

**Agenda**  
**Public Works Committee Meeting**  
**625 52<sup>nd</sup> Street, Room 202**  
**Monday, December 12, 2016**  
**5:30 PM**

Chairperson David F. Bogdala  
Vice Chairperson Mitchell Pedersen  
Aldersperson Jesse Downing

Aldersperson John Fox  
Aldersperson Kevin E. Mathewson  
Aldersperson G. John Ruffolo

Call to Order  
Roll Call  
Citizens Comments

Approval of the minutes of the meetings held on November 8, 2016 and November 28, 2016.

1. Request for use of city-owned land east of the museum parking lots by the Kenosha Public Museum on Saturday, June 10, 2017 for a Salute to Freedom event. (District 2)
2. Reschedule December 26, 2016 meeting due to the holiday.
3. Addendum to Agreement By and Between the City of Kenosha, Wisconsin and Waste Management of Wisconsin, Inc (*Pheasant Run*).
4. Agreement By and Between the City of Kenosha, Wisconsin and Advanced Disposal Solid Waste Midwest, LLC (*for Recycling, Processing and Marketing of Recyclable Materials*).

**ALDERPERSONS' COMMENTS**

*IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4050 BY NOON BEFORE THIS MEETING TO MAKE ARRANGEMENTS FOR REASONABLE ON-SITE ACCOMMODATIONS.*

PUBLIC WORKS COMMITTEE  
- MINUTES -

TUESDAY, NOVEMBER 8, 2016  
5:00 P.M.

Chairperson David F. Bogdala  
Vice Chairperson Mitchel Pedersen  
Alderman Jesse Downing

Alderman John Fox  
Alderman Kevin E. Mathewson  
Alderman G. John Ruffolo

A special meeting of the Public Works Committee was held on Tuesday, November 8, 2016 in Room 301 of the Municipal Building. The following members were present: Chairperson Bogdala, Vice Chairperson Pedersen, Aldermen Downing, Fox, Mathewson, and Ruffolo. The meeting was called to order at 5:10 P.M. Staff members in attendance were Mayor Antaramian, City Administrator Frank Pacetti, Finance Director Carol Stancato, Public Works Director Shelly Billingsley, Park Superintendent Jeff Warnock, Street Superintendent John Prijic, Waste Superintendent Kier Powell, Fleet Superintendent Jay Getka, Public Works Deputy Director Cathy Austin, Sue Clouthier, Tony Geliche, and Human Resources Director Steve Stanczak.

Citizens Comments: No one spoke.

Mayor Antaramian gave an overview of the budgets. Director Stancato explained the status of the Expenditure Restraint and Levy Limits.

1. Public Works 2017-2021 CIP Budget Review

Director Billingsley gave an overview of major projects, stating that the focus is on maintenance. Alderman Fox questioned items for Whitecaps paving and 6<sup>th</sup> Avenue. Alderman Ruffolo commented on 22<sup>nd</sup> Avenue repaving.

*Chairperson Bogdala passed the gavel. It was moved by Chairperson Bogdala to add line item IN-17-004 Lincoln Road Roundabout Modification for \$35,000 in 2018. Alderman Ruffolo questioned the need. Director Billingsley said a certified expert would need to look at the problem. The Chair recognized Curt Wilson, the Alderman of the District, who explained the need was from a resident complaint with problems backing out of their driveway, being a safety concern. The motion was seconded by Alderman Downing. Motion passed 6-0.*

Alderman Mathewson questioned CDBG funding. Chairperson Bogdala commented on the Project Planner handout and timing of bidding projects out. Alderman Fox asked about downtown street lighting projects, harbor sedimentation, street signs, and harbor walk improvements. Chairperson Bogdala asked about anti-ice inserts. Superintendent Prijic stated they were for smaller vehicles in order to plow narrow streets. Alderman Ruffolo asked about air conditioning unit replacements, roofing, and Municipal Office Building projects. Chairperson Bogdala questioned the status of the school sign project and how many signs had been placed, and what the Engineering Division design project is. Director Billingsley gave an update and explained the project.

Aldersperson Fox commented on bike paths. Chairperson Bogdala asked about controller upgrades and Street light inventory. Vice Chairperson Pedersen commented on First avenue at the lakefront. Mayor Antaramian explained the revetment walls were failing and the City is contacting the Army Corp of Engineers. Chairperson Bogdala asked about employees taking City vehicles home.

*It was moved by Aldersperson Mathewson, seconded by Vice Chairperson Pedersen to approve the 2017-2021 Public Works CIP budget as amended. Motion passed 6-0.*

2. Public Works 2017 Executive Budget Review (Municipal Office Building, Public Works, Recycling/Yardwaste, Central Stores, Engineering, Fleet Maintenance)

Director Billingsley gave an overview. Mayor Antaramian explained that personnel working in Stormwater are now a direct charge versus an allocation. Aldersperson Ruffolo questioned how the brine system was working. Superintendent Prijic explained it was a chemical process that is dependent on many factors. Chairperson Bogdala asked if the budget reflects the change in the snow policy, the new GPS system, plow runs, and staffing levels for snow plowing. Vice Chairperson Pedersen asked about increasing the hours at the bulk dropoff site. Aldersperson Mathewson also commented on the issue, that the site needs to be open more than two days.

Chairperson Bogdala asked about yardwaste pickup modifications, Stores billing issues being resolved, and Engineering Inspector tablets.

*It was moved by Aldersperson Ruffolo, seconded by Vice Chairperson Pedersen to approve the 2017 Public Works Budget (Municipal Office Building, Public Works, Recycling/Yardwaste, Central Stores, Engineering, Fleet Maintenance) as presented. Motion passed 6-0.*

Staff/Aldersperson Comments: Chairperson Bogdala stated that he appreciated the efforts of the Mayor and staff with regards to the 2017 budget.

Adjournment: There being no further business to come before the Public Works Committee, it was moved, seconded, and unanimously approved to adjourn the meeting at 7:10 P.M.

PUBLIC WORKS COMMITTEE  
- MINUTES -

MONDAY, NOVEMBER 28, 2016  
5:30 PM

Chairperson David F. Bogdala  
Vice Chairperson Mitchell Pedersen  
Aldersperson Jesse Downing

Aldersperson John Fox  
Aldersperson Kevin E. Mathewson  
Aldersperson G. John Ruffolo

The regular meeting of the Public Works Committee was held on Monday, November 28, 2016 in Room 202 of the Municipal Building. At roll call the following members were present: Chairperson David F. Bogdala, Vice Chairperson Mitchell Pedersen, Alderspersons Jesse Downing, John Fox, Kevin E. Mathewson and G. John Ruffolo. The meeting was called to order at 6:03 PM. Staff members in attendance were Shelly Billingsley, Public Works Director, Cathy Austin, Public Works Deputy Director, Jay Getka, Fleet Superintendent, Anthony Stupar, Civil Engineer, Mayor Antaramian, Jon Mulligan, Assistant City Attorney, Aldersperson Wilson, Aldersperson Rose, and Jeff Warnock, Park Superintendent.

Citizen's Comments – None

Approval of the minutes of the meeting held on November 14, 2016.

*It was moved by Aldersperson Pedersen, seconded by Aldersperson Downing to approve. Motion passed 6-0.*

1. Ordinance by the Mayor – To Repeal Section 1.06 A.A. (of the Code of General Ordinances) Entitled “Ethics Board”, to Create Section 1.295 (of the Code of General Ordinances) Entitled “Confidentiality and Impartiality: to Repeal and Recreate Section 29.06 (of the Code of General Ordinances) Relating to Penalties for Failure to File a Statement of Economic Interest, and to Repeal and Recreate Chapter 30 (of the Code of General Ordinances) Entitled “Code of Ethics”. (referred to PS&W, SWU and L/P)  
*It was moved by Aldersperson Mathewson, seconded by Aldersperson Downing to approve. Motion passed 6-0.*
2. Acceptance of Project 15-2031 Kenosha Engine Plant C2 Soil Remediation (5555 30<sup>th</sup> Avenue) which has been satisfactorily completed by A.W. Oakes & Son, Inc. (Racine, Wisconsin). The final amount of the contract is \$1,095,384.78. (District 7)  
*It was moved by Aldersperson Downing, seconded by Aldersperson Pedersen to approve. Motion passed 6-0.*
3. 2016-2017 Snow Plow Procedures.  
*Shelly introduced Jay Getka and Anthony Stupar who she assigned to look at the policy. Jay and Tony gave a brief presentation and answered questions. It was moved by Aldersperson Mathewson, seconded by Aldersperson Downing to receive and file.*
4. GPS Tracking Demonstration.  
*Shelly spoke about the GPS system. A tutorial was handed out. Tony and Jay gave a presentation and answered questions.*

ALDERPERSONS' COMMENTS – None

ADJOURNMENT – *There being no further business to come before the Public Works Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 6:56 PM.*



JOHN M. ANTARAMIAN  
Mayor

Dec. 12, 2016

TO: Chairman David Bogdala, Public Works Committee

RE: Salute to Freedom

The Kenosha Public Museum is requesting from the Public Works Committee the use of the land east of the museum parking lots for the Salute to Freedom Event from 8 a.m. - 5 p.m. Saturday, June 10, 2017. Setup will take place beginning at 5 p.m. June 9 and take down is scheduled following the event. Harbor Market organizers are aware that the Salute to Freedom event is going on that day and that the event will affect parking for vendors.

Recommendation: Public Works Committee to approve the use of the land east of the museum parking lots for the Salute to Freedom Event on June 10, 2017.



FOR OFFICE USE ONLY			
Application packet received: _____			
Admin. or Commission approval: _____			
Copies to:		Aldersperson _____	
Parks _____	Police _____		
Fire _____	PW Admin _____		
Streets _____		Mayor's Off. _____	
A _____	B _____	C _____	D _____
E _____	F _____	G _____	H _____

**Application for a Public Event**  
**Form #PWV001 (rev. 02/16)**

Date: \_\_\_\_\_

Before completing this application, please see the City of Kenosha Public Event Planning Guide for detailed information on planning your public event.

Be sure to read the entire application and fill out all applicable sections. Please note that this application does not guarantee approval of your event or items requested.

**A. Event Organizer Information (required)**

Name of Organization: Kenosha Public Museum

Contact Person Responsible for Event: Doug Damman

Address: 5400 First Ave. City: Kenosha State: WI Zip: 53140

Phone: 262-653-4432 Email: ddamman@kenosha.org

Is the host organization a 501(c)-3? If yes, please provide ES#: 22269

**B. Event Information (required)**

Event Name: Salute to Freedom

Date Requested: Saturday, June 10 Rain Date: \_\_\_\_\_

Location Requested: Grassy Areas East of Kenosha Museum Parking Lots Estimated Attendance: 2000

Charitable Event?  No  Yes, proceeds donated to: Friends of Museum

Brief description of the event: A time line event with different living history camps/demos set up in the grassy areas east of the museum parking lots

Time of Event: 8AM - 5PM

Setup date and time: Friday, June 9; 5PM Take-down date and time: ~~9:00~~ Saturday, June 10; 5PM

**C. Equipment Rental**

To assist you with your event, the Public Works Department has some equipment available for rent to your organization. If you plan to rent equipment from the Public Works Department, please fill out this section. The proposed location of this equipment must be noted on a site and/or route plan and attached to this application.

Electric: \_\_\_\_\_ Yes  No

Service varies by location. The organization may be required to provide their own generators in order to supply the level of service required for their event.

Water: \_\_\_\_\_ Yes  No

Service varies by location.

Equipment:

Some areas may already contain minimal equipment—Indicate the number of *additional* items you will need, as accurately as possible. Please do not list "same as last year."

