

## Appendix C – Host Agreements

- C.1 City of Zion
- C.2 SWALCO / Lake County
- C.3 Village of Winthrop Harbor

## C.1 – City of Zion

## **SECOND AMENDMENT OF HOST CITY AGREEMENT**

**THIS SECOND AMENDMENT OF HOST CITY AGREEMENT** ("Second Amendment") is made this 21<sup>st</sup> day of May, 2019, between Advanced Disposal Services Zion Landfill, Inc., an Illinois corporation ("ADS"), formerly known as Veolia ES Zion Landfill, Inc. ("Veolia"), and the City of Zion, an Illinois municipal corporation ("City").

**WHEREAS**, Veolia and the City entered into that certain Host City Agreement ("Agreement") dated May 11, 1994, as amended on June 17, 2008 (the "First Amendment") with respect to a landfill ("Landfill") and landfill expansion ("Landfill Expansion"), more particularly described in the Agreement and First Amendment; and

**WHEREAS**, by Resolution No. 10-O-40, dated August 3, 2010, the City Council of the City granted siting approval for the Landfill Expansion to Veolia, pursuant to Section 39.2 of the Illinois Environmental Protection Act ("Act"), subject to certain siting conditions ("Siting Conditions"); and

**WHEREAS**, Section 39.2(e-5) of the Act provides that when siting approval is transferred to a subsequent owner or operator, siting conditions imposed pursuant to that Section may be modified by agreement between the subsequent owner and operator and the appropriate governing body; and

**WHEREAS**, subsequent to the granting of siting approval for the Landfill and Landfill Expansion and the application of the Siting Conditions, the ownership of Veolia has been transferred; and

**WHEREAS**, the City and ADS now desire to exercise the authority described in Section 39.2(e-5) to amend the Siting Conditions; and

**WHEREAS**, ADS has acquired approximately 110 acres that are north of and contiguous to property referred to in the First Amendment as the Veolia Property ("North Acquisition"); and

**WHEREAS**, the City has annexed the North Acquisition into the corporate limits of the City; and

**WHEREAS**, the Veolia Property and the North Acquisition are hereinafter referred to together as the "ADS Property;" and

**WHEREAS**, ADS desires to expand the Landfill and Landfill Expansion on the ADS Property, including onto the North Acquisition ("North Expansion"); and

**WHEREAS**, ADS intends to file with the City an application for local siting approval for the North Expansion under Section 39.2 of the Act; and

WHEREAS, the City and ADS desire to enter into this Second Amendment for the purposes of modifying the Siting Conditions and amending the Agreement, as amended by the First Amendment, to address the North Expansion.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and the other good and valuable consideration recited in the Agreement and First Amendment, the receipt and sufficiency of which are hereby acknowledged, ADS and the City agree as follows:

**Section 1. Incorporation of Recitals.**

The above recitals are incorporated as part of this Second Amendment as though set forth herein.

**Section 2. Lands Covered.**

Paragraph 2 of the Agreement, as amended by the First Amendment, is hereby replaced with the following paragraph:

a. This Second Amendment covers the ADS Property.

b. Unless otherwise indicated in this Second Amendment and excluding Paragraphs 9 and 11 of the Agreement, as amended by the First Amendment: (i) the term "Veolia Property" is hereby replaced with the term "ADS Property;" (ii) the term "Veolia" is hereby replaced with the term "ADS;" (iii) the term "Landfill" is hereby amended to include the "North Expansion;" (iv) the term "Landfill Expansion" is hereby replaced with the term "North Expansion;" (v) the term "Amendment" is hereby replaced with the term "First Amendment"; and (vi) the term "Veolia ES Solid Waste, Inc." is hereby replaced with the term "Advanced Disposal Services Zion Landfill, Inc."

c. The ADS Property is depicted on Exhibit A hereto. The North Acquisition is depicted as a portion of the ADS Property on Exhibit A.

**Section 3. Effective Date.**

Paragraph 3 of the Agreement, as amended by the First Amendment, is hereby replaced with the following paragraph:

Except for Section 5 (Host Benefit Fee), Section 6 (Community Information Program) and Section 8 (Amendment of Siting Conditions) of this Second Amendment, and the following provisions, which shall become effective on the date of this Second Amendment, this Second Amendment shall become effective upon the date of a final and non-appealable decision by the Illinois Environmental Protection Agency ("IEPA") to issue a permit to develop the North Expansion:

a. This Second Amendment, the First Amendment and the Agreement shall be made part of any request for local siting approval for the North Expansion under Section 39.2 of the Act.

b. By entering into this Second Amendment, the First Amendment and the Agreement, the City has not predetermined whether it will grant or deny local siting approval for the North Expansion under Section 39.2 of the Act.

c. ADS agrees that it will not develop or operate the North Expansion unless the same has been approved by the City pursuant to Section 39.2 of the Act, provided that the City has jurisdiction over the ADS Property.

#### **Section 4. Property Value Protection Agreement.**

The Preamble in Section I of the Property Value Protection Agreement is hereby deleted in its entirety, Subparagraph 11.c. of the Agreement, as amended by the First Amendment, is hereby replaced with the following, and a new Subparagraph 11.d. is added:

c. Section II.L. of the Property Value Protection Agreement is hereby amended to provide that a Protected Property means property, all or part of, which is located within 1,500 feet of the ADS Property, including property that is located on the following streets in the Oak View Estates Subdivision: Oak Lane, Block Lane, 3<sup>rd</sup> Street, Prairie Avenue and Clear View Court, but specifically excluding property outside the State of Illinois.

d. In implementing the Property Value Protection Agreement, if there has been a "Sale," as that term is defined in the Property Value Protection Agreement, of a Protected Property after the Effective Date of the Agreement and the Protected Property was subject to the Property Value Protection Agreement at the time of the Sale, then no further sales of that Protected Property shall be subject to or covered by the Property Value Protection Agreement. This Subparagraph 11.d. is declarative of the intent and meaning of the existing Agreement and does not provide additional rights to ADS.

#### **Section 5. Host Benefit Fee.**

Section 15.a.(1)(a) of the Agreement, as amended by the First Amendment, is hereby replaced with the following paragraph:

ADS shall pay to the City a non-refundable \$300,000 lump sum in the following two installments: (i) \$150,000 within thirty days after execution of this Second Amendment by both parties; and (ii) \$150,000 within thirty days after final and non-appealable siting approval of the North Expansion pursuant to Section 39.2 of the Act. If ADS does not receive final and non-appealable siting approval of the North Expansion, ADS shall not be obligated to pay the second installment.

