

ENROLLED ORDINANCE 166-73

APPROVE AGREEMENT BETWEEN VEOLIA ES EMERALD PARK
LANDFILL, LLC, CITY OF MUSKEGO, CITY OF FRANKLIN, TOWN
OF NORWAY, RACINE COUNTY, AND WAUKESHA COUNTY
FOR WESTERN EXPANSION OF VEOLIA EMERALD PARK

WHEREAS, in August 2011, the County Board of Supervisors adopted Resolution 166-4, Approval of Waiver of Renegotiation of Existing Agreements Affecting the Veolia ES Emerald Park Landfill for Proposed Western Expansion by which the County elected to exercise its option pursuant to Article IV, 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; and

WHEREAS, the “Affected Municipalities” have given notice of their intention to waive negotiations and to continue existing terms and rate schedules found in the Negotiated Agreement; and

WHEREAS, there are certain terms of the Negotiated Agreement that are either no longer applicable due to fulfillment of those terms by either Veolia or the Affected Municipalities or that are inconsistent with the application for expansion of the Emerald park Landfill.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Agreement Between Veolia ES Emerald Park Landfill, LLC, City of Muskego, City of Franklin, Town of Norway, Racine County, and Waukesha County for the Expansion of Veolia Emerald Park is hereby approved.

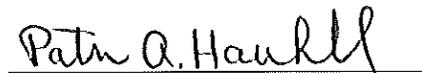
BE IT FURTHER ORDAINED that the Director of the Parks and Land Use Department is authorized to execute the Agreement and shall notify Veolia ES and other Affected Municipalities of the decision of Waukesha County pursuant to this ordinance.

APPROVE AGREEMENT BETWEEN VEOLIA ES EMERALD PARK
LANDFILL, LLC, CITY OF MUSKEGO, CITY OF FRANKLIN, TOWN
OF NORWAY, RACINE COUNTY, AND WAUKESHA COUNTY
FOR WESTERN EXPANSION OF VEOLIA EMERALD PARK