# of bench units \_\_\_\_\_  
(10 per unit)

# of picnic table units \_\_\_\_\_  
(5 per unit)

# of trash containers \_\_\_\_\_

# of barricade units \_\_\_\_\_  
(10 per unit)

# of bleacher units \_\_\_\_\_  
(single units)

Reviewing stands \_\_\_\_\_

Showmobile: New \_\_\_\_\_ Old \_\_\_\_\_

Fencing: # feet of snow fencing \_\_\_\_\_ # feet/sections portable fencing \_\_\_\_\_

Other special requests: Would it be possible to put fencing around the perimeter of the areas so Harbor Market vendors don't attempt to park in the space that day?

Note: You will be notified if the equipment requested is available on the date of your event.

**D. Street Closure**

Any event that is requesting a partial or full street closure must work with the Public Works Department. If you plan to request any street closure, please fill out this section. The proposed limits of the road closure must be noted on a site and/or route plan and attached to this application.

Street or Avenue to be blocked off: \_\_\_\_\_ to: \_\_\_\_\_ from: \_\_\_\_\_

Type of street use requiring closure:

\_\_\_\_\_ Parade \_\_\_\_\_ Run or Walk \_\_\_\_\_ Other: \_\_\_\_\_

You may be required to rent street closure equipment, including barricades, from the Public Works Department in order to complete your street closure request. The Public Works Department will provide more details upon the approval of your request.

**E. Amplified Sound**

In compliance with the Noise Control City Ordinance Chapter 23.5., loud and unnecessary noise is prohibited. Public amplification of noise or music is prohibited unless specifically authorized. Permission for amplification does not exempt a group from obeying ordinance restrictions on the volume of sound. If you plan to have amplified sound at your event, please fill out this section.

Type of amplified sound:

\_\_\_\_\_ DJ                      \_\_\_\_\_ Sound system                      \_\_\_\_\_ Speeches/Announcements

\_\_\_\_\_ Karaoke                      \_\_\_\_\_ Other, please explain: \_\_\_\_\_

Requested time of amplification:                      from \_\_\_\_\_ to \_\_\_\_\_

Name of company and/or individual handling the event's amplification:

\_\_\_\_\_

Phone: \_\_\_\_\_

Please be considerate of neighbors and other residents.

Please review the attached excerpt from the Noise Ordinance. The ordinance is also available the City of Kenosha website ([www.kenosha.org](http://www.kenosha.org)) under the General Ordinances, Section 23.

**F. Temporary Structure**

Temporary structures are defined as tents (larger than a 10x10 pop-up), staging, trailer, inflatables and other equipment that penetrates the ground by stakes, tools or equipment. If you plan to have a temporary structure at your event, please fill out this section. The proposed location of the structure(s) must be noted on a site and/or route plan and attached to this application.

Type of temporary structure:

\_\_\_\_\_ Tent                      \_\_\_\_\_ Inflatables (insurance required)

\_\_\_\_\_ Staging                      \_\_\_\_\_ Dunk Tank (Insurance required)

\_\_\_\_\_ Trailers                      \_\_\_\_\_ Other, please explain: \_\_\_\_\_

Note: Wisconsin State Statute 182.0175 requires anyone who is responsible for the planning and performance of any type of ground penetration and excavation to provide advanced notice to Diggers Hotline. Call Digger's Hotline at 1-800-242-8511 no later than three (3) working days prior to the event. There are no exceptions. They will provide you with a ticket number and the date that you will be able to place structures at your approved location.

Vendor Information:

(Name of company and/or individual providing temporary structure)

Name of company/individual: \_\_\_\_\_

Phone: \_\_\_\_\_

All vendors that are supplying the organization with a temporary structure requiring Insurance must supply a Certificate of Insurance for product and premises Insurance in the amount of \$1,000,000 in the aggregate naming the City of Kenosha as 'additional insured,' unless all vendors are being insured as an umbrella under the organizer's. Copy to be attached.

Insurance Company: \_\_\_\_\_

Vendor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**G. Fermented Malt Beverage (Beer/Wine Cooler) and/or Wine Sales**

If you plan to sell fermented malt beverages and/or wine at your event, please fill out this section.

Name of licensed bartender(s) that will be responsible (must be licensed in the City of Kenosha):

\_\_\_\_\_  
\_\_\_\_\_

Security company name and/or brief description of how security will be handled:

\_\_\_\_\_  
\_\_\_\_\_

Have you submitted the Certificate of Insurance with liquor liability naming the City of Kenosha as additionally insured?

\_\_\_\_\_ No \_\_\_\_\_ Yes, application date \_\_\_\_\_

Following event approval, the Event Organizer must secure a Temporary Class "B" Retailers License from the City of Kenosha Clerk's Office. This process will take approximately thirty (30) days to be approved.

**H. Outside Vendors**

If you plan to have outside vendors distributing food or other items at your event, please read this section.

For information on any necessary permits and requirements for the safe handling of food and beverages at the event, the Event Organizer must contact the Kenosha County Health Department at 262-605-6700.

If the event sponsor elects to contract this service to a separate vendor(s), they must **each** complete the Vending Permit Application (Form PWV015), attached. (The application may be duplicated.)

I HEREBY ATTEST AND AGREE TO THE ABOVE.

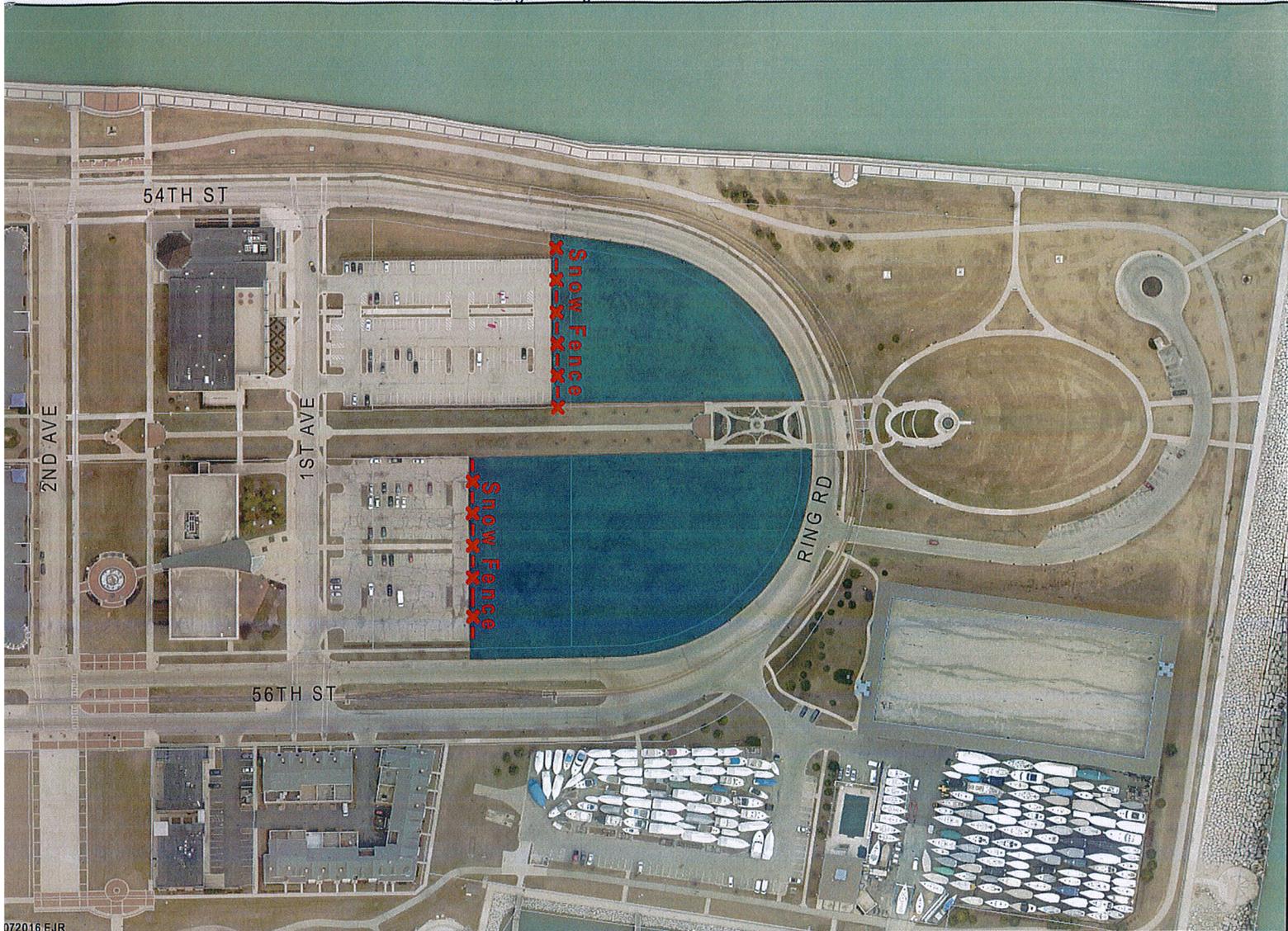
Print Event Organizer Name: Doug Danmann

Signature: Doug Danmann

Date: 11/18/2016

Return this form to:

City of Kenosha,  
Public Works Department  
625 52<sup>nd</sup> St – Room 305  
Kenosha, WI 53140



**Addendum to Agreement  
By and Between  
THE CITY OF KENOSHA, WISCONSIN  
A Municipal Corporation,  
And  
WASTE MANAGEMENT OF WISCONSIN, INCORPORATED  
A Wisconsin Corporation**

ADDENDUM TO AGREEMENT, effective the first day of January 2017, by and between the City of Kenosha, WI. (hereafter referred to as "Customer") and Waste Management of Wisconsin, Incorporated, operators of the Pheasant Run Recycling and Disposal Facility (hereafter referred to as "Contractor").

The parties agree to extend through December 31, 2019, the existing Agreement between the City of Kenosha and Waste Management of Wisconsin, Incorporated, dated January 2003 as amended by the Addenda effective January 1, 2008, January 1, 2011 and January 1, 2014, subject to the following amendments:

1. Term: The term of the Agreement shall be renewed for an additional period of three (3) years, from January 1, 2017 through December 31, 2019. Upon culmination of this term, the Agreement may only be renewed by amendment executed by both parties.
  
2. Rates:
  - a. Solid Waste Disposal / Roll-Off Waste Disposal / Sludge / Grit Disposal with disposal subject to current hours of operation at site(s).
 

Pheasant Run Recycling and Disposal Facility (Primary Site)	\$ 26.45 per ton
Orchard Ridge Recycling and Disposal Facility (Secondary Site)	\$ 26.45 per ton
  
  - b. Transportation of Roll-Off Containers for Bulk Waste Collection  
\$ 189.90 per haul
  
  - c. Leasing of Three (3) Forty-Four (44) Cubic Yard Containers  
\$ 785.02 per month
  
3. Other Charges:
  - a. Minimum Disposal Charge. All deliveries shall be subject to a three (3) ton minimum charge.
  
  - b. Governmental Solid Waste Taxes and Fees. Disposal charges delineated above do not include any State, County or Local taxes or fees. As of the effective date of this Addendum, the State of Wisconsin's taxes and fees on solid waste is \$13.00 per ton. The rates set forth herein shall be adjusted to reflect any change to governmental imposed taxes and fees or imposition of others.

- c. Fuel and Environmental Surcharge. The fuel surcharge is subject to the national average price of diesel fuel as reported weekly by the Energy Information Administration of the United States Department of Energy (EIA / DOE) in the agency's weekly retail On-Highway Diesel Price Index. The amount of the fuel surcharge added to the Solid Waste Charges in Section 2.a will fluctuate as it is based upon this static index, and is set forth in the Disposal Fuel Surcharge Table included with this Addendum as Exhibit I.