## **Section 6. Community Information Program.**

Paragraph 19 of the Agreement, as amended by the First Amendment, is hereby replaced with the following paragraph:

The Landfill Manager shall be the City's point of contact for matters relating to the Landfill and the ADS Property. The Landfill Manager, or a person employed or retained by ADS, shall receive, respond to and address public inquiries, complaints and customer calls. ADS shall provide the City with the identity or title and the contact information of the person designated to receive, respond to and address public inquiries, complaints and customer calls. ADS agrees the City may advertise on the City's website the contact information for the person designated to receive, respond to and address public inquiries, complaints and customer calls. ADS shall provide the City with the Landfill Manager's mobile phone number for use by the City after regular business hours. The City shall not divulge the Landfill Manager's mobile phone number to any person except those officers and employees who need to contact the Landfill Manager.

## **Section 7. Enforcement and Remedies.**

Paragraph 21 of the Agreement, as amended by the First Amendment, is hereby replaced with the following paragraph:

The City and ADS agree that each party shall have the right to enforce this Agreement, as amended, by an action in Lake County Circuit Court. However, prior to commencing such action, each party agrees to give the complained-against party ten (10) days written notice of any non-compliance alleged to constitute a violation of this Agreement. The complained-against party shall have the right to correct such violation within the ten (10)-day period or within such time as the parties may agree in writing, or if such violation cannot be reasonably remedied within the ten (10)-day period, then so long as such party is continuously and diligently pursuing the remedy necessary to cure the alleged violation, such party shall have such additional time as shall be reasonably necessary to remedy such violation. If the violation is not corrected by the complained-against party to the satisfaction of the complaining party, the complaining party may seek any and all appropriate relief, including, without limitation, specific performance and, if successful, shall be entitled to reasonable attorneys' fees.

## **Section 8. Amendment of Siting Conditions.**

Siting Conditions 2.11 and 2.12 are hereby replaced with the following paragraphs:

- 2.11 Owner/Operator shall, in consultation with the Lake County Health Department, Environmental Services Division, implement a comprehensive complaint monitoring system which shall include the following information summarized for each day one or more complaints are received: (a) date of the complaint(s); (b) name(s) of the complainant(s); (c) nature of the complaint(s); (d) location of the complainant(s); (e) weather conditions; and (f) the findings of and any actions taken by the Owner/Operator. The reports produced by the complaint monitoring

system shall be evaluated no less frequently than semi-annually for the purpose of identifying patterns in the nature of complaints and corrective actions designed to proactively prevent complaints of such nature, if any patterns exist. This system shall be incorporated into the facility's operating record and shall be made available upon request to the IEPA, the Lake County Health Department, Environmental Health Services Division, and the City of Zion.

- 2.12 Upon receipt and confirmation of landfill gas odor complaints on three (3) or more days during any seven (7) consecutive day period, Owner/Operator shall perform, in no greater than three (3) business days following the triggering of this condition, a root cause analysis to determine the origin of the odor, and shall begin, in no greater than six (6) working days following the triggering of this condition, to develop a corrective action plan corresponding to the findings of the root cause analysis, and thereafter diligently pursue performance thereof. A report describing the triggering of this condition, the root cause analysis and all corrective action plans corresponding thereto shall be filed with the City Clerk within twenty-one (21) days following the triggering of this condition.

**Section 9. Validity of Agreement.**

Except as provided herein, all terms and conditions of the Agreement, as amended by the First Amendment, shall remain in full force and effect. If any provisions of the Agreement, as amended by the First Amendment and this Second Amendment, are inconsistent, the terms and conditions of this Second Amendment shall apply and shall supersede the terms of the Agreement, as amended by the First Amendment. In the event any phrase, paragraph, article or portion of the Agreement, as amended by the First Amendment and this Second Amendment, is found to be invalid, illegal or unenforceable by any court of competent jurisdiction, such finding of invalidity, illegality or unenforceability as to that portion shall not affect the validity, legality or enforceability of the remaining portions of the Agreement, as amended by the First Amendment and this Second Amendment. If, for any reason, the Agreement, as amended by the First Amendment and this Second Amendment, or any provision hereof and thereof, is ruled invalid, in whole or in part, the Parties shall expeditiously take such action(s) (including the filing of an amended Siting Application, the giving of such notices, the holding of such public hearing and the adoption of such ordinances and resolutions) as may be necessary to give effect to the spirit of the Agreement, as amended by the First Amendment and this Second Amendment, and the intentions of the Parties as reflected by the terms of the Agreement, as amended by the First Amendment and this Second Amendment. The Parties, or any Party claiming by or through them, shall not contest or dispute the validity, legality or enforceability, or assert the invalidity, illegality or unenforceability, of any phrase, paragraph, article or provision of the Agreement, as amended by the First Amendment and this Second Amendment, or of any ordinance adopted by the City pursuant to the Agreement, as amended by the First Amendment and this Second Amendment.

IN WITNESS WHEREOF, the City and ADS have caused this Second Amendment to be executed by their duly authorized officers and representatives on the date written above.

CITY OF ZION

ADVANCED DISPOSAL SERVICES  
ZION LANDFILL, INC.

By: Billy McKimney  
Its: MAYOR

By: [Signature]  
Its: VICE PRESIDENT

Attest:

Attest:

By: Sarah Aspoen  
Its: City Clerk

By: [Signature]  
Its: Sales Coordinator





**EXHIBIT A**  
**ADS PROPERTY**

# ADS Property - Exhibit A



Sources: Lake County, Illinois GIS Division  
Source: Esri, DigitalGlobe, GeoEye, Earthstar/Geographics, CNR/Airphoto, USDA, Landsat, AeroGRID, IGN, and the GIS User Community