Presented by:
Land Use, Parks and
Environment Committee

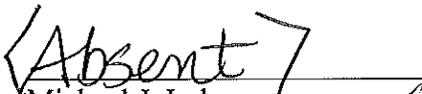
Approved by:
Finance Committee

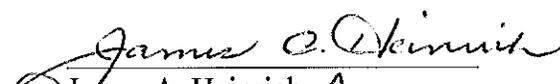

Fritz Ruf, Chair

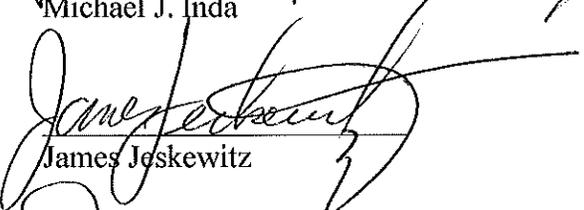

Patricia A. Haukoil, Chair

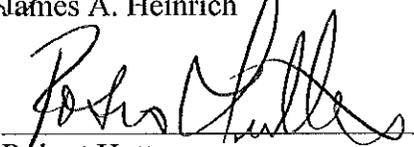

Robert Hutton

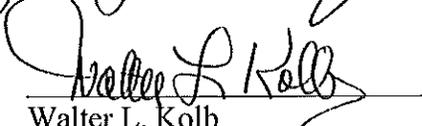

Dave Falstad

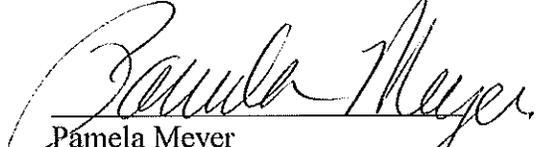

Michael J. Inda


James A. Heinrich

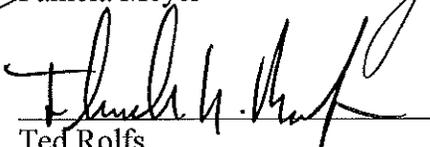

James Jeskewitz

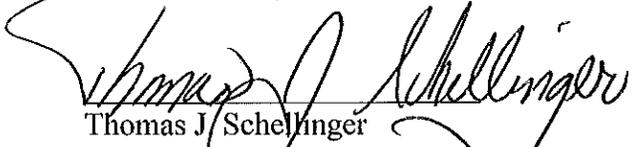

Robert Hutton

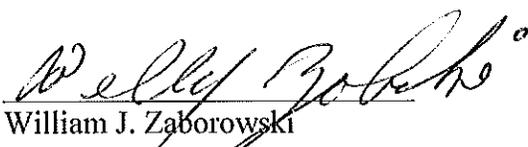

Walter L. Kolb


Pamela Meyer


Ted Rolfs


Ted Rolfs


Thomas J. Schellinger


William J. Zaborowski

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

Date: 11-23-11, 
Kathy Nickolaus, County Clerk

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

Approved: X
Vetoed: _____



Date: 11-23-11, _____
Daniel P. Voraban, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/22/11

(ORD) NUMBER-1660073

1 D. FALSTAD.....AYE
3 R. HUTTON.....
5 J. JESKEWITZ.....
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....
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.....
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-21

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-21

**AGREEMENT BETWEEN VEOLIA ES EMERALD PARK LANDFILL, LLC,
THE CITY OF MUSKEGO, CITY OF FRANKLIN,
TOWN OF NORWAY, RACINE COUNTY AND WAUKESHA COUNTY FOR
THE EXPANSION OF VEOLIA EMERALD PARK LANDFILL**

This Agreement dated _____, 2011, is made and entered into by and among Veolia ES Emerald Park Landfill, LLC (“Veolia”) and the City of Muskego, City of Franklin, Town of Norway, Racine County and Waukesha County, collectively referred to herein as “Affected Municipalities.” The Affected Municipalities were parties to a 1999 Negotiated Agreement (hereafter “Negotiated Agreement”) with Superior Emerald Park Landfill, Inc., (the predecessor owner of the landfill) entered into as part of a stipulation settling certain issues before the Waste Facility Siting Board on June 24, 1999. This Agreement is the result of the implementation of Article IV, paragraph 27 of the Negotiated Agreement.

WHEREAS, the parties to the Negotiated Agreement had the option to waive negotiations for future expansions of the landfill and, that option, found at Article IV, paragraph 27 of the Negotiated Agreement, provides that if the parties waived negotiations, all terms and rate schedules found in the Negotiated Agreement would be applied to any subsequent expansion; and,

WHEREAS, Veolia filed an Initial Site Report for expansion of the Emerald Park Landfill; and,

WHEREAS, the Parties prepared and gave notice of their intention to waive negotiations and to pursue continuance of existing terms and rate schedules found in the Negotiated Agreement; and,

WHEREAS, none of the parties involved wish to proceed under the provisions of §289.33, Stats., as they are willing to accept the terms of the Negotiated Agreement; and,

WHEREAS, said election to accept the terms of the Negotiated Agreement were approved in resolutions passed by the Affected Municipalities; and,

WHEREAS, although willing to proceed under the Negotiated Agreement, there are certain terms found in that Negotiated Agreement that are either no longer applicable due to fulfillment of those terms by either Veolia or the Affected Municipalities or that are inconsistent with the application for expansion of the Emerald Park Landfill; and,

THEREFORE, this Agreement sets forth the remaining and future obligations with respect to the expansion for each party as applicable under the Negotiated Agreement in order to clarify the obligations of all parties.

I. WAIVER OF NEGOTIATIONS UNDER §289.33, STATS.

This Agreement supplements and clarifies the Negotiated Agreement. All parties to this Agreement therefore waive the following: (a) any rights they may have under the terms of §289.33, Stats.; (b) any rights they may have to proceed under §289.33, Stats.; and (c) to negotiate or seek arbitration as to the terms for expansion of the landfill. All terms, conditions, and rates found in the Negotiated Agreement remain in full force and effect except as modified herein and except as such terms and conditions are no longer applicable due to satisfaction or expiration or inconsistency with this Agreement.

II. WAIVER OF NEGOTIATIONS FOR EXPANSION DESCRIBED IN THE VEOLIA INITIAL SITE REPORT PURSUANT TO ARTICLE IV, PARAGRAPH 27 OF THE NEGOTIATED AGREEMENT.