The Environmental Surcharge is a fixed Eight Dollars (\$ 8.00) and applied on a per load basis.

- d. Host Fee Increases. The above rates shall be subject to host fee increases paid to the community where the disposal facility is located.
- e. Annual Escalation. Rates shall be subject to change on each anniversary of the date of the Agreement by an amount equal to the percentage change in the Consumer Price Index - Urban Wage Earner for the previous twelve (12) month period published for June of the year preceding the January 1 anniversary date, with a minimum increase of three percent (3%) and a maximum of five percent (5%).
- f. Dig Out Charge. Customer shall be responsible for the Contractor's standard charge of Fifty Dollars (\$50.00) for assisting in off loading all Solid Waste delivered for disposal. The Contractor shall not be responsible for any damages sustained to the Customer's vehicles or equipment resulting from the Contractor providing such services.
- g. Landfill Site Warranty by Contractor. Contract warrants to Customer that both the Primary and Secondary sites have in full force and effect, all required governmental licenses, permits and approvals in order to operate in substantial compliance with the terms and conditions contained in said licenses, permits and approvals, in respect to Contractor's obligation hereunder and have the capacity to meet Contractor's obligations for the duration the term of Agreement.
- h. Alternative Landfill Site. The parties acknowledge that part of the consideration of the Agreement and of this Addendum for Customer is the close proximity of the Pheasant Run Recycling and Disposal Facility to the Customer, resulting in minimized transportation costs to Customer for hauling its solid waste, sludge, etc. to Pheasant Run Recycling and Disposal Facility. The parties further acknowledge that Pheasant Run Recycling and Disposal Facility could close operations during the term that this addendum covers. Contractor agrees that while Pheasant Run Recycling and Disposal Facility remains open, Customer shall continue to utilize the facility. In the event that the Pheasant Run Recycling and Disposal Facility ceases to accept solid waste, sludge, etc., or ceases to be able to accommodate the Customer's equipment, Customer shall not be subject to the City Guarantee provision embodied in Section 6 of the January 2003 Agreement and that Customer shall have the right at its sole option to: (1)



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

DATE: \_\_\_\_\_

STATE OF WISCONSIN)  
: SS.  
COUNTY OF \_\_\_\_\_)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, \_\_\_\_\_, **President** of **WASTE MANAGEMENT OF WISCONSIN, INCORPORATED**, a Wisconsin corporation, to me known to be such President of said corporation, and acknowledge to me that he / she executed the foregoing instrument as such officer as the agreement of said corporation, by its authority.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, WI.

My Commission Expires: \_\_\_\_\_

**EXHIBIT I:**

**Disposal Fuel Surcharge Table**

Rate effective as of June 1, 2013

DOE avg. at Least (\$/gallon)	WM Surcharge %												
\$ 0.95		\$ 1.39	1.32	\$ 1.83	2.64	\$ 2.27	3.96	\$ 2.71	5.28	\$ 3.15	6.60	\$ 3.59	7.92
\$ 0.96	0.03	\$ 1.40	1.35	\$ 1.84	2.67	\$ 2.28	3.99	\$ 2.72	5.31	\$ 3.16	6.63	\$ 3.60	7.95
\$ 0.97	0.06	\$ 1.41	1.38	\$ 1.85	2.70	\$ 2.29	4.02	\$ 2.73	5.34	\$ 3.17	6.66	\$ 3.61	7.98
\$ 0.98	0.09	\$ 1.42	1.41	\$ 1.86	2.73	\$ 2.30	4.05	\$ 2.74	5.37	\$ 3.18	6.69	\$ 3.62	8.01
\$ 0.99	0.12	\$ 1.43	1.44	\$ 1.87	2.76	\$ 2.31	4.08	\$ 2.75	5.40	\$ 3.19	6.72	\$ 3.63	8.04
\$ 1.00	0.15	\$ 1.44	1.47	\$ 1.88	2.79	\$ 2.32	4.11	\$ 2.76	5.43	\$ 3.20	6.75	\$ 3.64	8.07
\$ 1.01	0.18	\$ 1.45	1.50	\$ 1.89	2.82	\$ 2.33	4.14	\$ 2.77	5.46	\$ 3.21	6.78	\$ 3.65	8.10
\$ 1.02	0.21	\$ 1.46	1.53	\$ 1.90	2.85	\$ 2.34	4.17	\$ 2.78	5.49	\$ 3.22	6.81	\$ 3.66	8.13
\$ 1.03	0.24	\$ 1.47	1.56	\$ 1.91	2.88	\$ 2.35	4.20	\$ 2.79	5.52	\$ 3.23	6.84	\$ 3.67	8.16
\$ 1.04	0.27	\$ 1.48	1.59	\$ 1.92	2.91	\$ 2.36	4.23	\$ 2.80	5.55	\$ 3.24	6.87	\$ 3.68	8.19
\$ 1.05	0.30	\$ 1.49	1.62	\$ 1.93	2.94	\$ 2.37	4.26	\$ 2.81	5.58	\$ 3.25	6.90	\$ 3.69	8.22
\$ 1.06	0.33	\$ 1.50	1.65	\$ 1.94	2.97	\$ 2.38	4.29	\$ 2.82	5.61	\$ 3.26	6.93	\$ 3.70	8.25
\$ 1.07	0.36	\$ 1.51	1.68	\$ 1.95	3.00	\$ 2.39	4.32	\$ 2.83	5.64	\$ 3.27	6.96	\$ 3.71	8.28
\$ 1.08	0.39	\$ 1.52	1.71	\$ 1.96	3.03	\$ 2.40	4.35	\$ 2.84	5.67	\$ 3.28	6.99	\$ 3.72	8.31
\$ 1.09	0.42	\$ 1.53	1.74	\$ 1.97	3.06	\$ 2.41	4.38	\$ 2.85	5.70	\$ 3.29	7.02	\$ 3.73	8.34
\$ 1.10	0.45	\$ 1.54	1.77	\$ 1.98	3.09	\$ 2.42	4.41	\$ 2.86	5.73	\$ 3.30	7.05	\$ 3.74	8.37
\$ 1.11	0.48	\$ 1.55	1.80	\$ 1.99	3.12	\$ 2.43	4.44	\$ 2.87	5.76	\$ 3.31	7.08	\$ 3.75	8.40
\$ 1.12	0.51	\$ 1.56	1.83	\$ 2.00	3.15	\$ 2.44	4.47	\$ 2.88	5.79	\$ 3.32	7.11	\$ 3.76	8.43
\$ 1.13	0.54	\$ 1.57	1.86	\$ 2.01	3.18	\$ 2.45	4.50	\$ 2.89	5.82	\$ 3.33	7.14	\$ 3.77	8.46
\$ 1.14	0.57	\$ 1.58	1.89	\$ 2.02	3.21	\$ 2.46	4.53	\$ 2.90	5.85	\$ 3.34	7.17	\$ 3.78	8.49
\$ 1.15	0.60	\$ 1.59	1.92	\$ 2.03	3.24	\$ 2.47	4.56	\$ 2.91	5.88	\$ 3.35	7.20	\$ 3.79	8.52
\$ 1.16	0.63	\$ 1.60	1.95	\$ 2.04	3.27	\$ 2.48	4.59	\$ 2.92	5.91	\$ 3.36	7.23	\$ 3.80	8.55
\$ 1.17	0.66	\$ 1.61	1.98	\$ 2.05	3.30	\$ 2.49	4.62	\$ 2.93	5.94	\$ 3.37	7.26	\$ 3.81	8.58
\$ 1.18	0.69	\$ 1.62	2.01	\$ 2.06	3.33	\$ 2.50	4.65	\$ 2.94	5.97	\$ 3.38	7.29	\$ 3.82	8.61
\$ 1.19	0.72	\$ 1.63	2.04	\$ 2.07	3.36	\$ 2.51	4.68	\$ 2.95	6.00	\$ 3.39	7.32	\$ 3.83	8.64
\$ 1.20	0.75	\$ 1.64	2.07	\$ 2.08	3.39	\$ 2.52	4.71	\$ 2.96	6.03	\$ 3.40	7.35	\$ 3.84	8.67
\$ 1.21	0.78	\$ 1.65	2.10	\$ 2.09	3.42	\$ 2.53	4.74	\$ 2.97	6.06	\$ 3.41	7.38	\$ 3.85	8.70
\$ 1.22	0.81	\$ 1.66	2.13	\$ 2.10	3.45	\$ 2.54	4.77	\$ 2.98	6.09	\$ 3.42	7.41	\$ 3.86	8.73
\$ 1.23	0.84	\$ 1.67	2.16	\$ 2.11	3.48	\$ 2.55	4.80	\$ 2.99	6.12	\$ 3.43	7.44	\$ 3.87	8.76
\$ 1.24	0.87	\$ 1.68	2.19	\$ 2.12	3.51	\$ 2.56	4.83	\$ 3.00	6.15	\$ 3.44	7.47	\$ 3.88	8.79
\$ 1.25	0.90	\$ 1.69	2.22	\$ 2.13	3.54	\$ 2.57	4.86	\$ 3.01	6.18	\$ 3.45	7.50	\$ 3.89	8.82
\$ 1.26	0.93	\$ 1.70	2.25	\$ 2.14	3.57	\$ 2.58	4.89	\$ 3.02	6.21	\$ 3.46	7.53	\$ 3.90	8.85
\$ 1.27	0.96	\$ 1.71	2.28	\$ 2.15	3.60	\$ 2.59	4.92	\$ 3.03	6.24	\$ 3.47	7.56	\$ 3.91	8.88
\$ 1.28	0.99	\$ 1.72	2.31	\$ 2.16	3.63	\$ 2.60	4.95	\$ 3.04	6.27	\$ 3.48	7.59	\$ 3.92	8.91
\$ 1.29	1.02	\$ 1.73	2.34	\$ 2.17	3.66	\$ 2.61	4.98	\$ 3.05	6.30	\$ 3.49	7.62	\$ 3.93	8.94
\$ 1.30	1.05	\$ 1.74	2.37	\$ 2.18	3.69	\$ 2.62	5.01	\$ 3.06	6.33	\$ 3.50	7.65	\$ 3.94	8.97
\$ 1.31	1.08	\$ 1.75	2.40	\$ 2.19	3.72	\$ 2.63	5.04	\$ 3.07	6.36	\$ 3.51	7.68	\$ 3.95	9.00
\$ 1.32	1.11	\$ 1.76	2.43	\$ 2.20	3.75	\$ 2.64	5.07	\$ 3.08	6.39	\$ 3.52	7.71	\$ 3.96	9.03
\$ 1.33	1.14	\$ 1.77	2.46	\$ 2.21	3.78	\$ 2.65	5.10	\$ 3.09	6.42	\$ 3.53	7.74	\$ 3.97	9.06
\$ 1.34	1.17	\$ 1.78	2.49	\$ 2.22	3.81	\$ 2.66	5.13	\$ 3.10	6.45	\$ 3.54	7.77	\$ 3.98	9.09
\$ 1.35	1.20	\$ 1.79	2.52	\$ 2.23	3.84	\$ 2.67	5.16	\$ 3.11	6.48	\$ 3.55	7.80	\$ 3.99	9.12
\$ 1.36	1.23	\$ 1.80	2.55	\$ 2.24	3.87	\$ 2.68	5.19	\$ 3.12	6.51	\$ 3.56	7.83	\$ 4.00	9.15
\$ 1.37	1.26	\$ 1.81	2.58	\$ 2.25	3.90	\$ 2.69	5.22	\$ 3.13	6.54	\$ 3.57	7.86		
\$ 1.38	1.29	\$ 1.82	2.61	\$ 2.26	3.93	\$ 2.70	5.25	\$ 3.14	6.57	\$ 3.58	7.89		