LakeCounty  
Geographic Information System

Lake County  
GIS Division  
18 N County St  
Waukegan IL 60085  
(847) 377-2388

Map Printed on 3/23/2018



Tax Parcel Lines



ADS Property

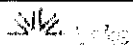
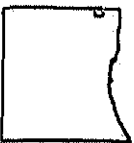
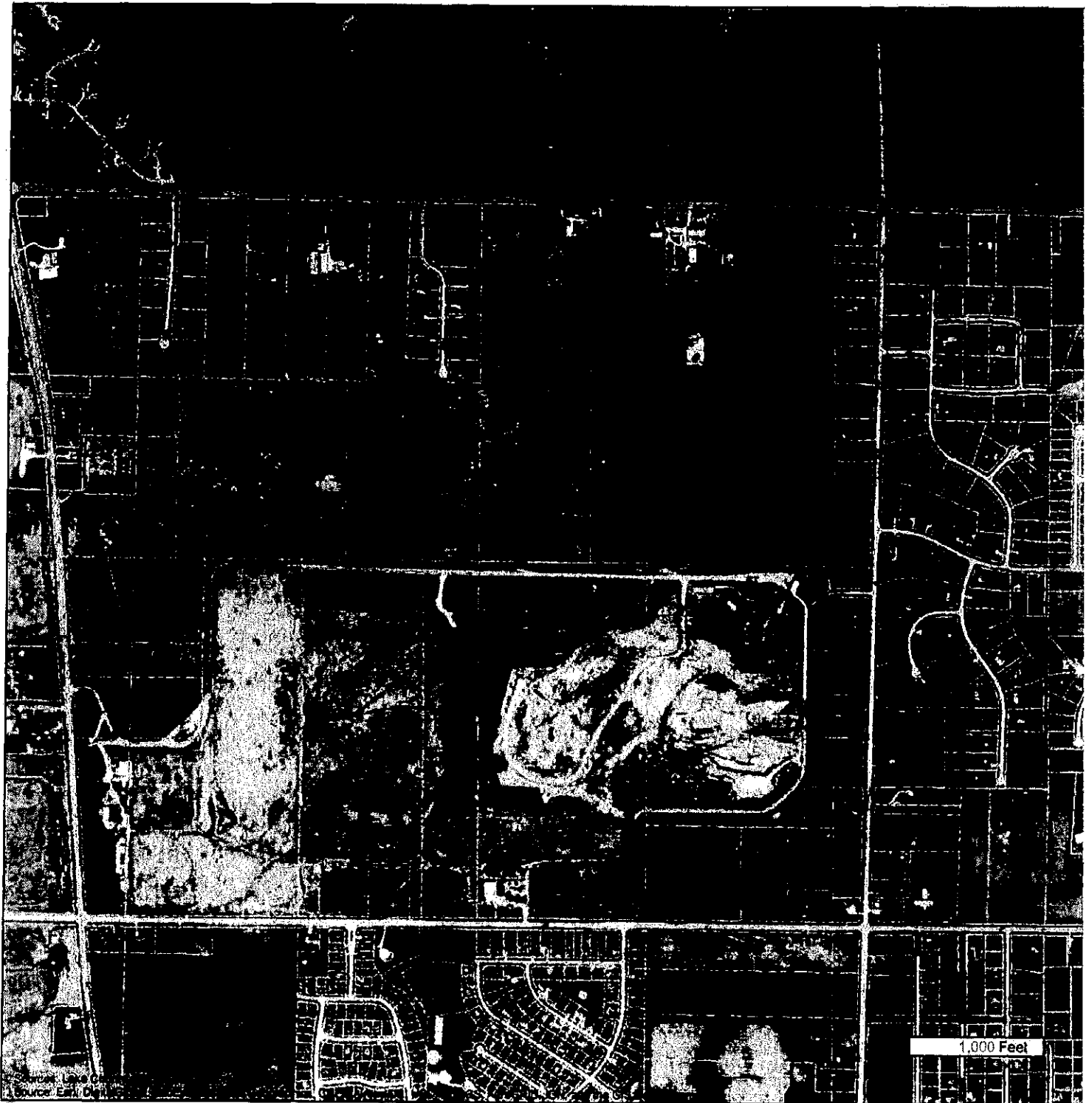


North Acquisition

## Disclaimer:

The selected feature may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

# ADS Property - Exhibit A



Geographic Information System

Lake County  
GIS Division  
18 N County St  
Waukegan IL 60085  
(847) 377-2388

Map Printed on 3/23/2018



Tax Parcel Lines

## Disclaimer:

The selected feature may not occur anywhere in this current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.



**AMENDMENT OF HOST CITY AGREEMENT**

**THIS AMENDMENT OF HOST CITY AGREEMENT** (hereinafter referred to as "Amendment") is made this 17<sup>th</sup> day of June, 2008, between Veolia ES Zion Landfill, Inc., an Illinois corporation, formerly known as Superior Zion Landfill, Inc. and Onyx Zion Landfill, Inc., (hereinafter referred to as "Veolia") and the City of Zion, an Illinois municipal corporation (hereinafter referred to as "City").

**WHEREAS**, on May 11, 1994, the City and Browning-Ferris Industries of Illinois, Inc. (hereinafter referred to as "BFI") entered into a Host City Agreement (hereinafter referred to as "Agreement") regarding BFI's proposal to expand a landfill onto a portion of the property referred to in the Agreement as the BFI Property; and

**WHEREAS**, by Resolution No. 95-R-18, dated April 17, 1995, the City Council of the City granted local siting approval pursuant Section 39.2 of the Illinois Environmental Protection Act (hereinafter referred to as "Siting Approval") for a landfill on Sites 2 and 3 of the BFI Property, as those sites are described in the Agreement (hereinafter referred to as "Landfill"); and

**WHEREAS**, on March 31, 2000, BFI sold the BFI Property and transferred Siting Approval to Veolia, and the City consented to said sale and transfer; and

**WHEREAS**, Veolia has acquired approximately 5.9 acres and has a contract to purchase approximately 19.5 acres that are contiguous to the BFI Property (said 25.4 acres are hereinafter collectively referred to as the "Expansion Property"); and

**WHEREAS**, the Expansion Property is located within the corporate limits of the City; and

**WHEREAS**, the BFI Property and the Expansion Property are hereinafter referred to together as the "Veolia Property;" and

**WHEREAS**, Veolia desires to expand the Landfill on the Veolia Property, including onto the Expansion Property (hereinafter referred to as "Landfill Expansion"); and

**WHEREAS**, Veolia intends to file with the City an application for local siting approval for the Landfill Expansion under Section 39.2 of the Illinois Environmental Protection Act (hereinafter referred to as the "Act"); and

**WHEREAS**, the City and Veolia desire to enter into this Amendment for the purpose of amending the Agreement to address the Landfill Expansion.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and the other good and valuable consideration recited in the Agreement, the receipt and sufficiency of which are hereby acknowledged, Veolia and the City agree as follows:

**Section 1. Incorporation of Recitals.**

The above recitals are incorporated as part of this Amendment as though set forth herein.

**Section 2. Lands Covered.**

Paragraph 2 of the Agreement is hereby replaced with the following paragraph:

- a. This Amendment covers the Veolia Property.
- b. Unless otherwise indicated in this Amendment: (i) the term "BFI Property" in the Agreement is hereby replaced with the term "Veolia Property;" (ii) the term "BFI" in the Agreement is hereby replaced with the term "Veolia;" (iii) the term "Landfill" in the Agreement is hereby amended to include the "Landfill Expansion;" (iv) the term "Sites 2 and 3" in the Agreement is hereby replaced with the term "Landfill Expansion;" and (v) the term "Browning-Ferris Industries, Inc." in the Agreement is hereby replaced with the term "Veolia ES Solid Waste, Inc."
- c. The Veolia Property is depicted in Exhibit A hereto. The Expansion Property is legally described in Exhibit B hereto and depicted as a portion of the Veolia Property on Exhibit A.

