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## **NEGOTIATED AGREEMENT RELATING TO DANE COUNTY LANDFILL NO. 3**

Between the County of Dane, the City of Madison, and the Town of Cottage Grove

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This Negotiated Agreement (“Agreement”) relating to the Dane County Landfill No. 3, entered into by and between the County of Dane, a quasi-municipal corporation in the State of Wisconsin (hereinafter referred to as “County”), the City of Madison, a municipal corporation of the State of Wisconsin (hereinafter referred to as “City”), and the Town of Cottage Grove, a municipal corporation of the State of Wisconsin (hereinafter referred to as “Town”), is effective as of the date by which all parties have signed hereunder and according to the terms and conditions set forth herein.

### **RECITALS**

**WHEREAS**, on August 15, 1973 the County and the City entered into a waste stream agreement in which the City agreed to close its solid waste disposal facilities and use County solid waste disposal facilities; and,

**WHEREAS**, on January 16, 1984 the County and the City entered into a land sale agreement that allowed the County to construct and open a solid waste disposal facility located at 7102 Maahic Way in the City of Madison, Dane County, Wisconsin, known as Dane County Landfill No. 2, or the Rodefild Landfill; and,

**WHEREAS**, it is projected that the Rodefild Landfill will reach its maximum capacity by 2029; and,

**WHEREAS**, on February 28, 2023, the City sold a portion of the land used for the Yahara Hills Golf Course to the County for of the development of a sustainable business park and solid waste disposal facility for which approximately 201 acres was identified for the construction and operation of the Dane County Landfill No. 3; and,

**WHEREAS**, the County has applied to the Wisconsin Department of Natural Resources for a license to construct and operate the Dane County Landfill No. 3 pursuant to Wis. Stat. Ch. 289, Subchapter III; and,

**WHEREAS**, the City of Madison and the Town of Cottage Grove have adopted Siting Resolutions and appointed members to the Local Negotiating Committee for Dane County Landfill Site # 3 (“Local Negotiating Committee”); and,

**WHEREAS**, pursuant to the requirements of Chapter 289 regarding solid waste facility permitting, the Local Negotiating Committee was formed, which includes four members appointed by the City and one member appointed by the Town; and,

**WHEREAS**, the Local Negotiating Committee having met numerous times and the County, the City, and the Town wish to approve this Agreement, as required under Wis. Stat. Sec. 289.33, to allow the County to proceed with construction and operation of Dane County Landfill No. 3.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements hereinafter set forth, the County, the City, and the Town enter into this Agreement, subject to the following terms and conditions:

ARTICLE I  
DEFINITIONS

For the purposes of this Agreement, the following definitions apply:

Active Site Life means the period during which Solid Waste is transported to or from the Facility or is Disposed of in the Limits of Waste at the Facility by the County or by any other person.

Agreement means this Negotiated Agreement relating to the Dane County Landfill No. 3.

Agricultural Chemicals means chemicals derived from the normal function of farm operations including atrazine and other pesticides and nitrates from fertilizers.

Authorized User means any person, business, or municipality who is authorized by the County to Dispose of Solid Waste at the Facility.

Bacterial Contamination means the introduction of bacteria to a water supply that would not be indicative of landfill derived contamination but more commonly associated with surface, agricultural, or septic derived sources.

City means the City of Madison, its officers, its officials, its employees, and its agents.

City Engineer means the City of Madison City Engineer, or designee.

City Water Utility General Manager means the General Manager of the City of Madison Water Utility, or designee.

Commercial Solid Waste Vehicle means a vehicle that is used in commerce to transport solid waste with a gross vehicle weight of 26,001 pounds or more.

Compensation means remuneration for specified losses.

County means the County of Dane, its officers, its officials, its employees and its agents, who is the lawfully proposed operator of the Facility.

County Department or Department means the Dane County Department of Waste & Renewables.

Course means the Yahara Hills Golf Course and its staff, customers, or operations.

Department of Natural Resources or WDNR mean the Wisconsin Department of Natural Resources, or its successor agency.

Designated Waste Disposal Area means the location where Authorized Users are instructed to Dispose of Solid Waste.

Director means Director of the Dane County Department of Waste & Renewables.

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

Disposal and Dispose means the discharge, deposit, injection, dumping, or placing of Solid Waste at the Facility.

Disposal Operations means any activities directly related to the construction or operation of the Facility including but not limited to daily waste covering, maintenance of vehicles and equipment, placement of soil cover, collection of litter and debris, constructing, surveying, environmental monitoring, environmental testing, repairing, maintaining, and placement of final cover on the Facility.

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

Facility means the Dane County Landfill No. 3 and any infrastructure or property that is necessary for Disposal Operations.

Feasibility Determination means the decision and the associated conditions issued by the Department of Natural Resources to the County in response to the submittal of a Feasibility Report for the Dane County Landfill Site No. 3.

Final Closure means the time at which the Facility ceases to accept Solid Waste within the Limits of Waste, and includes all actions required under all applicable statutes, rules and regulations to prepare the facility for Long Term Care and to make it suitable for other uses.