**Disposal Fuel Surcharge Table**

Rate effective as of June 1, 2013

DOE avg at Least (\$/gallon)	WM Surcharge %	DOE avg. at Least (\$/gallon)	WM Surcharge %										
\$ 4.01	9.10	\$ 4.44	10.47	\$ 4.87	11.76	\$ 5.30	13.05	\$ 5.73	14.34	\$ 6.16	15.63	\$ 6.59	16.92
\$ 4.02	9.21	\$ 4.45	10.50	\$ 4.88	11.79	\$ 5.31	13.08	\$ 5.74	14.37	\$ 6.17	15.66	\$ 6.60	16.95
\$ 4.03	9.24	\$ 4.46	10.53	\$ 4.89	11.82	\$ 5.32	13.11	\$ 5.75	14.40	\$ 6.18	15.69	\$ 6.61	16.98
\$ 4.04	9.27	\$ 4.47	10.56	\$ 4.90	11.85	\$ 5.33	13.14	\$ 5.76	14.43	\$ 6.19	15.72	\$ 6.62	17.01
\$ 4.05	9.30	\$ 4.48	10.59	\$ 4.91	11.88	\$ 5.34	13.17	\$ 5.77	14.46	\$ 6.20	15.75	\$ 6.63	17.04
\$ 4.06	9.33	\$ 4.49	10.62	\$ 4.92	11.91	\$ 5.35	13.20	\$ 5.78	14.49	\$ 6.21	15.78	\$ 6.64	17.07
\$ 4.07	9.36	\$ 4.50	10.65	\$ 4.93	11.94	\$ 5.36	13.23	\$ 5.79	14.52	\$ 6.22	15.81	\$ 6.65	17.10
\$ 4.08	9.39	\$ 4.51	10.68	\$ 4.94	11.97	\$ 5.37	13.26	\$ 5.80	14.55	\$ 6.23	15.84	\$ 6.66	17.13
\$ 4.09	9.42	\$ 4.52	10.71	\$ 4.95	12.00	\$ 5.38	13.29	\$ 5.81	14.58	\$ 6.24	15.87	\$ 6.67	17.16
\$ 4.10	9.45	\$ 4.53	10.74	\$ 4.96	12.03	\$ 5.39	13.32	\$ 5.82	14.61	\$ 6.25	15.90	\$ 6.68	17.19
\$ 4.11	9.48	\$ 4.54	10.77	\$ 4.97	12.06	\$ 5.40	13.35	\$ 5.83	14.64	\$ 6.26	15.93	\$ 6.69	17.22
\$ 4.12	9.51	\$ 4.55	10.80	\$ 4.98	12.09	\$ 5.41	13.38	\$ 5.84	14.67	\$ 6.27	15.96	\$ 6.70	17.25
\$ 4.13	9.54	\$ 4.56	10.83	\$ 4.99	12.12	\$ 5.42	13.41	\$ 5.85	14.70	\$ 6.28	15.99	\$ 6.71	17.28
\$ 4.14	9.57	\$ 4.57	10.86	\$ 5.00	12.15	\$ 5.43	13.44	\$ 5.86	14.73	\$ 6.29	16.02	\$ 6.72	17.31
\$ 4.15	9.60	\$ 4.58	10.89	\$ 5.01	12.18	\$ 5.44	13.47	\$ 5.87	14.76	\$ 6.30	16.05	\$ 6.73	17.34
\$ 4.16	9.63	\$ 4.59	10.92	\$ 5.02	12.21	\$ 5.45	13.50	\$ 5.88	14.79	\$ 6.31	16.08	\$ 6.74	17.37
\$ 4.17	9.66	\$ 4.60	10.95	\$ 5.03	12.24	\$ 5.46	13.53	\$ 5.89	14.82	\$ 6.32	16.11	\$ 6.75	17.40
\$ 4.18	9.69	\$ 4.61	10.98	\$ 5.04	12.27	\$ 5.47	13.56	\$ 5.90	14.85	\$ 6.33	16.14	\$ 6.76	17.43
\$ 4.19	9.72	\$ 4.62	11.01	\$ 5.05	12.30	\$ 5.48	13.59	\$ 5.91	14.88	\$ 6.34	16.17	\$ 6.77	17.46
\$ 4.20	9.75	\$ 4.63	11.04	\$ 5.06	12.33	\$ 5.49	13.62	\$ 5.92	14.91	\$ 6.35	16.20	\$ 6.78	17.49
\$ 4.21	9.78	\$ 4.64	11.07	\$ 5.07	12.36	\$ 5.50	13.65	\$ 5.93	14.94	\$ 6.36	16.23	\$ 6.79	17.52
\$ 4.22	9.81	\$ 4.65	11.10	\$ 5.08	12.39	\$ 5.51	13.68	\$ 5.94	14.97	\$ 6.37	16.26	\$ 6.80	17.55
\$ 4.23	9.84	\$ 4.66	11.13	\$ 5.09	12.42	\$ 5.52	13.71	\$ 5.95	15.00	\$ 6.38	16.29	\$ 6.81	17.58
\$ 4.24	9.87	\$ 4.67	11.16	\$ 5.10	12.45	\$ 5.53	13.74	\$ 5.96	15.03	\$ 6.39	16.32	\$ 6.82	17.61
\$ 4.25	9.90	\$ 4.68	11.19	\$ 5.11	12.48	\$ 5.54	13.77	\$ 5.97	15.06	\$ 6.40	16.35	\$ 6.83	17.64
\$ 4.26	9.93	\$ 4.69	11.22	\$ 5.12	12.51	\$ 5.55	13.80	\$ 5.98	15.09	\$ 6.41	16.38	\$ 6.84	17.67
\$ 4.27	9.96	\$ 4.70	11.25	\$ 5.13	12.54	\$ 5.56	13.83	\$ 5.99	15.12	\$ 6.42	16.41	\$ 6.85	17.70
\$ 4.28	9.99	\$ 4.71	11.28	\$ 5.14	12.57	\$ 5.57	13.86	\$ 6.00	15.15	\$ 6.43	16.44	\$ 6.86	17.73
\$ 4.29	10.02	\$ 4.72	11.31	\$ 5.15	12.60	\$ 5.58	13.89	\$ 6.01	15.18	\$ 6.44	16.47	\$ 6.87	17.76
\$ 4.30	10.05	\$ 4.73	11.34	\$ 5.16	12.63	\$ 5.59	13.92	\$ 6.02	15.21	\$ 6.45	16.50	\$ 6.88	17.79
\$ 4.31	10.08	\$ 4.74	11.37	\$ 5.17	12.66	\$ 5.60	13.95	\$ 6.03	15.24	\$ 6.46	16.53	\$ 6.89	17.82
\$ 4.32	10.11	\$ 4.75	11.40	\$ 5.18	12.69	\$ 5.61	13.98	\$ 6.04	15.27	\$ 6.47	16.56	\$ 6.90	17.85
\$ 4.33	10.14	\$ 4.76	11.43	\$ 5.19	12.72	\$ 5.62	14.01	\$ 6.05	15.30	\$ 6.48	16.59	\$ 6.91	17.88
\$ 4.34	10.17	\$ 4.77	11.46	\$ 5.20	12.75	\$ 5.63	14.04	\$ 6.06	15.33	\$ 6.49	16.62	\$ 6.92	17.91
\$ 4.35	10.20	\$ 4.78	11.49	\$ 5.21	12.78	\$ 5.64	14.07	\$ 6.07	15.36	\$ 6.50	16.65	\$ 6.93	17.94
\$ 4.36	10.23	\$ 4.79	11.52	\$ 5.22	12.81	\$ 5.65	14.10	\$ 6.08	15.39	\$ 6.51	16.68	\$ 6.94	17.97
\$ 4.37	10.26	\$ 4.80	11.55	\$ 5.23	12.84	\$ 5.66	14.13	\$ 6.09	15.42	\$ 6.52	16.71	\$ 6.95	18.00
\$ 4.38	10.29	\$ 4.81	11.58	\$ 5.24	12.87	\$ 5.67	14.16	\$ 6.10	15.45	\$ 6.53	16.74	\$ 6.96	18.03
\$ 4.39	10.32	\$ 4.82	11.61	\$ 5.25	12.90	\$ 5.68	14.19	\$ 6.11	15.48	\$ 6.54	16.77	\$ 6.97	18.06
\$ 4.40	10.35	\$ 4.83	11.64	\$ 5.26	12.93	\$ 5.69	14.22	\$ 6.12	15.51	\$ 6.55	16.80	\$ 6.98	18.09
\$ 4.41	10.38	\$ 4.84	11.67	\$ 5.27	12.96	\$ 5.70	14.25	\$ 6.13	15.54	\$ 6.56	16.83	\$ 6.99	18.12
\$ 4.42	10.41	\$ 4.85	11.70	\$ 5.28	12.99	\$ 5.71	14.28	\$ 6.14	15.57	\$ 6.57	16.86	\$ 7.00	18.15
\$ 4.43	10.44	\$ 4.86	11.73	\$ 5.29	13.02	\$ 5.72	14.31	\$ 6.15	15.60	\$ 6.58	16.89		



ADVANCED DISPOSAL  
LOGO

# AGREEMENT

BY AND BETWEEN

**CITY OF KENOSHA**

AND

**ADVANCED DISPOSAL  
SOLID WASTE MIDWEST,  
LLC**

**FOR RECYCLING, PROCESSING AND MARKETING  
OF RECYCLABLE MATERIALS**

**TABLE OF CONTENTS**

**PREAMBLE.....4**

**1. DEFINITIONS.....4-5**

**2. GENERAL REQUIREMENTS.....5**

**3. TERM.....5-6**

**4. ASSIGNMENT AND SUBLETTING..... 6**

**5. BREACH AND TERMINATION.....6-9**

5.1 NOTICE OF BREACH, RIGHT TO CURE AND NOTICE OF TERMINATION.....6

5.2 SPECIFIC CONDITIONS.....6-9

5.2.1 Billing Disputes as to Fees.....6-7

5.2.2 Reports and Copies of Documents.....7

5.2.2.1 Monthly Operating Reports Required in Schedule C.....7

5.2.2.2 Other Reports Required in Schedule C.....7-8

5.2.3 Violations in Acceptance and Receipt of Materials ..... 8

5.2.4 Delivery of Infectious Medical Wastes or Toxic or Hazardous Substances ... 8-9

5.3 COMPENSATION AND LIABILITY.....9

**6. PAYMENT FOR SERVICES.....9**

**7. REPORTS REQUIRED BY SCHEDULE “C” .....9**

**8. DILIGENCE AND COMPETENCE.....9-10**

**9. EMPLOYEES.....10**

**10. INDEMNIFICATION.....10-11**

**11. INSURANCE.....11-12**

11.1 COVERAGE..... 11

11.2 NOTICE.....11

11.2.1 Notice of cancellation of non-renewal of insurance.....11

11.2.2 Failure of City to furnish notice.....11

11.3 PROOF OF INSURANCE.....12

11.4 WAIVER.....12

**12. WORKER'S COMPENSATION.....12**

**13. NO WAIVER.....12-13**

**14. NONDISCRIMINATION.....13**

<b>15.</b>	<b>AFFIRMATIVE ACTION.....</b>	<b>13</b>
15.1	AFFIRMATIVE ACTION PLAN/NON-DISCRIMINATION POLICY.....	13
15.2	NOTICE OF EQUAL OPPORTUNITY EMPLOYER.....	13
15.3	REPORTS.....	13
<b>16.</b>	<b>AUTHORIZED REPRESENTATIVE OR AGENTS.....</b>	<b>13</b>
<b>17.</b>	<b>NOTICES, RECORDS, INVOICES, BILLINGS AND REPORTS.....</b>	<b>13-14</b>
<b>18.</b>	<b>APPLICABLE LAW.....</b>	<b>14</b>
<b>19.</b>	<b>FORCE MAJEURE.....</b>	<b>14</b>
<b>20.</b>	<b>CONSTRUCTION OF AGREEMENT.....</b>	<b>15</b>
<b>21.</b>	<b>SEVERABILITY.....</b>	<b>15</b>
<b>22.</b>	<b>DRAFTING OF AGREEMENT.....</b>	<b>15</b>
<b>23.</b>	<b>APPROVALS.....</b>	<b>15</b>
<b>24.</b>	<b>AUTHORIZATION.....</b>	<b>..15-17</b>
	<b><u>SCHEDULE A</u> .....</b>	<b>18-24</b>
	<b><u>SCHEDULE B – PAYMENT FOR SERVICES</u> .....</b>	<b>25-26</b>
	<b><u>SCHEDULE C – PROJECT DELIVERABLES</u> .....</b>	<b>27</b>
	<b><u>TABLE C-1 – SUMMARY OF PROJECT DELIVERABLES AND DELIVERY DATE</u>..</b>	<b>27</b>