**Section 3. Effective Date.**

Paragraph 3 of the Agreement is hereby replaced with the following paragraph:

Except for the following provisions, which shall become effective on the date of this Amendment, this Amendment shall become effective upon the date of a final and non-appealable decision by the Illinois Environmental Protection Agency (hereinafter referred to as the "IEPA") to issue a permit to develop the Landfill Expansion:

- a. This Amendment and the Agreement shall be made part of any request for local siting approval for the Landfill Expansion under Section 39.2 of the Act.
- b. By entering into this Amendment and the Agreement, the City has not predetermined whether it will grant or deny local siting approval for the Landfill Expansion under Section 39.2 of the Act.
- c. Veolia agrees that it will not develop or operate the Landfill Expansion unless the same has been approved by the City pursuant to Section 39.2 of the Act, provided that the City has jurisdiction over the Veolia Property.
- d. Subparagraphs 15.a(1)(a) and (c) that are set forth in Section 7 of this Amendment.

**Section 4. Ban on Various Wastes.**

Paragraph 4.d. of the Agreement is hereby replaced with the following paragraph:

Veolia agrees not to receive, or seek permission to receive, at the Veolia Property any waste containing free liquids, unless approved by the City and the IEPA.

**Section 5. Well Monitoring.**

The following subparagraph is hereby added to paragraph 9 of the Agreement:

f. With regard to the Landfill Expansion, the notice and monitoring provisions of this paragraph 9 shall apply only to those properties located within 1,500 feet of the Veolia Property that were not included within the monitoring area described in paragraph 9.a. of the Agreement prior to this Amendment.

**Section 6. Property Value Protection Plan.**

The following subparagraph is hereby added to paragraph 11 of the Agreement:

c. The properties that are eligible for protection on the date of this Amendment under the Property Value Protection Plan Agreement, which is attached to the Agreement as Exhibit C, shall remain protected after the Effective Date of this Amendment. With regard to the Landfill Expansion, the Property Value Protection Plan Agreement shall apply only to those properties located within 1,500 feet of the Veolia Property that were not classified as Protected Property under said Agreement prior to this Amendment.

**Section 7. Host Benefit Fee.**

Subparagraphs 15.a. and 15.b. of the Agreement are hereby replaced with the following subparagraphs:

a. **Calculation**

(1) Veolia shall pay the City the following Host Benefit Fees:

(a) A \$100,000 lump sum fee shall be paid within thirty days after final and non-appealable siting approval by the City for the Landfill Expansion pursuant to Section 39.2 of the Act; and

(b) A per-ton based fee, calculated on a calendar quarterly basis and applied to each ton of solid waste accepted at the Veolia Property during the quarter for disposal at the Landfill Expansion (hereinafter referred to as the "Per Ton Fee"), shall be paid. The initial Per Ton Fee shall be the amount of such fee, calculated under paragraph 15.a.(2) of the Agreement, that is in effect on January 12, 2012, but in no event shall the initial Per

Ton Fee be less than Two Dollars and Eighty Five Cents (\$2.85) per ton. For purposes of this Amendment, all solid waste accepted at the Veolia Property after January 1, 2012 shall be considered to have been received for disposal at the Landfill Expansion.

(c) Until January 12, 2012, the provisions of paragraph 15.a.(2), (3) and (4) of the Agreement shall remain in full force and effect.

(2) Beginning on January 1, 2013, and on each January 1 thereafter, the Per Ton Fee shall be adjusted from the Per Ton Fee of the previous year by fifty percent (50%) of the percentage change during the previous year in the Revised Consumer Price Index for Chicago-Gary-Kenosha (IL-IN-WI) published by the United States Department of Labor-Statistics, provided, however, that at no time shall there be a downward adjustment made to the Per Ton Fee. If the Consumer Price Index for Chicago-Gary-Kenosha (IL-IN-WI) shall cease to be published in the timeframe described above, the City and Veolia shall designate a comparable timeframe or index, which shall then be used for determining the annual rate of adjustment.

(3) The weight of solid waste received at the Veolia Property for disposal in the Landfill Expansion shall be determined by a certified scale, independently inspected and calibrated semi-annually. Tonnages shall be certified in writing by Veolia, subject to the City's audit rights pursuant to paragraph 8.b. of the Agreement.

**b. Payment of Per Ton Fee.**

The Per Ton Fee shall be paid by Veolia to the City on a calendar quarterly basis. Payments shall be delivered to the City by the last day of the month following the end of each quarter. Any Per Ton Fee not received by the City by the above deadline shall be subject to a late charge of 2% of the total quarterly Per Ton Fee plus accrued late charges per month or fraction of a month for which the payment is late.

**Section 8. Enforcement and Remedies.**

Subparagraph 21.a. of the Agreement is hereby replaced with the following subparagraphs a, b, c, and d:

- a. Defaults. A material default and breach of this Agreement by Veolia includes, but is not limited to, the following:
  - (1) The failure to make payment of any Host Community Fee payment required to be made under this Agreement after ten (10) business days written notice thereof.

- (2) The failure to properly maintain insurance required pursuant to the terms and conditions of this Agreement after ten (10) business days written notice thereof.
  - (3) The failure to correct or remedy promptly and in the proper and required manner any actual violation of any law, statute, rule, regulation, permit or ordinance relating to the development, operation, and closure/post closure care of the Landfill Expansion, including Siting Conditions. For purposes of this Agreement, Veolia shall be deemed to have acted promptly if it corrects or commences correction of the violation in question within the time allowed by law, or within the time otherwise allowed by a court, tribunal or a governmental agency of competent jurisdiction. If the remedy or correction requires a permit or other approval or consent from a governmental entity, Veolia shall be deemed to have promptly commenced a remedy or correction if it has commenced preparation of an application for such permit or other governmental approval and diligently pursues the filing of the same.
  - (4) The failure to observe or perform any of the other covenants, terms, conditions or provisions of this Agreement or the Siting Conditions, where such failure shall continue for a period of thirty (30) days after written notice thereof from the City to Veolia; provided, however, that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, and the City agrees in writing that this is the case (which agreement shall not be unreasonably withheld or delayed), then Veolia shall not be deemed to be in default if Veolia commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. If the cure of the default requires a permit or other approval or consent from a governmental entity, Veolia shall be deemed to have diligently prosecuted such cure if it has commenced preparation of an application for such permit or other governmental approval and diligently pursues the filing of the same.
  - (5) The making by Veolia of any general assignment, or general arrangement for the benefit of creditors; the filing by or against Veolia of a petition to have Veolia adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Veolia, the same is dismissed within sixty (60) days of filing); the appointment of a trustee or receiver to take possession of substantially all of Veolia's assets located at, or serving, the Property or of Veolia's interest in this Amendment (where possession is not restored to Veolia within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Veolia's assets located at the Veolia Property or of Veolia's interest in this Amendment (where such seizure is not discharged within thirty (30) days).
- b. Remedies. Subject to the cure provisions of subparagraphs 8.a.(3) and 8.a.(4), in the event of any default or breach by Veolia of its obligations hereunder, the City may bring an action to enforce this Amendment and seek any and all relief available at law or in equity. Veolia shall reimburse the City for its reasonable attorneys fees and costs (including fees for expert witnesses and consultants) incurred in enforcing this Amendment.
  - c. Stipulated Damages. Subject to the cure provisions of subparagraphs 8.a.(3), 8.a.(4) and 8.a.(5), any violation of a Performance Standard shall result in stipulated damages against Veolia, as follows:



**Stipulated Damage Per Day For  
Veolia's Unexcused Failure to  
Achieve Performance Standards**

**\$100  
\$250  
\$750  
\$1000  
\$1250  
\$1500  
\$2000**

**Days of Unexcused Failure to  
Achieve Performance Standards**

**1<sup>st</sup> through 14<sup>th</sup> day  
15<sup>th</sup> through 30<sup>th</sup> day  
31<sup>st</sup> through 44<sup>th</sup> day  
45<sup>th</sup> through 60<sup>th</sup> day  
61<sup>st</sup> through 74<sup>th</sup> day  
75<sup>th</sup> through 90<sup>th</sup> day  
91<sup>st</sup> day and beyond**

- d. Remedies Not Exclusive. No right, power or remedy conferred upon or reserved to any Non-Defaulting Party under this Amendment or under law, except the election to take stipulated damages, shall be considered exclusive of any other right, power or remedy, but such rights, powers and remedies shall be cumulative and shall be in addition to every other right, power and remedy given hereunder or now or hereafter available at law or in equity or by statute or otherwise, and every right, power and remedy given by this Amendment to any Non-Defaulting Party may be exercised from time to time and as often as occasion may arise or as may be deemed expedient, without precluding any Non-Defaulting Party's simultaneous or later exercise of any or all other rights, powers or remedies, including, by way of example, the right of the City to file a complaint with the IPCB alleging a violation of the Act and to enforce the Siting Conditions independently of this Agreement. No delay or omission of the Non-Defaulting Party to exercise any right, power or remedy arising from any default or breach hereof on the part of the Defaulting Party shall impair any such right, power or remedy or shall be construed to be a waiver of any such default or breach or any acquiescence therein.

Subparagraph 21.b. of the Agreement is hereby renumbered and hereafter referred to as subparagraph 21.e.

**Section 9. Additional Revisions.**

Paragraphs 20 and 25 of the Agreement are hereby stricken in their entirety.

**Section 10. Authority to Enter Into Amendment.**

The word "Delaware" in paragraph 26 of the Agreement is hereby replaced with the word "Illinois."

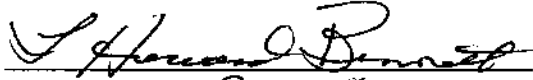
**Section 11. Validity of Agreement.**

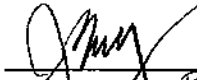
Except as provided herein, all terms and conditions of the Agreement shall remain in full force and effect. If any provisions of the Agreement and this Amendment are inconsistent, the terms and conditions of this Amendment shall apply and shall supersede the terms of the Agreement.

IN WITNESS WHEREOF, the City and Veolia have caused this Amendment to be executed by their duly authorized officers and representatives on the date written above.

CITY OF ZION

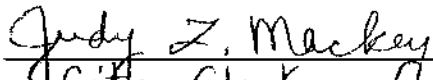
VEOLIA ES ZION LANDFILL, INC.

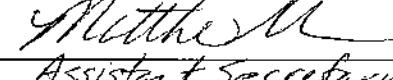
By:   
 Its: MAYOR PRO-TEM

By:   
 Its: Raj Vira Pandit

Attest:

Attest:

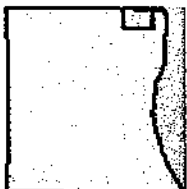
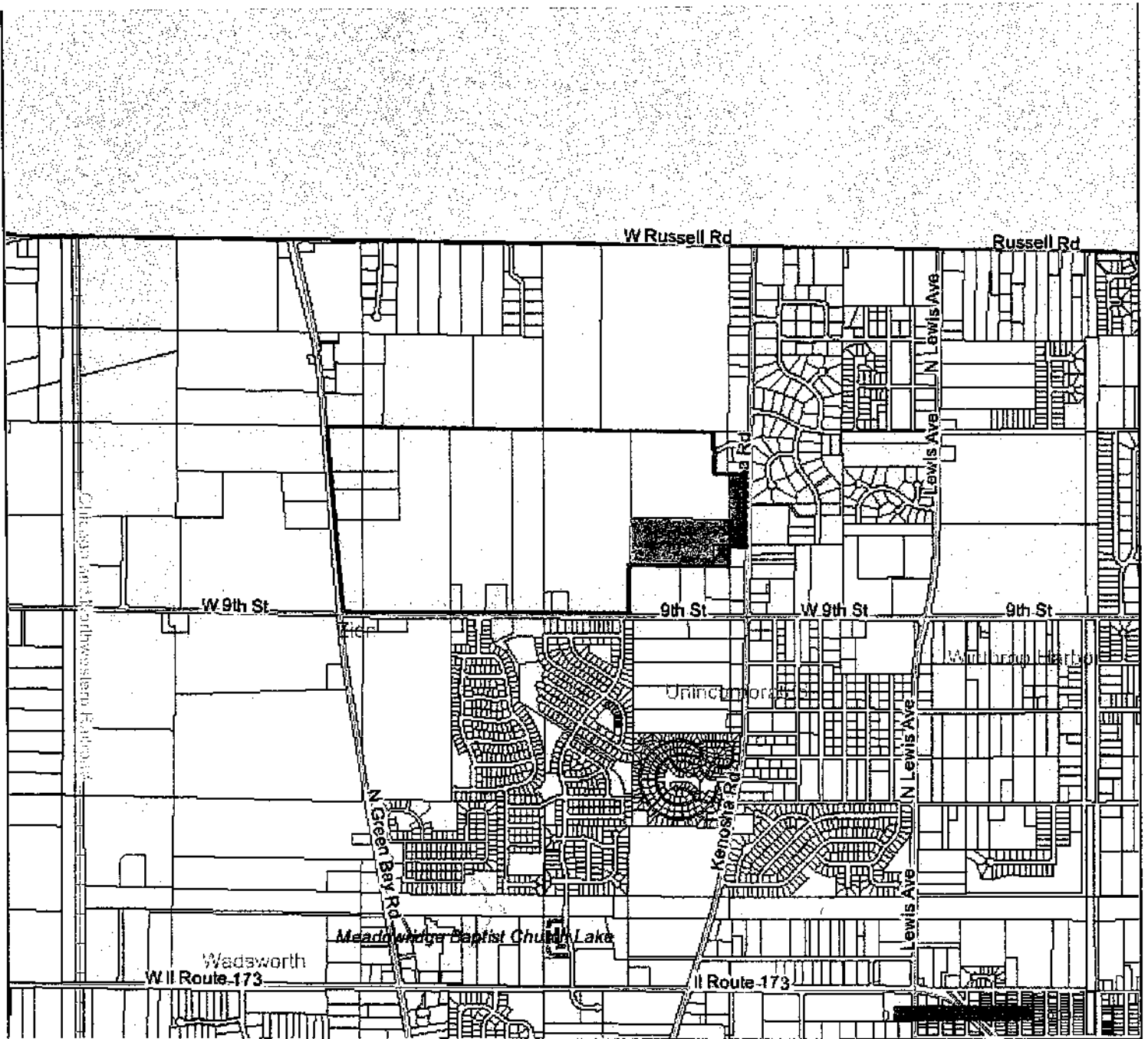
By:   
 Its: CITY CLERK