Hazardous Waste means any Solid Waste identified as a hazardous waste by the Department of Natural Resources, under Sec. 291.05(2), Wis. Stats., or identified as a hazardous waste by regulations adopted by the Department of Natural Resources in Chapter NR660, et seq., Administrative Code, or its successor chapters.

Landfill Operations Manager means the County employee who is responsible for the daily operations and maintenance of the Facility and managing Disposal Operations.

Limits of Waste means the total area and volume conditionally approved by the Department of Natural Resources in the Feasibility Determination and subsequently modified and approved in the Plan of Operation as the disposal capacity area for the disposal of Solid Waste at the Facility.

Local Approvals means any local approval as "local approvals" are defined in Sec. 289.33(3)(d), Wis. Stats. or its successor provisions.

Local Committee or Local Negotiating Committee means the Dane County Landfill No. 3 Local Negotiating Committee, organized under Sec. 289.33, Wis. Stats., and consisting of representatives of the City and the Town.

Long Term Care means any activities at the Facility, including routine care, maintenance and monitoring at the Facility following the Final Closure of the Facility.

Mitigation means to lessen or moderate the severity of actions or impacts.

Plan of Operation means the WDNR approved operating permit or plan of operation, and the conditions set therein, for the Facility, as provided for in Sec. 289.30, Wis. Stats.

Practicable means those actions or efforts used or found in actual practice or well-established to be feasible, that are reliable and are efficient.

Pre-existing Local Approvals means any pre-existing local approvals as "preexisting local approvals" are defined in Sec. 289.33(3)(fm), Wis. Stats., or its successor provisions.

Reasonable Person means the standard used to convey general community sensibility as to tolerable, acceptable impacts to neighborhood residents without accommodation to individual, subjective reactions of hypersensitive persons.

Solid Waste means solid waste as defined by Wis. Stat. 289.01(33) and includes any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities and conditionally approved for Disposal at the Facility by the Department of Natural Resources in the Plan of Operation.

Storage or Store means the authorized holding of Solid Waste at the Facility for a temporary period of time at the end of which period the said Solid Waste is to be then transported offsite, composted, processed, treated or ultimately Disposed of in the Limits of Waste or at any other location pursuant to WDNR approved practice and procedures.

Streets Superintendent means the Streets Superintendent of the Streets Division of the City's Department of Public Works, or designee.

Substantiated Complaint means a complaint or condition which has been verified as possible or likely by either the County, City, or Town as being caused by the Facility or Disposal Operations.

Town means, unless the context requires otherwise, the Town of Cottage Grove, its officers, officials, employees and agents.

Village means, unless the context requires otherwise, the Village of McFarland, its officers, officials, employees and agents.

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

## ARTICLE II

### TRANSPORTATION

#### A. ACCESS AND HAUL ROUTES

The County shall direct all Commercial Solid Waste Vehicles to use U.S. Hwy 12/18 and CTH AB as the principal route to the Facility. Up to ten Commercial Solid Waste Vehicles per day may use Femrite Drive (west of CTH AB) and up to five Commercial Solid Waste Vehicles per day may use Sigglekow Road (west of CTH AB) as the route to CTH AB and the Facility entrance. More than ten Commercial Solid Waste Vehicles per day may use Femrite Drive (west of CTH AB) and CTH AB to access the Facility if separately agreed to by intergovernmental agreement between the City and the County, and more than five Commercial Solid Waste Vehicles per day may use Sigglekow Road (west of CTH AB) and CTH AB to access the Facility if separately agreed to by intergovernmental agreement between the City, the Town, the Village, Town of Blooming Grove, and the County. Reasonable accommodations shall be made to allow Commercial Solid Waste Vehicles alternative access to the Facility in an emergency and when significant highway construction occurs on U.S. Hwy 12/18 or CTH AB near the Facility. Commercial Solid Waste Vehicles may use Femrite Drive, Sigglekow Road, or CTH AB if they are collecting Solid Waste from residents or businesses on those roads.

#### B. VEHICLE LITTER CONTROL

The County shall impose a uniform policy regarding securing and covering loads to prevent unreasonable problems involving litter or threats to public safety from windblown debris generated from vehicles during Solid Waste transport to the Facility. Vehicles carrying materials which can leak, fall, be blown, or otherwise dislodged from the vehicle, shall be required to be constructed and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom and covered or appropriately secured to enter the Facility.

The County shall inspect outbound vehicles and require all Authorized Users to inspect vehicles after unloading to insure that all loose debris which could be blown out of the vehicle is removed. It shall be a violation of the Facility's policy, for which the County can impose a monetary penalty, to leave debris in vehicles or to allow for debris to exit the vehicle on Facility roadways or anywhere outside of the Designated Waste Disposal Area. As allowable by Wis. Stat. 348.10 (5)(a), the County may allow vehicles carrying bulk material such as sand, gravel, dirt or other materials which by their nature cannot fall or be blown from the vehicle, to enter, use, or exit the Facility without a cover.

#### C. LITTER PICKUP

The County shall inspect for and collect litter generated from vehicles of Authorized Users as necessary on and alongside U.S. Hwy 12/18 and such other roads in close proximity of the Facility pursuant with this Article III and V of this Agreement.