AGREEMENT BY AND BETWEEN  
CITY OF KENOSHA  
AND  
VEOLIA-ES **ADVANCED DISPOSAL** SOLID WASTE MIDWEST, LLC  
FOR RECYCLING PROCESSING AND MARKETING  
SERVICES OF RECYCLABLE MATERIALS

THIS AGREEMENT, made and entered into this 5th day of September, 2012 by and between the City of Kenosha (hereafter referred to as the "CITY") and ~~Veolia-ES~~ **Advanced Disposal** Solid Waste Midwest, LLC, (hereafter, the "CONTRACTOR").

WITNESSETH

WHEREAS the CONTRACTOR, owns and operates a Solid Waste Material Recovery Facility - "MRF", located at 5421 46<sup>th</sup> St., Kenosha, WI 53144, for the receiving, sorting, processing and marketing of recyclable waste materials for the City; and,

WHEREAS, CITY provides its residents with a program for the recycling of certain materials.

NOW, THEREFORE, in consideration of the promises, agreement, undertakings and understandings hereinafter set forth, the CITY and the CONTRACTOR do agree as follows:

**1.0 Definitions**

- 1.1 "AGREEMENT" means the Contract for Recycling Services, including Schedules "A", "B" and "C", attached thereto and incorporated therein by reference.
- 1.2 "Authorized Representative" for the CONTRACTOR means the officer, manager or employee, authorized by the CONTRACTOR to act with the authority of the CONTRACTOR; with respect to the CITY, "Authorized Representative" for the CITY shall mean the Director of Public Works.
- 1.3 "Backhaul Freight Charges" means the price per ton for the third-party transporter to deliver the prepared single stream material received at the MRF to processors and to markets. These charges are based upon the agreed upon price per ton between CONTRACTOR and the third-party transporter. CONTRACTOR is responsible for providing this per ton charge to the CITY as it becomes effective.
- 1.4 "CPI" is the Consumer Price Index - Urban Wage Earners, All Items (Midwest Urban Region). Annual escalation of rates shall be subject to change each January 1st by an amount equal to the percentage change of this index for the previous twelve (12) month period published for June preceeding the subsequent January 1st anniversary date. Rates effected by this index shall include the tipping fee, the material processing fee, and the cost to haul recycling roll-off boxes located at CITY recycling center to and from MRF exceeding 144 hauls.
- 1.45 "Governmental Fees and / or taxes" means any future or unforeseeable rate set forth by the imposition of tax(es) and fee(s) by State, County or Local governmental entities that are not included in the Tipping Fee (Schedule B (I) (1)).

- 1.3-6 “Hazardous Waste” or “Hazardous Substances” means a substance which is included in the list published by the Administrator of the United States Environmental Protection Agency (EPA) under 42 U.S.C. 11002 (a) (2) or a hazardous substance as defined under 42 U.S.C. 9601 (14) or designated by the Administrator of the U.S. EPA under 42 U.S.C. 9602 (a), including flammable liquids or any substance listed or characterized as hazardous under any applicable law or regulation.
- 1.4-7 “MRF” means the Solid Waste Material Recovery Facility, which is owned and operated by the CONTRACTOR, for the receipt, storage, processing and marketing of recyclable materials, located at 5432 46<sup>th</sup> Street, Kenosha, WI 53144.
- 1.8 “Processing Costs” means the fixed price per ton to prepare single stream materials for processors and markets. This cost is subject to the annual escalation calculation in Schedule B.
- 1.5-9 “Toxic Waste” or “Toxic Substance” means a substance which contains a toxic chemical covered under 42 U.S.C. 11023 ( c ).
- 1.6-10 “USER” means any other person, corporation, or entity, other than the CITY, who delivers recyclable material to the MRF, and who has executed a contract with the CONTRACTOR for the processing and marketing of recyclable materials.
- 1.7-11 “Infectious Waste” means solid waste, including containers, packages, and materials, that contains pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.
- 1.8-12 “Medical Waste” means infectious waste, as defined hereinabove, and other waste that may be mixed with infectious waste.
- 1.9-13 “Notice to Proceed” means an agreement executed by the CONTRACTOR and the CITY. CITY shall deliver recyclable materials as set forth in section A of Schedule A to the MRF. CONTRACTOR shall receive, , process and market said recyclable materials as more particularly set forth in Schedule A.

## 2. General Requirements

CITY delivers recyclables or has program for residents whereby certain products are collected for purpose of recycling.

CONTRACTOR receives, processes and markets recyclable waste received by CITY.

## 3. Term

The term of the Agreement shall be for a period of five (5) years effective January 1, 2012 and ending on December 31, 2016 and shall be extended for two (2) five year terms unless either party provides written notice of termination at least ninety (90) days in advance of the expiration date of the contract term then in effect. In the event there are enacted legislative changes in Wisconsin state law affecting the material delivery of services rendered or to be

rendered by CONTRACTOR, or CITY terminates or makes material changes in its recycling program, then this AGREEMENT shall be subject to re-negotiation upon the party requesting re-negotiation providing at least thirty (30) days written notice to the other party of a commencement date for re-negotiation. The period for re-negotiation shall be no less than ninety (90) days. If agreement on material issues is not reached during the period for re-negotiation, this AGREEMENT may then be terminated by either party upon providing the other party with at least sixty (60) days written notice of the effective date of termination.

#### **4. Assignment and Subletting**

Except for assignment to an affiliate (“affiliate” means another legal entity with 100% common ownership with CONTRACTOR), the CONTRACTOR shall not assign, sublet or transfer any interest or obligation in this AGREEMENT, whether by assignment or novation, without the prior written consent of CITY such consent not to be unreasonably withheld. CONTRACTOR may use non-managerial labor during the operation of the MRF without the approval of the CITY. The use of all other subcontractors must have prior approval of the CITY. All subcontractors shall comply with all provisions of this AGREEMENT. Claims for money due or to become due to the CONTRACTOR from the CITY under this AGREEMENT may be assigned to a bank, trust company or other financial institution without CITY’S approval. Notice of any such assignment or transfer shall be furnished promptly to the CITY.

#### **5. Breach and Termination**

##### **5.1 Notice of Breach, Right to Cure and Notice of Termination**

If through any cause either party shall fail to fulfill in timely and proper manner its material obligations under this AGREEMENT, or if either party shall fail to fulfill in a timely and proper manner any of the material covenants or stipulations of this AGREEMENT, then the non-defaulting party shall give written Notice of Breach to the defaulting party, identifying the breach and specifying the corrective action to be taken within a reasonable specific time. If the defaulting party fails to take such corrective action the non-defaulting party shall thereupon have the right to terminate this AGREEMENT by giving a thirty (30) day written Notice to the defaulting party of such termination and specifying the effective date thereof. Should the non-defaulting party waive its right to terminate this agreement for cause on one or more occasions, such waiver shall not preclude the non-defaulting party from exercising such right at any time in the future. Termination in the situations set forth in subsection 5.2 shall require compliance with the specific conditions set forth therein. There shall be no other termination or cancellation of this AGREEMENT during its term, without the prior written consent of both parties unless specifically permitted otherwise herein.

##### **5.2 Specific Conditions**

###### **5.2.1 Billing Disputes as to Fees**

In the event of a dispute as to any bill for service fees, excluding obvious errors or miscalculations, the challenging party shall nevertheless pay the full amount of the disputed charges when due and shall, within **fifteen** (15) days from the date of the disputed bill, give written notice to the responding party, stating the amount in

dispute and setting forth a full statement of the grounds on which the dispute is based. The responding party shall not be obligated to make any adjustments for disputed amounts until such notice is given. If amounts remain unresolved and unpaid fifteen (15) days after notice is received, the parties may litigate the dispute.

## 5.2.2 Reports and Copies of Documents

### 5.2.2.1 Monthly Operating Reports Required in Schedule C

If the CONTRACTOR does not submit timely and adequate Monthly Operating Reports required in Schedule “C”, the CITY shall give the CONTRACTOR written Notice of the Delinquency requiring their submission within five (5) working days from the date of receipt of such Notice. The provisions of this subsection, affording the CONTRACTOR the opportunity to cure and submit delinquent Monthly Operating Reports, shall only be available to the CONTRACTOR three (3) times during any continuous 12-month period during the term of this AGREEMENT. In addition, if the CONTRACTOR fails to comply within the five (5) day Notice herein or continues to be delinquent after three (3) previous opportunities to cure within the same 12-month period, such failure shall constitute an incurable breach and the CITY may, but is not required to, proceed to terminate this AGREEMENT on thirty (30) days advance notice, specifying the effective date thereof. In such event the CITY shall be entitled to the recoverable damages set forth in Schedule “A”, paragraph I.F.1., and the CONTRACTOR shall have no further opportunity to cure.

### 5.2.2.2 Other Reports Required in Schedule C

If the CONTRACTOR does not submit the other reports required in Schedule “C” in a timely and adequate fashion, the CITY shall give the CONTRACTOR written Notice to Submit Deliverables requiring their submission within five (5) working days from the date of receipt of such Notice. Failure to comply with the Notice shall result in the payment of charges according to the following schedule:

<u>Number of Days Elapsed After Receipt Date of Notice and City's Receipt of Submission</u>	<u>Late Charge</u>
5 days or less	No Charge
6 days but less than 20 days	\$150.00
20 days but less than 30 days	\$250.00
30 days but less than 45 days	\$500.00
45 days but less than 60 days	\$1,000.00

60 or more days

\$2,000.00 plus  
\$100.00 for each day  
after 70 days, with the option  
of termination.

Late charges shall be paid within **fifteen ( 15 )** days of date of delivery (paragraph 17) of invoice which shall be submitted to the CONTRACTOR following each period set forth above, all such periods to be separate and cumulative.

Notwithstanding anything to the contrary herein, the CITY shall be entitled to terminate this AGREEMENT if at any time during the term of this AGREEMENT the CONTRACTOR shall fail to file with the CITY the required annual affirmative action report more than **ninety ( 90 )** days after a Notice to Submit Affirmative Action Plan is received by CONTRACTOR, and such termination remedy is in addition to the late charges provided for in this subsection.