- A. The terms of the Negotiated Agreement shall be updated as follows to reflect the new expansion area and consistent with Veolia's Initial Site Report ("ISR") dated December 23, 2005. Exhibit A, Legal Description of Active Fill Area and Article I, the definition of Active Fill Area is amended to include the total expansion capacity as finally approved by the DNR. Attached hereto as Exhibit A is the new area depicting the total capacity of the landfill to include the current area described in the Negotiated Agreement and the proposed expansion area described in the ISR (the "Expansion Area"). Further, Article IV, paragraph 17, and Article I, Definitions, are amended to be consistent with the total expansion capacity, including height and area restrictions as described in the ISR.
- B. The Affected Municipalities have passed resolutions waiving their right to contest the expansion described in the ISR, whereby they acknowledged and agreed that by doing so, they shall grant Veolia all rights and approvals, including permits, zoning, siting, conditional use permits as may be necessary for Veolia to conduct any landfill related

activities on property owned (whether now owned or acquired at a later time by Veolia) which supports landfill operations consistent.

- C. Veolia shall prepare a Landfill Post-Closure Plan for the Expansion Area as part of its Plan of Operations.
- D. All other conditions and terms of the Negotiated Agreement remain in force and effect unless: specifically modified herein; are inconsistent with the terms of this Agreement; or are described as completed and terminated obligations in the Implementation Agreement dated May 20, 2008.

City of Muskego

City of Franklin

By _____

By _____

Attest: _____
_____, Clerk

Attest: _____
_____, Clerk

Waukesha County

Town of Norway

By _____

By _____

Attest: _____
_____, Clerk

Attest: _____
_____, Clerk



Racine County

Veolia ES Emerald Park Landfill, LLC

By _____

By _____

Attest: _____
_____, Clerk

Attest: _____

Exhibit A

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**Veolia ES Emerald Park
Host Agreement
Direct Fee Payment Schedule**

Nov-2011

Est. Waukesha County impact

Year	Direct Fee Per Ton Per	Annual Increase	Tons subject to Host Fee	
			Avg. Tons/yr. Based on 3- yr.avg actuals	County Share
			440,000	0.15
2011	\$4.56	5.2%	\$2,006,400	\$300,960
2012	\$4.79	5.2%	\$2,107,600	\$316,140
2013	\$5.03	5.2%	\$2,213,200	\$331,980
2014	\$5.29	5.2%	\$2,327,600	\$349,140
2015	\$5.56	5.2%	\$2,446,400	\$366,960
2016	\$5.84	5.2%	\$2,569,600	\$385,440
2017	\$6.14	5.2%	\$2,701,600	\$405,240
2018	\$6.45	5.2%	\$2,838,000	\$425,700
2019	\$6.78	5.2%	\$2,983,200	\$447,480
2020	\$7.13	5.2%	\$3,137,200	\$470,580
2021	\$7.50	5.2%	\$3,300,000	\$495,000
2022	\$7.89	5.2%	\$3,471,600	\$520,740
2023	\$8.30	5.2%	\$3,652,000	\$547,800
2024	\$8.73	5.2%	\$3,841,200	\$576,180
2025	\$9.18	5.2%	\$4,039,200	\$605,880
2026	\$9.65	5.2%	\$4,246,000	\$636,900
2027	\$10.15	5.2%		
2028	\$10.67	5.2%		
2029	\$11.22	5.2%		
2030	\$11.80	5.2%		

Estimate beginning of new expansion in 2012



FISCAL NOTE

APPROVE AGREEMENT BETWEEN VEOLIA ES EMERALD PARK LANDFILL, LLC,
CITY OF MUSKEGO, CITY OF FRANKLIN, TOWN OF NORWAY, RACINE COUNTY,
AND WAUKESHA COUNTY FOR WESTERN EXPANSION OF VEOLIA EMERALD
PARK

This ordinance authorizes the Waukesha County Parks and Land Use Department to execute an agreement with Veolia ES Emerald Park Landfill, LLC and the listed municipalities related to the continued operation of the landfill located in the City of Muskego. According to the Department, while the agreement adjusts the total capacity of the landfill, the existing terms and rate schedule for the facility remain unchanged.

The County will continue to receive the tonnage fee specified by the contract, escalated by 5.2% annually. The Department estimates that the County's share of this revenue at about \$301,000 for 2011 and about \$316,000 for 2012.

This ordinance has no tax levy impact.



Lawrence M. Dahl
Accounting Services Manager
11/2/11