By:   
 Its: Assistant Secretary

**08-R-9**

**EXHIBIT A**

## EXHIBIT A



**LakeCounty**  
Geographic Information System  
Map Printed on 1/3/2008



☐ Veolia Property

☒ Expansion Property within Veolia Property

**EXHIBIT B****LEGAL DESCRIPTION OF EXPANSION PROPERTY**

That part of the Northeast Quarter of Section 7 and the Northwest Quarter of Section 8, Township 46 North, Range 12, East of the Third Principal Meridian, described as follows: to-wit: Beginning at a point on the East line of the Northeast Quarter of Section 7, aforesaid, 75  $\frac{1}{3}$  rods (1243 feet) South of the North line of said Quarter Section; running thence West on a line parallel with the North line of said Quarter Section, 85 rods (1402.5 feet), measured 1386.17 feet; thence South on a line parallel with the West line of said Quarter Section, 40 rods (660 feet), measured 658.85 feet; thence East parallel with the North line aforesaid, to a point on the East line of the Northeast Quarter of Section 7; thence North along the East line of the Northeast Quarter of Section 7, for a distance of 297.0 feet; thence East at a right angle to the last described line for a distance of (195.15 feet), measured 194.99 feet to a point of curvature; thence Southeasterly along a curved line convex Northeasterly, having a radius of 25 feet, for an arc distance of 39.68 feet, to a point of tangency, said point being on the West right-of-way line of Kenosha Road, 40 feet distant from the centerline of said road; thence North along said Westerly right-of-way line, a distance of 1014.58 feet, more or less, to a point on the North line of the South 164 feet of Lot 4 (as measured along the West line thereof) in FORMAN'S SUBDIVISION, being a Subdivision in the Northwest Quarter of Section 8, Township 46 North, Range 12, East of the Third Principal Meridian, according to the plat thereof, recorded November 26, 1958, as Document No. 1012214, in Book 1666 of Records, page 664, in Lake County, Illinois; thence West along the last described line for a distance of 248.31 feet (measured) to a point on the West line of the Northwest Quarter of Section 8; thence South along the West line of the Northwest Quarter of Section 8, for a distance of 634.18 feet (record) to the point of beginning, all in Lake County, Illinois.

City of Zion

Host City Agreement

May 11, 1994

**HOST CITY AGREEMENT**

THIS HOST CITY AGREEMENT (hereafter referred to as the "Agreement") is made this 11<sup>TH</sup> day of May, 1994, between Browning-Ferris Industries of Illinois, Inc., a Delaware corporation having its principal office at 42575 N. Green Bay Road, Zion, Illinois 60099 (hereafter referred to as "BFI"), and the City of Zion, Illinois (hereafter referred to as "City").

WHEREAS, BFI is the owner of approximately 278 acres of property situated generally between Green Bay Road and Kenosha Road, in Benton and Newport Townships, Lake County, Illinois, and described more particularly in Exhibit A attached hereto (hereafter referred to as "the BFI Property"); and

WHEREAS, the BFI Property includes lands upon which solid waste landfill operations have been and are being conducted (Sites 1 & 2) together with lands upon which BFI intends to expand its landfill operations (Site 3) (Sites 1, 2 & 3 are sometimes collectively referred to hereafter as "the Landfills"), and other lands in the vicinity which will not be used for solid waste landfill operations, all of which lands are legally described in Exhibit A and are also shown on the drawings in Exhibit B attached hereto; and

WHEREAS, BFI plans to file a request for site location approval for a landfill expansion on Sites 2 and 3, comprising approximately 110 acres of additional landfill and property and an estimated annual disposal rate of approximately 335,000 tons; and

WHEREAS, the City has not consented to, concurred in or objected to the proposed plans of BFI to develop Sites 2 and 3 as an expansion of its existing sanitary landfill, or as a new sanitary landfill, and nothing in this Host City Agreement shall be deemed by BFI, the City, other public agencies, or the public to indicate that the City has adopted any position on the potential development of Sites 2 and 3 for any solid waste management purpose; and

WHEREAS, BFI's application for site location approval for the proposed expansion is not currently expected to provide for the receipt of solid waste to be treated or recycled, to be the subject of resource recovery, or to be transferred to an off-site location for storage, treatment or disposal; and

WHEREAS, BFI has agreed that if, in the future, it desires to use the BFI Property as a location for the collection or storage of solid waste for transfer to another location, or as a location for the treatment, recycling or resource recovery of solid waste, it shall first seek and obtain approval from the City of Zion and all necessary approvals and permits.

WHEREAS, BFI and the Lake County Forest Preserve District have entered into a certain "Settlement Stipulation" (hereafter "the Stipulation"), filed November 18, 1992 in Lake County Forest Preserve District v. Browning-Ferris Industries of Illinois, Inc., Gen. No. 90 ED 65, Lake County (Ill.) Circuit Court. The Stipulation imposes certain obligations on BFI concerning any proposed development of the BFI Property and establishes that the City shall determine whether those obligations are met; and,

WHEREAS, BFI is desirous of earning the goodwill of the citizens of the City by developing a partnership program and demonstrating its good faith in educating the community



as to the nature of its operations in the City and its planned expansion and its concern for and planned protection of the environment, and in demonstrating that its landfilling operations are, have been and will continue to be conducted in an environmentally sound manner; and

WHEREAS, BFI has determined, consistent with the previous recitation, that it does not desire to promote the disposal of, and it will not accept, without the City's written permission, solid waste originating outside the states of Illinois, Wisconsin and Indiana; and

WHEREAS, the City is desirous of protecting the health, safety and welfare of its citizens, assisting BFI with a community partnership program and public education, insuring that factually and technically accurate information is given to the public, and collecting a host benefit fee, as set forth and limited by Paragraph 15, to help meet the costs of government, including but not limited to those costs associated with traffic control and highway maintenance in areas impacted by BFI's future expansion, if approved and developed; and,

NOW, THEREFORE, in consideration of the City's efforts in assisting BFI to annex the BFI Property into the City; in its timely development of a thorough and fair procedure for the orderly presentation of a BFI request for land use approval; in its implementation of the Stipulation; the opportunity given to BFI to demonstrate its good faith and its concern for the environment, and to show that its landfilling operations are, have been and will continue to be conducted in an environmentally sound manner; the City's willingness to assist BFI in education of the public; the willingness of the City to study BFI's siting proposal and publicly announce its findings; the mutual covenants contained herein; and other good and valuable consideration the sufficiency, adequacy and receipt of which is hereby acknowledged;

IT IS HEREBY AGREED:

1. Incorporation of Recitals.

The above recitals are incorporated as part of this Agreement as though fully set forth herein.