### 5.2.3 Violations in Acceptance and Receipt of Materials

This subsection is intended to address instances and practices wherein the CONTRACTOR accepts materials in contravention of this AGREEMENT; each such instance shall constitute a violation. If the CITY makes a determination that on three (3) occasions during the same continuous **twelve (12)** month period the CONTRACTOR has violated the same provision of schedule "A" in the acceptance and handling of deliveries, whether as to acceptability of materials, contamination, weighing, unloading, material storage or otherwise, the CITY shall send written Notice of Noncompliance to the CONTRACTOR. Such Notice shall contain a description of the violation(s), corrective action to be taken and a reasonable time for the CONTRACTOR to rectify and remedy its operations so that subsequent violation(s) do not occur. During the term of this AGREEMENT, the CONTRACTOR shall not have the above- described right to rectify and remedy, upon Notice of Noncompliance, a subsequent violation of the same provision more than twice during the same continuous 12-month period, unless at least twelve (12) months have elapsed since the prior violation, or, in the reasonable opinion of the CITY, the violation is minor, in which case the CITY shall issue additional Notices requiring corrective action. The CONTRACTOR'S failure to comply with the Notice to cure breach or subsequent violation(s) by the CONTRACTOR under this subsection shall constitute a breach of this AGREEMENT and the CITY shall thereupon have the right to terminate this AGREEMENT on thirty (30) days advance written notice, and the CONTRACTOR shall have no opportunity to rectify and remedy future violations. In addition to termination, the CITY shall be entitled to the recoverable damages set forth in Schedule "A", paragraph 1.F.1.

### 5.2.4 Delivery of Infectious or Medical Wastes and Toxic or Hazardous Substances

The CITY shall make every attempt to prevent the delivery of Toxic and Hazardous Substances, including Infectious or Medical Wastes, at the MRF by the CITY employees, agents and subcontractors. The CITY shall not be responsible for the delivery of Infectious or Medical Waste and Toxic and Hazardous Substances at the MRF by other USERS. The CONTRACTOR will reject the delivery and notify the USER and the CITY within 2 hours in the event of an attempted or completed delivery

of an Infectious or Medical Waste and Toxic or Hazardous Substance to the MRF, so that the USER may remove and dispose of the Infectious or Medical Waste and Toxic or Hazardous Substance. If the CONTRACTOR is unable to identify the USER that delivered such waste, CONTRACTOR shall properly handle all Toxic and Hazardous Substances which are delivered to the MRF. Such handling will be in compliance with all applicable laws, regulations and requirements. Willful acceptance of Infectious or Medical Wastes and Toxic or Hazardous Substances by the CONTRACTOR shall constitute breach and the CITY shall thereupon have the right to terminate this AGREEMENT, without notice and without opportunity to cure. The CITY shall also be entitled to recoverable damages including those set forth in Schedule "A", paragraph 1.F.1., subject to the right of CONTRACTOR to challenge the CITY'S determination that CONTRACTOR'S acceptance was willful. The CITY, including officers and employees, shall not be responsible or liable for any liability, claim, attorney fees, loss, damages or expenses, by whomever incurred or sustained, in connection with the delivery, acceptance, or handling of any Infectious or Medical Waste and Toxic or Hazardous Substances by any other USERS, and the CITY and its officers and employees shall be indemnified and held harmless against same, except to the extent such loss of damage relates from the acts or omissions of the CITY, its Agents, employees and subcontractors.

### 5.3 Compensation and Liability

In the event the CITY terminates this AGREEMENT for reason of breach by the CONTRACTOR, the CONTRACTOR shall be entitled to receive just and equitable compensation, subject to any recoverable damages or charge, for any satisfactory work completed. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this AGREEMENT by the CONTRACTOR, and the CITY may withhold any payments to the CONTRACTOR for the purpose of set-off of such payments against unsatisfied obligations of CONTRACTOR or damages sustained by CITY.

## 6. Payment for Services

The CITY agrees to make such payments for services rendered under this AGREEMENT as and in the manner specified in the attached Schedule "B", incorporated herein by reference.

## 7. Reports required by Schedule "C"

The CONTRACTOR agrees to make such reports as are required in the attached Schedule "C", incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of the CONTRACTOR to comply with the time limits shall be governed by subsection 5.2.2.1 and 5.2.2.2 of the AGREEMENT.

## 8. Diligence and Competence

The CONTRACTOR shall diligently commence, carry on and complete its obligations under this AGREEMENT with all deliberate speed and in a professional, competent, sound, economical and efficient manner, in accordance with this AGREEMENT and all applicable laws. In providing the recycling facility and services under this AGREEMENT, the

CONTRACTOR agrees to cooperate with the various departments, agencies, employees and officers of the CITY and with any agencies of the Federal and State governments having jurisdiction thereof.

## **9. Employees**

The CONTRACTOR agrees to secure at the CONTRACTOR'S own expense all personnel necessary and adequate to carry out the CONTRACTOR'S obligations under this AGREEMENT, in accordance with the CITY oversight provisions for key personnel in Schedule "A". Such personnel shall not be deemed to be employees of the CITY.

## **10. Indemnification**

10.1 To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its boards, commissions, agencies, officers, employees and representatives from and against any and all liability, judgments or claims for damages, losses, expenses, death or injury to persons, or property, relating to, or resulting from:

(1) Any violation of any provision of this AGREEMENT by the CONTRACTOR or its agents, employees, officers, directors, consultants and shareholders; (2) any act, neglect, omission or conduct, whether negligent, willful or otherwise, of the CONTRACTOR or its agents, employees, officers, consultants, directors and shareholders in connection with the CONTRACTOR'S furnishing the MRF and services required under this AGREEMENT; (3) any event or occurrence related to or connected with the CONTRACTOR furnishing the MRF recycling facility and the services required under this AGREEMENT. The provisions of this section shall not apply to any liabilities, losses, charges, costs, or expenses to the extent caused by or resulting from the willful acts or willful omissions or neglect of the CITY, its agencies, boards, commissions, officers, employees or representatives. The expenses recoverable as a part of the CONTRACTOR'S indemnity obligations under this section shall include, without limitation, all reasonable attorneys fees and any cost incurred by the CITY in the enforcement of the provisions of the CONTRACTOR'S indemnity obligations. All of CONTRACTOR'S indemnity obligations in this agreement shall survive the expiration or earlier termination of this AGREEMENT.

10.2 The CONTRACTOR expressly releases the CITY, its boards, commissions, agencies, officers, employees and representatives from any and all responsibility, liability or claims for any damages, losses, costs, expenses, arising out of, relating to, or resulting from any delivery, acceptance, or handling of Infectious or Medical Waste and Toxic or Hazardous Substances at the MRF except to the extent such loss or damage relates from the acts or omissions of the CITY, its Agents, employees and subcontractors. This release shall survive the expiration or earlier termination of this AGREEMENT.

10.3 In addition, the CONTRACTOR shall indemnify, defend, and hold harmless the Municipal Agents, employees and subcontractors, their boards, commissions, agencies, offices, employees and representatives from and against any and all liability, judgments, claims for damages, losses, expenses, death or injuries to persons, damage to or loss of property, arising out of Infectious or Medical Waste and Toxic or Hazardous Substances at the MRF except to the extent such loss or damage results from the acts or omissions

of the Municipal Agents, employees and subcontractors.

## **11. Insurance**

### 11.1 Coverage

The CONTRACTOR agrees that it will at all times during the term of this AGREEMENT keep in full force and effect comprehensive general liability, contractual liability, and auto liability insurance policies, issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Office of the Commissioner of Insurance, with liability coverage provided in the amounts of at least \$5,000,000.00 CSL (Combined Single Limits). The CONTRACTOR also agrees that at all times during the term of this AGREEMENT it will keep in full force and effect environmental impairment insurance coverage and sudden and accidental pollution insurance coverage in the amounts of \$1,000,000.00 per occurrence and \$1,000,000,00 aggregate for each type of environmental insurance policy. All coverage afforded shall apply as primary, with the CITY, its boards, commissions, agencies, officers, employees and representatives as an additional insured. The policy shall also contain a clause that, in the event the policy is canceled for any reason or material changes are made therein, the Department of Public Works shall be notified, in writing, by the insurer at least thirty (30) days before any cancellation of change takes effect. The CITY reserves the right to reasonably increase the minimum liability insurance requirements set forth herein upon furnishing sixty (60) days advance written notice to CONTRACTOR, and CONTRACTOR shall comply with said request. Failure to keep in full force and effect the insurance coverage required herein shall constitute breach of this AGREEMENT and the CITY may terminate this AGREEMENT by giving CONTRACTOR a thirty (30) day written notice of termination specifying the effective date thereof. In the event of termination, the CITY shall be entitled to recover its damages, including those damages specifically set forth in Schedule "A", paragraph 1.F.1.

### 11.2 Notice

#### 11.2.1 Notice of cancellation or non-renewal of insurance

The CITY Director of Public Works shall be given thirty (30) days advance notice of cancellation or non-renewal of the insurance coverage during the term of this AGREEMENT. The CONTRACTOR shall seek appropriate insurance required herein to become effective at the expiration of the canceled or non-renewed policy. In the event that the CONTRACTOR is unable to secure such coverage, the CITY shall be notified and shall be entitled to terminate the AGREEMENT by giving CONTRACTOR written notice of termination effective on the date insurance coverage will lapse. In the event of termination, the CITY shall be entitled to recover its damages, including those damages specifically set forth in Schedule "A", paragraph 1.F.1.

#### 11.2.2 Failure of City to furnish notice

In the event any action, suit or other proceeding is brought against the CITY upon any matter, failure of the CITY to furnish notice shall not result in any loss or waiver of the CITY'S rights under this AGREEMENT, if the CONTRACTOR otherwise has actual or constructive notice.

### 11.3 Proof of Insurance

Upon execution of this AGREEMENT, the CONTRACTOR shall furnish the CITY Director of Public Works with certificates of insurance, and, upon request, certified copies of the required insurance policies. If the CONTRACTOR'S insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this AGREEMENT and the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date. The CONTRACTOR shall maintain coverage for the duration of this AGREEMENT. The CONTRACTOR shall furnish the CITY, annually, proof of payment and a Certificate of Insurance as evidence of compliance with its obligations hereunder. The CONTRACTOR expressly understands and agrees that any insurance protection required by this AGREEMENT shall in no way limit the CONTRACTOR'S obligations assumed in this AGREEMENT, and shall not be construed to relieve the CONTRACTOR from liability in excess of such coverage, including but not limited to its obligation of indemnity and hold CITY harmless, nor shall it preclude the CITY from taking such other actions as are available to it under any provisions of this AGREEMENT or otherwise by law.

### 11.4 Waiver

Both parties do hereby expressly agree that the CITY, acting at its sole option and through the Director of Public Works, may waive any and all requirements contained in Section 12 below respecting subcontractors, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above.

## 12. Worker's Compensation

During the term of this AGREEMENT, the CONTRACTOR shall furnish evidence of and maintain adequate Worker's Compensation Insurance as required by law for all of its employees engaged in work at the project site under this AGREEMENT, and, in case of any sublet of such work, the CONTRACTOR shall similarly require the subcontractor to provide Worker's Compensation Insurance for all the latter's employees engaged in such work, unless such employees are covered by the protection afforded by the CONTRACTOR'S Worker's Compensation Insurance. The CONTRACTOR shall provide evidence that each and every subcontractor similarly has in force adequate Worker's Compensation Insurance. Adequacy of coverage shall be determined solely by the CITY'S Director of Public Works taking into account the nature of the work and other factors relevant to the CITY'S exposure, if any, under this AGREEMENT.

Employer's Liability Limits:	\$100,000 each accident
Employer's Liability Limits: Disease:	\$100,000 per employee
Employer's Liability Limits: Disease:	\$500,000 Total

## 13. No Waiver

In no event shall the making or receipt of any payment or the performance of an obligation of the other party or un-remediated nonperformance of any other obligation required of a party to this AGREEMENT constitute or be construed as a waiver by the other party of any of the covenants of this AGREEMENT or of a waiver of any default of the other party. The making or receipt of any such payment or any such performance or nonperformance while any such default

or breach shall exist, shall in no way impair or prejudice the right of the other party with respect to recovery of damages or other remedy.

