 1999, or the Settlement Agreement and Mutual Release. However, there are two (2) obligations created by the Interim Construction Agreement that have not been affected. Specifically, these are: (1) the obligation to pay the City \$1,296,000.00 on January 15, 2000; and (2) the obligation to pay the City \$25,000.00 per year for not less than fifteen (15) years towards the cost of funding a landfill compliance officer, unless this latter obligation is superceded by a subsequent Negotiated Agreement for a further expansion of the Landfill. This will confirm the parties' mutual intent and

Attorney H. Stanley Riffle  
January 20, 2000  
Page 2

agreement that these obligations remain and are not released or extinguished by the release in the Settlement Agreement and Mutual Release.

4. There is an ambiguity in Article IV, paragraph 26 of the Negotiated Agreement attached to the *Stipulation as to Agreed Upon Issues for Negotiated Agreement* regarding the number of years that Superior would make the \$ 10,000.00 payment referenced in that paragraph. This will confirm that it was always the mutual intent of Superior and the Siting Committee that the \$ 10,000.00 payment would be made for a minimum of fifteen (15) years, unless the Stipulation and Negotiated Agreement was superseded by a subsequent Negotiated Agreement for a further expansion of the Landfill.
5. Finally, the parties recognize that Superior may be required to tender payments to the City under the Interim Construction Agreement which are in dispute in the action that is the subject of the Settlement Agreement and Mutual Release. This will confirm the City's agreement that Superior shall not be required to tender such payments or, if such payments are tendered, no checks or instruments representing such payments will be cashed by the City unless and until the Settlement Agreement and Mutual Release has been finally executed by all of the parties and a final judgment of dismissal has been entered in all of the pending actions referenced in the Settlement Agreement and Mutual Release.

If you agree to the clarification of these ambiguities, would you please acknowledge by signing and returning a copy of this letter.

Very truly yours,

DAVIS & KUELTHAU, S.C.

William S. Rousch, Jr.

WSR/ml  
Enclosure

Approved as to form and content:

\_\_\_\_\_  
H. Stanley Riffle, Esq. 3/13/00