#### D. MUD TRACKING

The County shall maintain the paved entrance area to the Facility and adjacent public roads free of mud generated from vehicles exiting the Facility. This shall be done by performing daily inspections for mud, maintaining paved or graveled access roads and gravel tracking pads inside the Facility and by sweeping or washing down paved roads inside the Facility and adjacent to the entrance.

The County shall maintain access to street sweeping equipment at the Facility. Upon its own initiative or request by the City or the Town, the County shall employ this equipment to remove mud from any paved street or road used by Authorized Users in close proximity to the Facility entrance.



## ARTICLE III

### FACILITY OPERATIONS

#### A. TERM

The County shall maintain all appropriate actions and commitments provided in this Agreement from the issuance of WDNR's facility operating license until completion of Final Closure of the Facility. The County is required to meet all obligations required under Article V related to operational concerns for the duration of the Active Site Life of the Facility. The County recognizes that this Agreement includes certain preconditions as well as obligations which survive Final Closure of the Facility.

#### B. LOCAL APPROVALS

The County, its officials, its officers, its employees and its agents shall be subject to, and shall comply with all applicable Local Approvals and Pre-existing Local Approvals. The Limits of Waste, the Facility, generally, and the operations at the Facility shall be subject to all applicable County and City, and Town pre-existing ordinances and approvals. In particular, all pre-existing local zoning approvals are applicable to the Facility.

#### C. SOURCE OF WASTE

No more than 5% of waste generated outside of Dane County can be Disposed of at the Facility unless an exception is specifically authorized by the County Board of Supervisors. No action will be taken by the County Board to allow Disposal of more than 5% of Solid Waste from outside the County without first providing 30 days notice to the City and the Town.

#### D. HOURS OF OPERATION

The County shall only operate the Facility between 6:00 a.m. and 5:00 p.m., Monday through Friday, and 7:00 a.m. and 2:00 p.m. on Saturdays; where operation of the Facility is defined to mean the receipt of waste. The County may operate equipment up to 30 minutes before and after hours listed above to facilitate opening and closing of the Facility. Operations may occur inside buildings outside of the hours listed above, subject to compliance with City zoning and noise ordinances. The Facility may be operated from 7:00 a.m. to 5:00 p.m. on Saturdays following either:

1. A week within which New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas Day or other legal holidays occur; or,
2. A week within which adverse weather conditions (such as high winds, rain, extreme cold, ice or heavy snow) have prevented the County from operating the Facility for an aggregate period of more than five (5) hours in any one day.

Subject to applicable City Ordinances, the County reserves the right to conduct construction activity at the Facility in a manner to achieve an expedited schedule based upon

seasonal and weather conditions. The above operating hours are not applicable to construction activity.

The above operating hours are not applicable when it is necessary for the Facility to extend its hours to be able to accept Solid Waste from an Emergency

#### E. YAHARA GOLF COURSE OPERATIONS

The County is constructing the Facility on land formerly owned and operated by the City as a municipal golf course, the Yahara Hills Golf Course (the “Course”). The Course is operated as an enterprise, under the City’s Parks Division and the authority of the Parks Superintendent. Under the terms of separate intergovernmental agreements and leases, as the Facility is constructed and operations commence, the Course will be reduced from 36 holes, to 27 holes, to eventually 18 holes, all of which will operate directly adjacent to the western boundary of the Facility as it is developed and operations commence. The City intends to continue Course operations during the lifetime of the Facility, which, given the outdoor element of the activity and the specialized nature of the Course property, presents distinctive issues to the City and the County that must be addressed.

#### F. PREVENTION OF NUISANCE CONDITIONS

The County agrees that it shall take whatever precautions are feasible and reasonably practicable to prevent nuisance conditions. In the event that nuisance conditions occur, the County will publicize contact information of appropriate staff and maintain an online system for reporting the conditions and respond to the complaints pursuant to Article V of this Agreement.

#### G. ODOR ABATEMENT

The County agrees to exercise reasonable, practicable efforts based on then current technology to control odor from the Facility to mitigate odors offensive to a reasonable person. Odor will be controlled by proper landfilling operations: applying daily cover or an alternative daily cover approved by WDNR to all Solid Waste and through implementation of a gas control system. The County agrees to maintain the active gas control system at the Facility for the life of the facility and as long thereafter as is reasonably determined necessary to control gas migration or odor.

#### H. DUST ABATEMENT

The County agrees to exercise reasonable, practicable efforts based on current technology to control dust from the Facility operations. Dust is generated during dry conditions, and mainly attributed to vehicular traffic on roadways at the facility. Dust is also generated from open, disturbed, unvegetated land.

The County agrees to maintain a vegetative cover on all areas at the Facility which are disturbed and not being actively used, to control windblown dust.

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

## I. LITTER CONTROL

The County will comply at all times with this Agreement concerning blowing debris and shall operate the Facility in complete compliance with present and future applicable federal and state statutes, administrative code requirements, regulations, and WDNR requirements as per the current amended version of NR 500 Wis. Admin. Code, or any successor provisions.