**14. Nondiscrimination**

During the term of this AGREEMENT, the CONTRACTOR agrees not to discriminate against any person, whether a recipient of services (actual or potential), an employee, or an applicant for employment on the basis of race, religion, sex, handicap, national origin, age, cultural differences, sexual preference, marital status, or physical appearance. Nondiscrimination will include equal opportunity employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, or any other form of compensation. The CONTRACTOR agrees to post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this AGREEMENT as they relate to affirmative action and nondiscrimination policies of CONTRACTOR.

**15. Affirmative Action**

15.1 Affirmative Action Plan/Non-Discrimination Policy

The CONTRACTOR shall file an Affirmative Action Plan/Non-discrimination Policy with the City of Kenosha Director of Public Works. The plan must be filed within fifteen (15) days of the effective date of this AGREEMENT and failure to do so by such date shall constitute grounds for immediate termination of this AGREEMENT by the CITY. The CONTRACTOR shall also, during the term of the contract, annually update the Plan.

15.2 Notice of Equal Opportunity Employer

The CONTRACTOR shall, in all solicitations for employment placed on the CONTRACTOR'S behalf, state that the CONTRACTOR is an "Equal Opportunity Employer".

15.3 Reports

The CONTRACTOR agrees to furnish all information and reports required by the CITY'S Director of Public Works as the same may relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate and the provisions of this AGREEMENT.

**16. Authorized Representative or Agents**

The CONTRACTOR warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and that the persons executing this AGREEMENT on its behalf are authorized to do so. The CONTRACTOR shall notify the CITY immediately, in writing, of any change in its registered agent, his or her address, and the CONTRACTOR'S legal status.

**17. Notices, Records, Invoices, Billings and Reports**

All notices required to be sent by this AGREEMENT shall be in writing and delivered by hand or by certified mail-return receipt requested to the following persons:

For the CONTRACTOR:

~~William Neve, Site Manager~~  
~~Veolia ES~~ Advanced Disposal Solid Waste Midwest, LLC  
5421 46 Street  
Kenosha, WI 53144  
(262) 652-6967 Telephone  
(262) 652-7106 Facsimile

For the CITY:

~~Mike Lemens~~  
Director of Public Works  
City of Kenosha  
625-52 Street, Room 305  
Kenosha, WI 53140  
(262) 653-4050 Telephone  
(262) 653-4056 Facsimile

*with a copy to:*

City Attorney  
City of Kenosha  
625 52<sup>nd</sup> Street, Room 201  
Kenosha, WI 53140

Notice shall be effective as of the date of delivery, if by hand, or mailing, if by certified mail. It shall be the duty of any party changing its contact person or address to notify the other party in writing within a reasonable time. A violation of this requirement is not material, absent a showing of actual prejudice by the other party.

**18. Applicable Law**

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling.

**19. Force Majeure**

If EITHER PARTY shall be delayed or interrupted in the performance or completion of its obligations under this AGREEMENT by an embargo, war, fire, flood, earthquake, epidemic or other calamity, act of God or of the public enemy, or any change in law, regulation or ruling which materially increases the time for performance of any obligation of this AGREEMENT, then this AGREEMENT shall be extended as mutually agreed upon by the parties at the time of the interruption. IN THE EVENT THE PARTIES ARE NOT ABLE TO REACH AN AGREEMENT ON SUCH EXTENSION WITHIN THIRTY (30) DAYS OF THE EVENT, EITHER PARTY MAY ADVANCE THE MATTER TO LITIGATION.

**20. Construction of AGREEMENT**

The entire AGREEMENT of the parties is contained herein and this AGREEMENT supersedes any and all agreements and negotiations between the parties, whether written or verbal, relating to the subject matter hereof. For the avoidance of doubt, this AGREEMENT specifically supersedes and replaces that certain agreement of similar nature by and among CITY and CONTRACTOR dated September 7, 2005 the “PRIOR AGREEMENT”. The PRIOR AGREEMENT is therefore hereby made null and void and of no further force or effect upon execution of this AGREEMENT.

This AGREEMENT is intended to be solely between the parties hereto. No part of this AGREEMENT shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties. The parties expressly agree that this AGREEMENT shall not be amended in any fashion except in writing, executed by both parties.

**21. Severability**

The invalidity of one or more of the phrases, sentences, clauses, or Sections contained in this AGREEMENT shall not affect the validity of the remaining portion of the AGREEMENT so long as the material purposes of this AGREEMENT can be determined and effectuated.

**22. Drafting of AGREEMENT**

This AGREEMENT for purposes of interpretation is deemed drafted by both parties, and it shall be fairly construed in accordance with its terms and shall not be construed against either party on the basis that the party is the drafter of this AGREEMENT.

**23. Approvals**

Wherever in this AGREEMENT, including the attached Schedules, certain “approval”, “consent” or “agreement”, or variations thereof or the like, is required by either CITY or CONTRACTOR for the subsequent action of either CITY or CONTRACTOR, the phrase “which shall not be unreasonably withheld or delayed” shall be deemed to follow each reference to “approval”, “consent”, “agreement”, or variations thereof or the like.

**24. Authorization**

- 24.1 The CITY enters into this agreement by authority of action taken by its Common Council at a duly noticed and convened meeting held on the 5th day of September, 2012.
- 24.2 The CONTRACTOR enters into this AGREEMENT by Christopher Rooney who is authorized to execute this AGREEMENT under CONTRACTOR’S BY LAWS or resolution of the Board of Directors of CONTRACTOR.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and approved on the date written by their authorized officers or representatives.

**CITY OF KENOSHA, WISCONSIN,  
A Wisconsin Municipal Corporation**

By: \_\_\_\_\_  
KENNETH G. BOSMAN **JOHN M. ANTARAMIAN**, Mayor

Date \_\_\_\_\_

By: \_\_\_\_\_  
**DEBRA L. SALAS**, City Clerk/Treasurer

Date \_\_\_\_\_

STATE OF WISCONSIN )  
  :SS.  
COUNTY OF KENOSHA )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012 **6**, **KEITH G. BOSMAN** **JOHN M. ANTARAMIAN**, and **DEBRA L. SALAS**, of the City of Kenosha, Wisconsin, a Wisconsin municipal corporation, to me known to be such **Mayor** and **City Clerk/Treasurer** of said municipal corporation, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of said municipal corporation, by its authority.

\_\_\_\_\_  
Notary Public, Kenosha County, WI.

My Commission expires/is: \_\_\_\_\_

~~VEOLIA-ES~~ **ADVANCED DISPOSAL** SOLID WASTE MIDWEST, LLC

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

~~WILLIAM NEVE,~~ \_\_\_\_\_, (Title)

Date \_\_\_\_\_

STATE OF \_\_\_\_\_ )

:SS.

COUNTY OF \_\_\_\_\_ )

Personally came before. me this 17th day of July, 2012<sup>6</sup>, ~~WILLIAM NEVE~~, of ~~VEOLIA-ES~~ **ADVANCED DISPOSAL** SOLID WASTE MIDWEST, LLC, a Wisconsin limited liability company, to me known to be such Site Manager of said limited liability company, and acknowledged to me that he executed the foregoing instrument as such officer as the agreement of said limited liability company, by its authority.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_\_\_\_

My Commission expires/is: \_\_\_\_\_

## Schedule A

### I. MRF Capability and Capacity

#### A. Type and Quantity of Material to be Received and Processed at the MRF

The CITY shall guarantee that all recyclable materials covered by this AGREEMENT that are collected by the CITY or its subcontractors shall be delivered to the MRF for processing by the CONTRACTOR unless the CITY and CONTRACTOR agree in writing otherwise.

The MRF shall receive and process the following types of recyclable materials in unlimited quantities generated from residential collection services:

#### Material

Newsprint

Corrugated Cardboard

Mixed Paper

(includes magazines, flyers, telephone books, “paperback” books, catalogs, boxboard (i.e., unlined soda or merchandise boxes), untreated office papers (i.e., typing, copy or printer), stationery, envelopes, bills and invoices, brown or white paper bags and junk mail)

Glass Containers

(green, brown, clear and mixed to be returned to the recycling stream)

Steel Containers

Aluminum Cans

Plastic Containers #1-7

***Specifically excluded*** from collection at the drop-off center are waxed or coated papers or boxes (i.e, food containers, laminated papers, synthetic papers (i.e., Tyvec), wrapping papers (i.e., gift wrap), photographs, carbon paper, hardcover Books (i.e., bibles, novels, or binders), and glued papers (i.e., labels).

B. Drop-Off Center Operation

The CONTRACTOR shall operate a drop-off center at the MRF for the convenience of CITY residents. The drop-off center will accept all materials for processing by the MRF from 6:45a.m. to 3:15p.m Monday through Friday, except holidays. The CITY operates a drop-off center at the Waste Division's Garage, 1001 50th Street, that accepts the same materials. CONTRACTOR, as required, shall retrieve the roll-off containers, transport and deposit them at the MRF, and relocate them back to the CITY drop-off center.

C. Improvements

For improvements of the system to facilitate better handling of materials that are being handled, the CONTRACTOR will be responsible for the redesign of the system to improve the receipt or processing of materials, with all cost to be paid for by the CONTRACTOR. For the acceptance of additional materials, the CITY Director of Public Works will negotiate with the CONTRACTOR as to the costs of these improvements. In all cases, the CONTRACTOR is to notify the CITY of the proposed changes.

Changes in the system shall be scheduled by the CONTRACTOR to avoid interruption of the operation of the MRF. The MRF and all equipment are owned by the CONTRACTOR.

D. Environmental and Aesthetic Standards/Laws

The CONTRACTOR shall maintain an environmentally sound and aesthetically attractive MRF, operate the MRF in a manner that minimizes aesthetically undesirable conditions, and complete improvements/modifications to the design that conforms to acceptable architectural design and landscaping standards. In fulfilling the obligations under this paragraph, the CONTRACTOR shall comply with all applicable Federal, State, and local laws, rules and regulations.

The CONTRACTOR is solely responsible for and shall bear the cost of determining and meeting all Federal, State and local laws, statutes, rules and regulations that apply or will apply in the future.

CONTRACTOR will honor all reasonable conditions, operations requirements and reporting requirements imposed by the Wisconsin Department of Natural Resources for single stream recycling.

E. Financial Assurance Mechanism.

CONTRACTOR will provide the CITY with an irrevocable letter of credit or performance bond, terms of which are acceptable to the CITY, in the amount of \$100,000. The letter of credit for the operation of the MRF shall be submitted to the CITY by January 1<sup>st</sup> of each year. The failure of Contractor to timely supply the letter of credit or bond shall be a material breach of this AGREEMENT capable of cure by providing such letter of credit or bond within five (5) days of notice from CITY.

F. Recoverable Damages

1. Breach and Termination

Upon receipt of Notice of Termination for failure of the MRF to comply with this AGREEMENT or failure of the CONTRACTOR to fulfill its recycling obligations under this AGREEMENT, the CONTRACTOR shall be obligated to pay the CITY'S damages including, but not necessarily limited to:

- a. The CITY'S cost of accepting, transporting, processing and marketing the materials;
- b. Either the CITY'S costs of obtaining a successor contract with another provider (including the costs of developing specifications, bidding, publishing bids, etc.) or the costs of creating a CITY MRF (including also architectural costs); and
- c. The excess of the CITY'S costs under a successor contract with another provider over the CITY'S costs under this AGREEMENT. In the event the CITY elects to develop its own MRF, the CONTRACTOR shall pay the CITY the excess of the CITY'S costs of operating the MRF over the CITY'S fixed and variable fees under this AGREEMENT.