2. Lands covered.

This Agreement covers the BFI Property and expressly includes Sites 1, 2 and 3 which are shown in Exhibit B.

3. Effective Date/Reimbursement to City.

a. This Agreement shall be part of any request for site location approval or local land use approval for Sites 2 and 3 filed with the City. This Agreement shall become a condition upon any granting of site location approval or local land use approval. Provided, however, the City has not, in accepting this offer from BFI or otherwise, predetermined whether it will grant or deny site location or local land use approval, whether BFI can (or cannot) establish any of the criteria related to the location approval or land use decision, and the City retains its right to establish any other or expanded conditions, in the event it should determine, ultimately, to grant site location or local land use approval.

b. In the event the site location approval provisions of the Illinois Environmental Protection Act (the "Act"), are, for any reason, inapplicable to development or use of the BFI Property as a new or expanded solid waste management facility, BFI agrees it will not develop or use the BFI Property for such purposes, nor cause or allow the sale or other transfer of the BFI Property to a third party for such development or use, unless approval has been given for

location of such a facility pursuant to the City's Siting Ordinance; provided, however, that the BFI Property is, at that time, geographically subject to the jurisdiction of the City's Siting Ordinance.

c. Except as stated in the subparagraphs hereafter, this Agreement shall become effective upon a final and unappealable decision by Illinois EPA to issue a permit to develop the proposed expansion.

- (1) The following requirements of this Agreement become effective upon the date this Agreement is executed: Paragraphs 3; 4.e.; 6; 8.a.; 15.b.(2)(a); 17; 20; 21; 22; 23; 24 and 26.
- (2) The following requirements of this Agreement become effective upon a final and unappealable determination granting site location or land use approval for the proposed expansion: Paragraph 15.b.(2)(b).
- (3) The following requirements of this Agreement become effective upon the date that solid waste is first received at the BFI Property for management pursuant to an Illinois EPA permit to operate the expanded solid waste management facility: Paragraphs 4.a., b., c., d. and f., 5, 8(b), and 10.

d. BFI agrees to pay the City the amount of \_\_\_\_\_, such sum constituting reimbursement to the City for its actual expenditures in developing a pre-annexation agreement with BFI, considering whether to amend the City land use code, participating in the development of and agreeing to assume responsibilities under the Stipulation, developing and considering the Siting Ordinance and reviewing, commenting upon and concluding this Agreement.

4. Ban on Various Wastes.

a. BFI shall not accept, treat, or dispose of any solid waste at the BFI Property if such solid waste is or contains: regulated levels of hazardous waste or potentially infectious waste as defined by the Illinois Environmental Protection Act, 415 ILCS 5/1, *et seq.* (the "Act") or regulations adopted thereunder; regulated levels of polychlorinated biphenyls as defined by the Toxic Substances Control Act, 15 U.S.C. 2601-2629 and implementing regulations; or, radioactive waste or low-level radioactive waste as defined by the Atomic Energy Act, U.S.C. 2011, *et seq.* or the Illinois Low-Level Radioactive Waste Management Act, 420 ILCS 20/1, *et seq.* or the implementing regulations of either. All wastes meeting the foregoing criteria, or any of them, are Hazardous Wastes for purposes of this Agreement.

b. BFI shall comply with all applicable regulations of the Illinois Pollution Control Board ("IPCB") and the requirements of its permits relative to load checking for Hazardous Waste, and shall immediately inform the City orally and in writing of any Hazardous Waste that has been accidentally accepted and disposed of at the BFI Property. All such Hazardous Waste, including any residuals of its treatment or admixtures with other wastes, shall be removed from the BFI Property to a lawful location within a reasonable time, unless Illinois EPA expressly assents to the storage, treatment or disposal of such at the BFI Property.

c. BFI has determined not to receive at the BFI Property any solid waste which is generated from a source outside the states of Illinois, Wisconsin or Indiana, unless agreed upon by the City in writing.

d. BFI agrees not to receive or seek permission to receive, at the BFI Property, any

waste containing free liquid as defined in the Act and implementing regulations unless exempted from those regulations.

e. BFI agrees not to use any portion of the BFI Property for the storage or composting of grass clippings landscape waste, unless BFI can establish that the storage or composting of such waste will not generate dust, moulds or odors which may reasonably be transmitted off the BFI Property. No such use of the BFI Property may be made without the approval of the City, which shall not be unreasonably withheld.

f. BFI's compliance with subparagraphs a., b., and d. above shall be considered by the City to be compliance with Paragraph 9 of the Stipulation.

**5. City's Use of Landfill.**

a. Until closure of the Landfills on the BFI Property, and subject to the provisions of Paragraph 22, BFI shall provide disposal capacity at the Landfills for all of the solid waste and non-hazardous special waste generated within the City's boundaries which BFI is permitted to receive ("Nonhazardous Solid Waste"). BFI's obligation to provide disposal capacity shall extend only to Nonhazardous Solid Waste which is initially abandoned or discarded within the City, and specifically excludes out-of-City waste that may be delivered to a waste transfer station located within the City.

Prior to the first of each calendar year during the operating life of Sites 2 and 3, the City shall provide BFI with an estimate of the amount of Nonhazardous Solid Waste it expects to be generated within the City for that year. Each year during this term, BFI shall reserve sufficient capacity to dispose of the quantity of Nonhazardous Solid Waste estimated by the City. The

City reserves the right to amend its annual estimate at any time in the circumstances, including but not limited to natural disasters, render its original estimate inadequate. The reservation of disposal capacity for the City's waste shall not be cumulative, and should the estimated disposal capacity not be utilized by the City during any calendar year, that capacity may be utilized for other than City Waste. BFI agrees to submit to the City an annual written determination of BFI's remaining landfill capacity.

b. BFI agrees that its charges to the City and its residents for disposal of Nonhazardous Solid Waste will be no greater than the lowest charges BFI assesses on any similar solid waste (without regard to volume) received at the Landfills for disposal.

#### **6. Assignment of Rights.**

This Agreement shall be binding upon BFI, its successors and assigns. No transfer of any ownership or other interest in the BFI Property may be made without the prior written approval of the City Council. Transfer of a 50% or greater interest in BFI from Browning-Ferris Industries, Inc. to another owner or owners, other than another wholly owned subsidiary of Browning-Ferris Industries, Inc., shall be deemed an unpermitted transfer under this Paragraph. The City shall consider, in deciding whether to grant such approval, the ability of the transferee, both financially and operationally, to comply with the terms of this Agreement, the terms of all licenses and permits, and all other applicable federal and state statutes and regulations, and local ordinances. The City may require an additional written commitment by the transferee to assume and comply with the duties and obligations of this Agreement. The City may not unreasonably withhold approval of such transfer, and, in any event, shall render its

decision within 90 days of receipt of BFI's written request for approval.