1. Facility Design. Prior to the acceptance of waste at the Facility, the County shall install a six-foot (6') high fence (i.e., chicken wire, chain-link, or similar material).

2. Operational Controls. The County shall use portable fencing windscreens in the active area when practicable and as needed. The County shall take all reasonable measures to prevent debris from the Facility from being deposited upon adjacent properties including the Course, including keeping its fences, windscreens, berms and landscaping free and clear of such debris, and vectors under control.

The fencing shall be cleaned of litter and debris as deemed necessary by the County. At a minimum this activity shall occur on the last, full normally scheduled work day of any week, weather permitting, or at least once per week. Further, if any litter escapes the Facility, the County agrees to pick up the litter on neighboring properties and return it to the Facility, for Disposal.

The County agrees to stop accepting waste any day when waste is leaving the site as determined by the County. Wind speed shall be monitored on a continuous basis and any wind speeds above 30 miles per hour will be recorded with records being maintained and reviewed by the County daily as part of routine monitoring. Records may be reviewed by the municipalities upon request. The County shall inform all haulers of this rule and provisions shall be made so that the haulers can check with the County regarding facility closure.

3. Inspections. The County shall exercise a reasonable daily regimen to inspect and control blowing debris leaving the Facility on all days when the Facility is in operation. The County shall inspect the adjacent property boundary with the Course, adjacent yards, and the right-of-way along U.S. Hwy 12/18, CTH AB, Femrite Drive, and Siggelkow Road to for litter and remove litter as necessary. The County shall not be required conduct litter inspections on any Sunday and legal holiday unless a nuisance condition has been reported and requires a response per Article V of this Agreement.

4. Course Litter Collection. When required to remove litter on the Course, the County will coordinate access to the Course with Course staff to minimize disruption of Course usage by customers. The County shall exercise due care when accessing the Course for this purpose, and may not use any equipment on the Course for litter collection purposes without the express permission of the City, and the County shall be responsible for any damage to the Course that occurs when engaging in this behavior.

#### J. VECTOR CONTROLS

The Local Committee considers vectors to include rodents, birds (especially gulls), insects (e.g., flies, mosquitoes, etc.), and other unwanted pests. All of these pests or vectors, except gulls, can be controlled through proper compacting and covering of the waste and grading of the site to eliminate ponded water, and by implementing a proper rodent baiting program inside the fenced area. The County agrees to exercise as part of its operational duties to perform pest control as needed and to contract if necessary with a professional pest control specialist.

The County shall have a Bird Control Plan for the Facility. Federal Aviation Administration (FAA) Advisory Circulars AC 15/5200-33b, Hazardous Wildlife Attractants On or Near Airports and AC 150/5200-34A, Construction or Establishment of Landfills Near Public Airports shall be referred to as guidance when creating the Bird Control Plan. The County shall submit a report on the success of the Bird Control Plan to the City and the Town every two (2) years. This report and notification of this report can be done electronically, using the methods described in Article V of this Agreement.

#### K. SCREENING/ LANDSCAPING PLAN

The County shall provide partial screening as practicable to the Facility. The perimeter berms and plantings shall be concentrated along the periphery of the Facility, adjacent to the right-of-ways, and along the western border with the Yahara Hills Golf Course. This screening shall also comply with approved Conditional Use Permit Zoning. These specifications and plans may be amended pursuant to revisions required for City zoning approvals and WDNR requirements.

The County shall work with the City's Parks Division to establish reasonably sufficient screening between the Facility and the Course, which shall include, in addition to fencing and windscreens, the construction of berms along the final property line, and the planting of trees and the installation of other landscaping features along the Facility's boundary with the Course. With the agreement of the City, the screening may be placed on the City's property. The purpose of this screening is to create a buffer between users of the Course and Facility operations and to minimize impacts of the Facility on Course operations. All such screening shall be the County's cost, unless otherwise agreed to by the City and the County.

#### L. DRAINAGE, STORMWATER UTILITY CHARGES, LEACHATE, AND EROSION CONTROL

In designing and operating stormwater facilities for the Facility, including during construction, operations, and after closure, the County will not unreasonably direct stormwater discharge to the Course, and any such use of the Course for stormwater purposes shall be with the City's authorization. The County acknowledges that the Course is not intended to serve as an involuntary detention facility for the Landfill.

1. Facility Design. During the planning phase of the Facility, the County shall obtain a stormwater permit from the County Land and Water Resources Department. This shall be done after such plans are prepared as part of the Plan of Operation for the Facility. Plans shall be implemented in accordance with Chapter 14 of Dane the County Ordinances and WDNR

recommendations and approvals. The County shall not be required to obtain any approvals or permits from the City for erosion control or stormwater at the Facility. Concepts which shall be included in these plans can be described as follows:

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

b. Surface water which ponds on the liner prior to the placement of Solid Waste shall be tested for conductivity. If conductivity values are indicative of surface water, this water shall be pumped to the perimeter drainage ditch. If values are indicative of leachate, the water shall be handled as leachate. All water which comes in contact with Solid Waste shall be treated as leachate.

