

ENROLLED RESOLUTION 166-4

APPROVAL OF WAIVER OF RENEGOTIATION OF EXISTING AGREEMENTS
AFFECTING THE VEOLIA ES EMERALD PARK LANDFILL FOR
PROPOSED WESTERN EXPANSION

WHEREAS, on or about July 6, 2011, Veolia ES Emerald Park Landfill, LLC, submitted a Request for Local Approval for the Veolia ES Emerald Park Landfill Western Expansion as the Department of Natural Resources has waived the requirement for an Initial Site Report as the proposed expansion area was included in the previous ISR; and

WHEREAS, the Veolia ES Emerald Park Landfill (formerly known as the Onyx Emerald Park, Emerald Park Landfill and the Superior Emerald Park Landfill) is a solid waste disposal facility located within the City of Muskego, Waukesha County, Wisconsin; and

WHEREAS, Veolia ES Emerald Park Landfill, LLC, a domestic limited liability company, is the current owner of the Veolia ES Emerald Park Landfill; and

WHEREAS, the City of Muskego, Waukesha County, City of Franklin, Town of Norway, and Racine County each constitute an “Affected Municipality” under Wis. Stat. § 289.01(1); and

WHEREAS, the Veolia ES Emerald Park Landfill is licensed by the Wisconsin Department of Natural Resources (“WDNR”) under WDNR License No. 3290 pursuant to Chapter 289 of the Wisconsin Statutes; and

WHEREAS, the Veolia ES Emerald Park Landfill is further subject to multiple agreements, to wit: 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 regarding City of Muskego v. Superior Emerald Park Landfill, Inc. (all of which are collectively referred to herein as the “Agreement”); and

WHEREAS, the Agreement arises out of, and is related to, an expansion of the Veolia ES Emerald Park Landfill; and

WHEREAS, the Agreement was ultimately concluded on or about March 13, 2000; and

WHEREAS, the aforementioned Stipulation as to Agreed Upon Issues as to Negotiated Agreement and the Negotiated Agreement incorporated therein (the “Negotiated Agreement”) was entered into under Wis. Stat. § 289.33(9)(g); and

WHEREAS, Paragraph 27 of the Negotiated Agreement (attached hereto and incorporated by reference as Exhibit A) expressly grants the Affected Municipalities the option to waive negotiations for future expansions and thereby make applicable all terms and rate schedules for compensation set forth in the Negotiated Agreement; and

WHEREAS, Paragraph 27 provides that the Affected Municipalities shall have six months from the date of receiving the Initial Site Report to make said waiver election; and

WHEREAS, the Waukesha County Board of Supervisors has carefully considered the Request for Local Approval in lieu of an Initial Site Report, as it relates to the future operation of the

Veolia ES Emerald Park Landfill, the Agreement, and the commercial benefit and health, safety, and welfare of the public.

WHEREAS, the Waukesha County Board of Supervisors hereby finds that waiver of its right to renegotiate the Agreement is in the best interests of, and will promote, the commercial benefit and the health, safety, and welfare of the public;

NOW, THEREFORE BE IT HEREBY RESOLVED BY THE COUNTY BOARD OF SUPERVISORS OF WAUKESHA COUNTY that Waukesha County, business address 515 W. Moreland Blvd, Waukesha, Wisconsin, 53188, does hereby elect to exercise its option pursuant to paragraph 27 of the Negotiated Agreement to waive renegotiation of the Veolia ES Emerald Park Landfill Western Expansion and thereby make applicable all terms and rate schedules for compensation set forth in the Agreement.

BE IT FURTHER RESOLVED that within seven (7) days of passage of this Resolution, the County Clerk shall send a copy of this Resolution to the Wisconsin Waste Facility Siting Board, 5005 University Avenue, Suite 201, Madison, Wisconsin, 53705-5400

BE IT FURTHER RESOLVED that the several sections of this Resolution are declared to be severable. If any section or portion thereof shall be declared by 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 shall not affect the validity of any other provisions, sections or portions thereof of this Resolution. The remainder of this Resolution shall remain in full force and effect. Any other resolutions whose terms are in conflict with the provisions of this resolution are hereby repealed as to those terms that conflict.

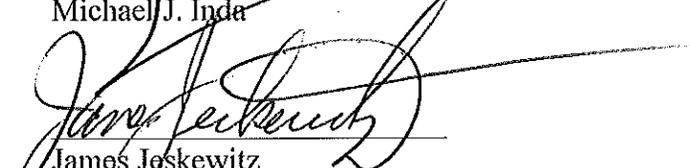
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PROPOSED WESTERN EXPANSION

Presented by:
Land Use, Parks, and Environment Committee


Fritz Ruf, Chair

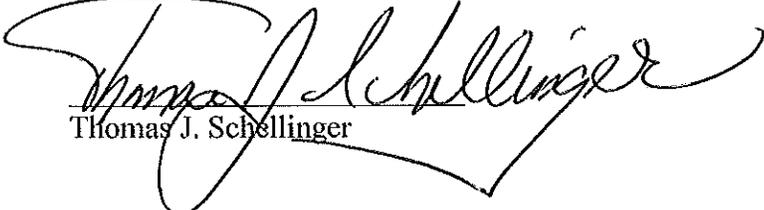
<Absent>
Robert Hutton


Michael J. Inda

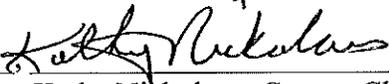

James Jeskewitz


Walter L. Kolb

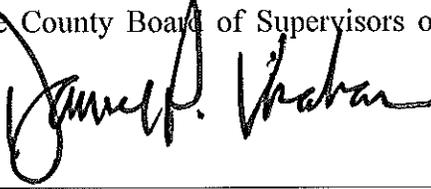
<Absent>
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Thomas J. Schellinger

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 8-26-2011 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved:
Vetoed:
Date: 8-26-11 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/23/11

(RES) NUMBER-1660004

1 D. FALSTAD.....AYE
3 R. HUTTON.....AYE
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....AYE
13 P. DECKER.....AYE
15 P. MEYERS.....AYE
17 J. TORTOMASI.....AYE
19 S. WIMMER.....AYE
21 W. ZABOROWSKI.....AYE
23 D. DRAEGER.....AYE
25 G. YERKE.....AYE

2 T. ROLFS.....AYE
4 J. DWYER.....AYE
6 J. BRANDTJEN.....AYE
8 T. SCHELLINGER.....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 M. INDA.....AYE
16 D. PAULSON.....AYE
18 K. CUMMINGS.....AYE
20 P. JASKE.....AYE
22 P. GUNDRUM.....AYE
24 W. KOLB.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-25