II. Use of the MRF

Recyclable material may be delivered upon the following conditions:

A. Acceptable USERS

Acceptable USERS OF THE MRF are limited to those USERS that have contracted for the use of the MRF through the CONTRACTOR. The CITY recognizes that the MRF is owned and operated by the CONTRACTOR and that the CONTRACTOR will be using the MRF for the processing of its own commercial, industrial and multi-family residential recyclables outside of the terms of this AGREEMENT, including other single family residential recyclables from outside the boundaries of the CITY of Kenosha.

B. Acceptable Materials

1. Form of Delivery

Material shall be accepted via single stream delivery.

2. Material Preparation

Acceptable materials shall be prepared in accordance with the following standards:

- a. Newsprint shall be dry and not sunburned.
- b. Corrugated cardboard shall be dry, flattened, empty and free of food debris and other contamination material.
- c. Glass containers shall be empty and free of metal caps and rings, other contaminants such as window glass, ceramics and similar material and will be clean of food debris.
- d. Tin cans shall be empty and will be clean of food debris, and shall exclude all aerosol cans and cans that were used to hold chemicals.
- e. Bi-metal cans shall be empty and will be clean of food debris.
- f. Aluminum cans shall be empty and will be clean of food debris.
- g. Plastic containers shall be empty, have caps removed and be free of food debris, and shall exclude all containers that were used to hold chemicals, including motor oil.
- h. In lieu of processing, sorting and marketing the materials subject to the agreement at a materials processing facility owned and operated by ~~Veolia~~ **CONTRACTOR** the parties agree that ~~Veolia~~ **CONTRACTOR** may transport such materials to a third party to perform such obligations at ~~Veolia's~~ **CONTRACTOR'S** discretion from time to time.

### C. Quality

Acceptable material must be of such a quality and nature as not to:

1. Materially impair the strength or the durability of the MRF structures or equipment.
2. Create flammable or explosive conditions in the MRF.
3. Contain chemical or other properties which, in the opinion of the CITY and CONTRACTOR, are deleterious or capable of causing material damage to any part of the MRF, its personnel or the public.
4. Include any hazardous or toxic substance as defined by applicable Federal or State law, rule or regulation, except as expressly agreed to by both parties in writing. The MRF is not designed for or intended to be used in connection with the transportation, storage, recycling or disposal of toxic or hazardous waste.

## III. Receipt of Materials

### A. Receiving Schedule

#### 1. Normal Hours and Days of Operations

The CONTRACTOR shall accept materials Monday through Friday from 6:45a.m. to 3:15p.m., excluding the following holidays:

New Year's Day	Labor Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

MRF operation shall minimize the time for queuing, weighing and dumping of material. The MRF is designed to process all material on the day it is received.

2. Additional Hours/Days of Operation

a. Emergency/Exceptional Circumstances

In the event of an emergency or exceptional circumstances, and upon receipt of notice from the CITY Director of Public Works at least one-half hour prior to the posted closing time, the CONTRACTOR shall keep the MRF open for the receipt (not processing) of recyclable materials.

3. Saturdays

Saturdays following scheduled holidays the facility will be open.

B. Delivery Vehicles: Weighing and Unloading

1. Delivery Vehicles

The following are acceptable categories of delivery vehicles:

- a) All self-unloading vehicles, with a dumping height of less than 28 feet.
- b) Other vehicles as approved by CONTRACTOR and the CITY Director of Public Works. If special handling is required, the USER must prearrange an appointment at least **twenty four ( 24 )** hours in advance.

2. Accepting and Weighing Material

The CONTRACTOR shall accept and weigh material delivered in the form specified in paragraph II.B.1 unless the material fails to meet standards established by the CITY Director of Public Works, including but not limited to those set forth in paragraph II.B.

3. Weighing System

The CONTRACTOR shall provide an automatic weighing system to adequately measure and record all incoming recyclable quantities and also quantities of materials leaving the MRF. The scale shall be certified for accuracy at least quarterly by a private contractor, with the results to be submitted to the Wisconsin Department of Agriculture, Trade and

Consumer Protection.

4. Minimizing the Weighing and Unloading Times of Delivery Vehicles

The CONTRACTOR shall operate the MRF in a manner as to minimize the time for queuing, weighing and unloading of material. If requested by either party, the CONTRACTOR and the CITY Director of Public Works shall jointly examine possible changes in operating procedures and the design of the MRF to expedite these processes.

5. Delivery Vehicle Servicing

All vehicles delivering material under this AGREEMENT shall be weighed on a “first-come, first-served” basis and shall be unloaded on the same basis.

C. Excessive Contamination

For loads that appear to have higher than normal levels of contamination of non-recyclable material, the CONTRACTOR may, at its choice, measure the amount of contamination and non-recyclable material in that load.

1. Rejection of Loads

For loads that have unacceptable contamination, the CONTRACTOR may reject the load, upon agreement with the CITY Director of Public Works. Rejected loads will be disposed of at the CITY'S expense.

2. Limits of Residues

The MRF shall be capable of processing all materials received and generate no more than 10% landfill residue. When hauling the material the CITY shall take care in handling the material and shall limit the truck compaction to avoid breaking materials thus generating excess residue.

D. Material Storage

The CONTRACTOR shall not store unprocessed material outside. Glass containers separated from other materials shall be deemed processed. The CONTRACTOR shall provide for the inside storage of two (2) days of unprocessed material.

IV. Residue Disposal

A. Responsibility of Disposal

The disposal of residues from the MRF is the responsibility of the CONTRACTOR and shall be disposed of in a licensed landfill. Under no conditions shall any residues and/or recyclables be incinerated in the CITY ity of Kenosha.

B. Inspection of Residues Going to Landfill to Ensure Maximum Recycling

The CITY shall have the right during normal business hours to inspect all materials from the recycling processing line being disposed of in a landfill in order to minimize the amount of potentially recoverable material being disposed of in landfill.

V. CITY Oversight

A. CITY Right of Inspection

The CITY Director of Public Works and designees thereof shall have the right to inspect the CONTRACTOR'S operating procedures of the MRF, including, but not limited to, scale record, maintenance records, training programs for employees, records of revenue from the sale of material, records to be kept under this contract and other similar information at any reasonable time.

B. Key Personnel

The CONTRACTOR shall designate key personnel to be assigned to the MRF. The CONTRACTOR shall not be allowed to substitute key personnel without the prior written permission of the CITY Director of Public Works; such permission not to be unreasonably withheld.

VI. Public Information

A. Coordination of Public Information/Education for USERS of the MRF

The CONTRACTOR shall have the lead responsibility for providing information to the USERS of the MRF on MRF operation procedures. The CITY shall have the lead responsibility for all media contacts. Both parties shall attempt to provide prior notice to and approval from the other party for any representations to the media. The CITY Director of Public Works will also have the lead responsibility for promoting recycling within the CITY of Kenosha, including information on what materials are to be recycled, the type of preparation of the materials (such as cleaning containers and removing lids) and why people should participate in recycling.

B. Responsibility for Tours of the MRF

The CONTRACTOR will have the lead responsibility for all tours of the MRF. A minimum of twenty-four hour advance notice from the CITY Director of Public Works shall be provided. The CONTRACTOR reserves the right to cancel or prevent any tour if the CONTRACTOR determines that a tour would interfere or hamper the operation of the MRF. Permission for a tour shall not be unreasonably withheld.

Schedule B – Payment for Services

I. Payment for Services

1. Tipping Fee:  
~~\$16.29~~ **18.44** per ton (subject to annual changes in the C.P.I. - Urban Wage Earners, All Items (Midwest Urban Region) change or 2.5% escalation whichever is greater.
2. Revenue Sharing: (~~\*Net Proceeds received by Veolia ES Solid Waste Midwest, LLC~~):

<b>Total Value of Recyclable Material (TV)**</b>	<b>City Charge or Rebate Share of Stream Value</b>
Below \$0.00 per ton	<b>**City Pays All Charges</b>
\$0.00-\$40.00 per ton	City Receives Rebate of 60% <del>Net Proceeds</del> <b>TV</b>
\$40.01-\$80.00 per ton	City Receives Rebate of 70% <del>Net Proceeds</del> <b>TV</b>
\$80.01 per ton and above	City Receives Rebate of 80% <del>Net Proceeds</del> <b>TV</b>

*\*Net proceeds are defined as:*

Sale Proceeds received from Recycler less: 1) processing fees; 2) transportation fees; 3) governmental fees or taxes.

**\*\* If Sale Proceeds is Total Value of Recyclable Material is below \$0 per ton, then CITY ity is responsible for any:**

- 1) tipping fees in addition~~al~~ to the tipping fee in **Schedule B (I) (1) Section 1;** 2) transportation fees as defined in **Section 1.0 of the Agreement;** and any 3) governmental fees or taxes **as defined in Section 1.0 of the Agreement.**

**\*\* If Total Value of Recyclable Material is above \$0.00 per ton, CITY shall receive Share of Stream Value based upon established percentages per dollar range of the Total Value as defined in the matrix included in Schedule B (I) (2).**

**CITY is assessed a charge or receives a rebate that is based upon the Share of Stream Value less the processing costs as defined in Section 1.0 of the Agreement**

3. **CITY ity** agrees to pay the **CONTRACTOR**~~contractor~~ ~~\$113.44~~ **127.53** for each load of recyclable material delivered to the **CONTRACTOR**~~contractor~~ by the **CONTRACTOR**~~contractor~~ hauling divisions from the **CITY ity** drop-off center for loads in excess of the first 144 loads per year.
4. **As defined in Section 1.0 of the Agreement, CITY agrees to pay the CONTRACTOR all contractual per ton charges involved in the freight of the prepared single stream material to processor(s) and/or end markets by a third-party.**

45. During the term of the Agreement, the ~~CONTRACTOR~~ contractor shall invoice on a monthly basis for services rendered in the prior month. The ~~CITY~~ city shall pay all undisputed amounts no later than ~~twenty ( 20 )~~ days following receipt of invoice. If the ~~CITY~~ city disputes any charges it shall do so in writing to the ~~CONTRACTOR~~ contractor no later than the invoice due date and such notice shall specifically detail the nature of the dispute. A service charge of 1.5% per month or maximum allowed by law, if less, will be applied on past due balances. ~~CONTRACTOR~~ contractor may suspend service if payment is late or in the event of any other breach by ~~CITY~~ city, without prejudice to any of ~~CONTRACTOR'S~~ contractor's other rights or remedies.

Schedule C – Project Deliverables

I. Requirements for Submitting Reports:

A. Timeliness

The CONTRACTOR shall submit the reports listed in Table C- 1 to the CITY Director of Public Works within the times indicated. All reports shall be at the expense of the CONTRACTOR unless otherwise indicated.

B. Reports Required:

1. Monthly Operating Report

a. Information to be Provided

The CONTRACTOR shall submit to the CITY the following information:

(1) Delivery of material by the CITY

- Name and account number
- Vehicle number, if any
- Date and time of each delivery
- Rejection of loads, if any
- Weight of material of each load

Table C-1 – Summary of Project Deliverables and Delivery Dates:

<u>Deliverables</u>	<u>Scheduled Delivery Date</u>
Operating Schedule	At the beginning of each Contract year
Monthly Operating Reports	Within ten (10) working days of the end of each calendar month for items in paragraph I.B.1. Within thirty (30) days after the end of each calendar month for items in I.B.2.
Revisions to the Operating Plan	With each revision
Schedule of Major Equipment Replacements	As prepared or revised
Affirmative Action Plan	At the beginning of each contract year
Third-party hauling contract(s)	With each executed third-party hauling agreement