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

2. Operational Phase. During the operational phase of the Facility, the County shall:

a. Submit annual site plans to the City Engineer showing the areas of the Facility that are draining to the leachate collection system and those areas draining to the surface stormwater system (which shall be charged as part of the City's Stormwater Utility fees).

b. Submit monthly pumping volumes and testing results to the City Engineer to allow determination of sanitary demand charges for treatment of leachate. Pumping volume shall be submitted to the City Engineer a minimum of monthly. Analytical testing results, for the parameters and frequency determined by WDNR Plan of Operation, shall be submitted to the City Engineer at a minimum of annually by June 1st.

3. Closure. Upon and as part of Facility Closure, the County shall:

a. Submit final drainage and erosion control plans to the County Land and Water Resources Department and obtain approval therefrom. This shall be done after such plans are prepared as part of the Plan of Operation for the Facility. Plans shall be implemented in accordance with Chapter 14 of Dane the County Ordinances and WDNR recommendations and approvals.

b. Submit final site plans to the City Engineer documenting the final approved contours and drainage patterns. The stormwater utility fees shall be determined based upon these final site plans.

c. In perpetuity or until leachate is no longer generated at the Facility, the County shall submit monthly pumping volumes and testing results to the City Engineer to allow determination of sanitary demand charges for treatment of leachate.

#### M. EMERGENCY RESPONSE SERVICES

To the extent necessary, this agreement shall constitute an inter-governmental Agreement between the County and the City, pursuant to Sec. 66.0301, Wis. Stats., for the City to provide the following emergency response services, as needed, to the Rodefild Facility:

1. HAZMAT response services, as provided by the Hazardous Material agreement between the City and the County and the City's agreement with the State of Wisconsin designating it as a Regional Response Team, as those agreements may be updated from time-to-time;
2. reasonable, necessary fire fighting service with customary mutual aid arrangements made available; and
3. medical assistance response service.

These services shall be recompensed by the County or the appropriate party on a per incident basis, as costs are incurred.

#### N. MATERIALS ACCEPTANCE

The County shall not impose testing requirements stricter than applicable federal or state laws or regulations, or the approved Plan of Operation for the Facility, when determining the suitability of materials for disposal, including materials to be used for cover.

#### O. LANDFILL OPERATOR TRAINING

The County shall have the WDNR required number of certified "Facility Managers" and "Site Operators" on-site or available pursuant to Chapter NR524. The County shall act pursuant to Chapter NR524 relating to certification requirements, continuing education and training requirements, and certificate holder responsibilities.

## ARTICLE IV

### ENVIRONMENTAL COMPLIANCE AND REPORTING

#### A. REGULATORY REQUIREMENTS

The County shall comply, at all times, with this Agreement and shall also operate the Facility at all time in complete compliance with all applicable federal and state statutes, administrative codes, regulations, rules and requirements. The County shall undertake at its expense environmental controls and monitoring addressing nuisance concerns including "other monitoring" as specified in Sec. NR507.12, Wis. Admin. Code, pursuant to WDNR requirements for this facility.

#### B. REPORTS TO MUNICIPALITIES

During the Active Site Life and extending after Final Closure, during which time the County is required to satisfy any net worth or other financial responsibility standard under any state or federal law, the County shall ensure that electronic copies of letters, technical reports, waste source data, testing data, recording data and monitoring data that are provided to or are received from the Department of Natural Resources or any other state agency or any federal agency associated with the Facility, are available on a webpage or other form of electronic clearinghouse, except when said documents are confidential and not subject to public disclosure under the Wisconsin Public Records law.

#### C. PRIVATE DRINKING WATER WELL MONITORING

Private drinking water wells designated by WDNR shall be monitored per WDNR monitoring requirements by the County quarterly for purposes of determining the quality of the water in such wells. A current list of these WDNR designated wells, which may be modified by subsequent WDNR orders or conditions, is incorporated herein as Attachment D.

Any property owner eligible for compensation pursuant to Article VII, may request to participate in the private well monitoring program at the cost of the County. A list of wells that are included in this program are included in Attachment E. The costs of sampling and testing as required by this Section shall be borne by the County.

All reports and test results relating to private well monitoring and sampling will be made available to the well owners, to the City Engineer and City Water Utility General Manager, and the Town designee. These reports and test results, as well as notification of these reports and test results, can be provided to the City and the Town electronically, using the methods described in Para B. Results will also be made available to individual residents in compensation groups upon request. The reports shall include a list of current Preventive Action Limits, as defined under NR 140, for each parameter that is sampled for. The well monitoring program shall be perpetual consistent with the current Wisconsin DNR standards.

#### D. ENVIRONMENTAL CONTAMINATION

Although groundwater contamination is highly unlikely, the County shall pay for the reasonable replacement costs of wells serving existing principal use structures upon the properties listed on Attachment D where the levels of volatile organic compounds or heavy metals exceed safe drinking water standards if the Facility is found to be cause of the exceedance. The County shall be responsible to provide emergency potable water for human consumption and provide to users of such contaminated wells an alternative adequate water supply upon twenty-four (24) hour notification to the County of such contamination, until the source of the contamination can be confirmed or the well is replaced. The County agrees to provide water fit for human consumption including bathing, and water for use by livestock.

#### E. ENVIRONMENTAL MONITORING

The County shall comply with all monitoring requirements imposed by DNR, or required by the Wisconsin Administrative Code and any applicable successor regulations (including specifically monitoring provisions as stated in Chapter NR507), as well as any other state or federal rule or requirement applicable to monitoring for the Facility. The County shall also comply with all environmental monitoring conditions imposed by WDNR's Feasibility Determination, the approved Plan of Operation and specifically the facility monitoring plan for the site as described in Sec. NR514.05(8), Wis. Admin. Code, the monitoring report prepared in compliance with Sec. NR514.06(7), Wis. Admin Code, and any additional closure or Long Term Care plans required by WDNR for the facility.



## ARTICLE V

### OPERATIONAL CONCERNS AND ENFORCEMENT SYSTEMS

#### A. COUNTY CONTACT INFORMATION AND REPORTING SYSTEM

The County shall maintain a website that includes the phone numbers and email addresses for the Department personnel listed in this Agreement. The County shall also maintain and publicize a single e-mail address for receiving complaints and feedback.

The County will establish, maintain and publicize an online reporting system that shall accept feedback submissions and complaints. The reporting system shall be monitored by appropriate County personnel. Complaints may also be submitted to the County via telephone, e-mail, or other verbal or written communication and the County will maintain appropriate contact information on the Facility website.

#### B. CONDITIONS THAT REQUIRE IMMEDIATE ONSITE ATTENTION

For concerns requiring immediate attention of onsite personnel, the City, Town, or Village should contact the Landfill Operations Manager. If unable to reach the Landfill Operations Manager, the Director should be contacted.

#### C. COUNTY RESPONSE TO CONCERNS AND COMPLAINTS

The County shall be responsible for all management, control, and resolution of operational concerns relating to the Facility. All parties to this Agreement recognize that the Facility has the potential to create nuisance conditions but that these conditions can largely be corrected or mitigated with appropriate response. As such, adjacent municipalities agree to notify the Landfill Operations Manager, or appropriate personnel, of the need for response to a nuisance condition and allow the County reasonable time to address the issue.

#### D. PROGRESSIVE COMPLAINT SYSTEM

For instances when conditions are recurring or severe in nature, there shall be a multi-level system to handle complaints involving potential unpleasant odors emanating from the site, blowing litter leaving the site, mud tracking problems upon public roadways resulting from traffic leaving the site, and any other nuisance condition. This system shall be used to cooperatively resolve complaints. This shall be a four level contractual dispute resolution system to resolve complaints without the necessity of recourse to the court system. The contractual enforcement system described herein shall provide an expedient, informal dispute resolution system with civil forfeitures withdrawn from an account specifically and exclusively designated for this purpose.

The Streets Superintendent shall monitor the County's compliance where nuisance impacts relating to odor, litter or mud tracking exist, shall document recurring nuisance problems, and shall seek cooperative solutions to problems involving complaints. When the Streets Superintendent communicates in writing with either the County or the complainant, the other party shall receive a copy of this written communication.

1. Individual Complaints (Level I). A Level I Complaint is defined as a singular or isolated condition that is not an environmental or health risk and is able to be corrected with appropriate response from the County, generally within business hours. A list of nuisance conditions and required response actions and timelines from the County for Level I Complaints is included in Attachment F. Level I Complaints have the potential to and may be submitted by a single person, a municipality, or another entity by means of the online reporting system, phone, e-mail or verbally. If a Level I Complaint is submitted to the City, Town, or Village, the complaint shall be submitted to the Department as soon as reasonably practical. Level I Complaints will be tracked and documented by the County.

2. Multiple Party, Ongoing or Priority Complaints (Level II). Nuisance conditions can be exacerbated by conditions such as wind, heat, humidity, rain, or other environmental factors or Facility conditions and have the potential to impact a greater number of people for a more prolonged period of time.

A Level II Complaint is defined as a condition that impacts an increased number of residents or is an ongoing or unresolved issue which requires prompt attention or additional resources from the County. A complaint will be elevated to Level II under the following circumstances:

- a. Five or more residents, Course users, or members of the public submit complaints to the County, City, Town or Village of a nuisance condition.
- b. A single nuisance condition occurs for more than 3 days of a consecutive 7 day period.
- c. The Streets Superintendent substantiates the complaint and elevates the issue to a Level II Complaint.
- d. A Level I Complaint has not been resolved within the required timeframe included in Attachment F.

A list of nuisance conditions, required response actions and timelines from the County for Level I and Level II Complaint is included in Attachment F.

For complaints that are submitted directly to the County and rise to Level II Complaints the Director, or their designee, must also notify the Streets Superintendent of the complaint and the steps the County will take to resolve the complaint and when the complaint has been resolved. The Village and Town designees shall also be notified if the Level II Complaint involves a resident of their respective communities.

If a complaint is being designated as Level II by the Streets Superintendent, the complaint must be submitted in writing to the Department.

Any action taken or written response to a Level II Complaint shall be maintained as a Departmental record and a copy shall be provided to the Street Superintendent. The Streets Superintendent shall retain copies of all documents related to Level II Complaints.

3. Recurring or Unresolved Complaints (Level III). A Level III Complaint is defined as a Level II Complaint that is deemed by the Streets Superintendent as unresolved within a reasonable amount of time. Upon the designation of a Level III Complaint, the Street Superintendent shall make a pre-sanction determination in writing, which shall be issued to both the complainant(s) and the Director. This pre-sanction notice shall provide a reasonable period of time, appropriate to the circumstances, to correct the problem. This pre-sanction notice shall be based upon reasonable investigation and substantial findings of fact. All relevant evidence assembled by the Street Superintendent shall be made available to the Department of Waste & Renewables. Mandatory corrective action shall be limited to those actions found to be reasonable and practicable under the circumstances presented in the complaint.

If parties to this Agreement are unable to develop or agree upon the appropriate corrective action, a third-party consultant shall be selected by at least two of the parties to this agreement and hired by the County at County's expense. The third-party consultant shall unilaterally decide the most practicable, cost effective, remedial action of the presently available alternatives. This remedial action shall be performed at the County's expense. If the County cannot provide necessary remedial action in a timely fashion, then a private contractor shall be retained to perform the work at the County's expense.

4. Violation Notice (Level IV). If the County fails to take corrective action within a reasonable time after receiving a pre-sanction notice, the Street Superintendent shall issue a violation notice to the County. A Violation Notice is subject to the penalties in Para F.

#### D. UNSUBSTANTIATED COMPLAINTS

At any level of the complaint system, there is the potential for a complaint to be unfounded or a result of non-landfill activities. If at any point the County mobilizes to the site of the complaint and finds no nuisance condition or that it unlikely that the reported condition is a result of landfill activities, The County will document the complaint as unsubstantiated.

For Level II Complaints that the County deems as unsubstantiated, the County will notify the Streets Superintendent and schedule a meeting at the location of the issue to verify or provide documentation of what was found onsite. If the two parties agree that the complaint is unsubstantiated the County will document the complaint as unsubstantiated. If the Streets Superintendent elects not to meet, the complaint will be considered unsubstantiated. If the Streets Superintendent finds the complaint substantiated, the City and County will follow the progressive complaint system pursuant to this Agreement.

#### E. DISPUTES

When the Director of County Department of Waste & Renewables disputes a violation, the Street Superintendent shall provide the County with an opportunity to meet to discuss the alleged violation. If the Director of County Department of Waste & Renewables does not concur as to existence of a violation, the City may issue a citation or complaint for a zoning violation starting from the date of the original infraction. This system shall afford the County the ability to utilize the normal judicial process where the existence of a violation is contested.

If parties to this Agreement are unable to develop or agree upon the appropriate corrective action, a third-party consultant shall be selected by at least two of the parties to this agreement and hired by the County at County's expense. The third-party consultant shall unilaterally decide the most practicable, cost effective, remedial action of the presently available alternatives. This remedial action shall be performed at the County's expense. If the County cannot provide necessary remedial action in a timely fashion, then a private contractor shall be retained to perform the work at the County's expense.

#### F. PENALTIES

The Streets Superintendent may impose civil forfeitures against the County pursuant to this Agreement when a Violation Notice (Level IV Complaint) under this Agreement relating to landfill odor, blowing landfill litter or mud tracking from the landfill onto adjacent public roadways is substantiated. This system shall not preclude the County from exercising any due process rights afforded to the County, nor shall this enforcement system be used to deny the County any available contractual remedies. The County shall be given verbal and written notice to remedy specific complaints and a reasonable amount of time to cure prior to imposition of monetary penalties.

The County shall be subject to a civil forfeiture of not less than twenty-five dollars (\$25.00) nor more than five-hundred dollars (\$500.00) for each verified violation relating to landfill mud tracking onto adjacent public roadways.

The County shall be subject to a civil forfeiture of not less than twenty-five dollars (\$25.00) nor more than two-hundred dollars (\$200.00) for each verified violation relating to landfill odor or blowing litter controlled. Each day a violation is permitted to exist, when the County is on notice and has failed to cure the violation in a timely manner, shall constitute a separate offense for purposes of asserting civil forfeitures.

Third and subsequent violations within any given one-year period involving the same basic type of violation (i.e., odor, litter or mud tracking) shall be subject to a civil forfeiture on a daily basis of not less than fifty dollars (\$50.00).

#### G. USE OF SPECIAL ACCOUNT FOR PENALTIES

The County shall maintain a special account designated to cover potential civil forfeitures assessed under this Agreement. During the active site life of this Facility until Final Closure, a balance of \$10,000.00 shall be kept in this account. From completion of Final Closure until termination of use of the active landfill gas destructor system, a balance of \$5,000.00 shall be kept in this account.

#### H. REIMBURSEMENT FOR CORRECTIVE ACTIONS

If the County has been given adequate time to resolve a nuisance condition such as litter or mud and any of the adjacent municipalities finds it necessary to collect litter or clean mud from

roadways attributable to the Facility, the County agrees to pay that municipality a fee equal to twice the amount of the cost to correct the issue.

#### I. REIMBURSEMENT FOR DAMAGES

The County agrees that it will reimburse the City's Golf enterprise for any refunded greens fees that are given due to odor complaints from golfers using the Course. Also, if, in the Parks Superintendent's determination and after consultation with the County Director, the City has to close the Course due to unreasonable odor or other hazards directly attributable to Facility operations, the County will reimburse the City's Golf enterprise for lost revenue during such a closure. Lost revenue, for this purpose, shall be determined based upon weather adjusted average daily course revenue for the fourteen (14) open days preceding the closure, including concessions and retail sales. Reimbursements shall be made in a method agreed to by the Parks Division and the County Department of Waste & Renewables.

## ARTICLE VI

### LIMITATIONS AND FINAL USE

#### A. SITING FUTURE LANDFILLS

Any future expansion of the Limit of Waste beyond that authorized by this Agreement and related WDNR permit or the siting of an additional landfill by the County shall require renegotiation pursuant to Sec. 289.33, Wis. Stats.

#### B. SITING CLAY BORROW AREAS NEARBY

The County will not utilize any property within Dane County for clay borrow sites without full compliance with the County's Nonmetallic Mining Reclamation Ordinance, Dane County Code of Ordinances Ch. 74, including an approved reclamation plan and permit.

#### C. HEIGHT LIMITATIONS

The maximum final design elevation of the Facility shall be \_\_\_\_\_ feet above mean sea level (MSL), or as approved by WDNR during the landfill permitting process if WDNR approved elevation is lower. There shall be no vertical expansion above the maximum design elevation without renegotiation of this Agreement. This shall not prevent Dane County from obtaining approval from WDNR for intermediate waste grades to be up to 5% higher than final waste grades when compared to the total depth of waste at a given location.

#### D. FINAL USE

The final use of the fill areas and other related areas as described below upon Final Closure shall be as a nature conservancy or recreation area subject to the following terms and conditions:

1. The area shall include the limits of waste areas, on-site storm water detention facilities and areas required for monitoring, leachate storage and removal, or maintenance of the closed landfill.

2. No uses inconsistent with conservancy or recreation zoning shall be allowed on the area, except those required for monitoring, leachate storage and removal, landfill gas extraction and processing, biogas pipeline injection, and screening and maintenance of the closed landfill.

3. The County shall, after Final Closure, develop and maintain the Limits of Waste areas to establish the areas as nature conservancy area, subject to reasonable safety and security precautions. The County shall also maintain, repair and provide Long Term Care of the Limits of Waste at the Facility to preserve the Limits of Waste, insofar as possible consistent with the requirements of the Wisconsin Department of Natural Resources, in a natural state as a nature conservancy area, with the maintenance and preservation and replacement of existing vegetation whenever possible. The County reserves the right to limit public access wherever and whenever appropriate.

After Final Closure, areas of the conservancy may be used for permitted uses as approved by applicable zoning and WDNR regulations in compliance with state Statutes. No waste disposal shall be allowed in the conservancy area after closure of the landfill. The areas of the Facility not included within the nature conservancy area, including all existing buildings and structures may be used consistent with the City of Madison zoning.

ARTICLE VII  
PROPERTY COMPENSATION AND INDEMNIFICATION

*TEXT TO BE PROVIDED AT FUTURE MEETING*



ARTICLE VIII  
CONTRACT PROVISIONS

*TEXT TO BE PROVIDED AT FUTURE MEETING*

ATTACHMENT F  
COMPLAINT RESPONSE

CONDITION REPORTED	DANE COUNTY RESPONSE ACTION	LEVEL I RESPONSE TIMELINE	LEVEL II RESPONSE TIMELINE
<b>Odor</b>	1. Substantiate the report by verifying weather patterns, site conditions and other outside factors.	Within 3 business hours.	Within 2 hours of becoming Level II Complaint
	2. If odor likely or probably, Dane County will mobilize to the site of the odor complaint to determine if the odor is ongoing, the likely source of the odor (gas, garbage, other activity, etc.) and what mitigation steps are necessary.	Within 3 business hours if landfill activities determined to be possible or likely.	Within 4 hours of becoming Level II Complaint.
	3. If odor determined to be ongoing, Dane County will take action to mitigate the odor by taking one or more of the following steps:		
	a. Adjust landfill gas well collectors to apply more vacuum. Document the changes.	Within 5 business hours of substantiated odor.	Within 5 hours of becoming Level II Complaint.
	b. Increase odor neutralizing agents.	Within 5 business hours of substantiated odor.	If found to be necessary, within 3 business hours of becoming Level II Complaint.
	c. Apply additional soil cover.	Within 8 business hours of substantiated odor.	If found to be necessary, within 3 business hours of becoming Level II Complaint.
<b>Excessive Litter on Roadways</b>	1. Dane County to pick up litter.	Within 2 business days or 3 calendar days.	Within 1 business day.
<b>Landfill Litter on Golf Course</b>	1. Dane County to pick up litter.	Within 24 hours.	Immediately if reported during business hours or prior to next business day.
<b>Mud on Roadway</b>	1. Dane County to sweep up or clean mud from roadways.	Within 3 business hours.	Within 1 business hour.