**7. Covenant.**

This Agreement shall constitute a covenant in the nature of a covenant running with the land. BFI agrees to execute all additional documents necessary for the recording of this Agreement in the chain of title of all of the BFI Property.

**8. Records.**

a. BFI shall provide to the City, upon the City's request, free of charge, and in a timely manner, copies of all of the following documents in any manner connected with the BFI Property:

- (1) those submitted by BFI or its agents or consultants to any state or federal environmental or employee health and safety regulatory agency; and
- (2) correspondence to or from any state or federal environmental or employee health and safety regulatory agency; and
- (3) those filed with or received from any person, including, but not limited to, any state or federal regulatory agency, asserting or relevant to charges, complaints or citations of environmental violations made by any governmental authority, citizen or citizens' group; and
- (4) records deemed adequate and sufficient by the City pertaining to the origin, amount and weight of Solid Waste received.

b. BFI will provide access to those records necessary to determine the weight of solid wastes received for purposes of Paragraph 15.a.(1)(b), on a confidential basis. Such access shall

be provided upon request, at reasonable times, to the City or its designee.

9. **Well Monitoring.**

a. Within thirty days after the effective date of this Paragraph, BFI shall contact the owners or the agents, transferees or assigns of the owners of all water supply wells located within 1500 feet of the perimeter of the BFI Property or within the area bounded by Kenosha Road (east), Russell Road (north), Green Bay Road (west), and by 9th Street (south), or on property which is located on the following streets in the Oak View Estates Subdivision: Oak Lane, Block Lane, 3rd Street, Prairie Avenue and Clear View Court. Such notice shall be by personal service, registered or certified mail, return receipt requested, seeking permission from the record owners to sample their wells and analyze the samples for background characteristics and constituents, and to provide the monitoring here required. For purposes of this Agreement, "monitoring" includes representative sampling, appropriate chain of custody procedures, sample preparation and analysis and generation of a signed analytical report from a certified laboratory. BFI shall use its best efforts to obtain permission to monitor the wells. The City will assist BFI in obtaining permission from the well owners. Any well owner not consenting to the monitoring of his or her well within twelve (12) months of being contacted shall be ineligible for the benefits of this Paragraph 9 and Paragraph 10. For purposes of this Paragraph 9, a succeeding owner to a timely consenting owner is considered to be a timely consenting owner.

b. At its expense, BFI shall monitor the water in each functioning well of a consenting owner as follows:

- (1) Background. Background groundwater quality ("Background") shall be



determined for each well prior to the first disposal of solid waste at the expanded Landfill. Background shall be established on the basis of an analysis of a single representative sample of each well's source water. Parameters shall include all of those for which background concentrations are required by 35 ILL.ADMIN.CODE 811.320(d) and by any Illinois EPA development or operation permit issued for BFI's proposed expansion.

- (2) Check for Contamination. Starting with the detection of a constituent increase in any BFI monitoring well, as described in Paragraph 10.a., BFI shall obtain and analyze an initial and, thereafter, annual representative sample of the source water in each well identified in Paragraph 10.a.(1). Sampling shall continue until:
- (a) the private well has been abandoned pursuant to state and local law; or,
  - (b) it has been determined, to the satisfaction of Illinois EPA, that the monitored constituent increase in BFI's well was in error or that the constituent did not originate from the BFI Property; or,
  - (c) BFI has provided a permanent safe water supply to replace that supplied from the private well.

Analyses conducted under this subparagraph shall be completed within 7 days of obtaining the sample, and shall report, at least, the concentrations of those constituents for which an increase has been detected at the affected BFI well.

- (3) Pre-Sale Analysis. Prior to the first compensated sale of property on which an eligible private well is located, BFI shall, at the request of the property owner, obtain and analyze a representative sample of the well's source water. Analysis shall be for the same characteristics and constituents which were the subject of the Background analysis. This analysis should be required only one time per well.

c. All sampling, sample preparation and analytical protocols and methodologies shall be in accordance with the requirements of 40 CFR Part 141.

d. BFI shall direct the analytical laboratory to provide a copy of each well water analysis report to both the owner of the well and the City, within one week of the time such report is sent to BFI.

e. BFI's compliance with the requirements of this Paragraph 9 shall be considered by the City to be compliance with Paragraph 14(b) of the Stipulation, but only on and after the effective date of this Paragraph 9.

**10. Contamination.**

a. If, at any time until the post-closure certification of the Landfills, any of the monitoring wells included in the Landfills' groundwater monitoring system shows an increase in any monitored constituent, BFI shall, within 48 hours of the detection of such increase:

- (1) obtain a representative sample of the source water in each well which has been the subject of Background analysis pursuant to Paragraph 9.b.(1), and which well is located within 200 feet of the affected BFI well; and,
- (2) provide a temporary alternate supply of water for all domestic uses served by each private well identified in subparagraph (1) preceding.

For purposes of this Paragraph 10, a BFI monitoring well is considered to show an increase if any of the circumstances described in 35 ILL.ADMIN.CODE 811.319(a)(4)(A) is present. Further, statistical significance shall be determined according to the requirements of the Illinois EPA permit for the Landfills and 35 ILL.ADMIN.CODE 811.320(e).

b. BFI shall continue to provide a temporary alternate supply of water until:

- (1) it has been determined, to the satisfaction of Illinois EPA, that the monitored constituent increase was in error or that the constituent did not originate from the BFI Property; or
- (2) it has been demonstrated that the constituent detected in the BFI well is not present in the affected private well in a concentration statistically significantly higher than the Background concentration for that constituent; or
- (3) BFI has provided a permanent safe water supply to replace that supplied

from the private well.

c. In the event the analysis of a representative sample drawn from the affected private well shows the presence of the detected constituent(s) at a concentration statistically significantly higher than the Background concentration of such constituent(s), it shall be presumed that the constituent(s) originated from BFI Property, subject to BFI's ability to rebut such presumption. If BFI cannot rebut such presumption within 60 days after receiving the analysis, BFI shall, within such time, develop and commence implementation of a plan to provide a permanent safe replacement water supply. BFI shall consult with the owner of the private well in development of such plan. Installation of such replacement supply shall be completed within a reasonable time.

d. BFI shall be considered to have satisfied its obligation to provide a permanent safe replacement water supply if it connects an affected residence to a public water supply distribution system and pays the first sixth months water usage charges for such residence. For purposes of this Agreement, BFI shall be considered to have provided a connection if it offers to make such or to pay all of the costs to obtain such. If the owner of the affected private well rejects such an offer, BFI shall have no further obligations under Paragraphs 9 or 10 of this Agreement with respect to such owner or well.

e. BFI's compliance with this Paragraph 10 shall be considered by the City to be compliance with Paragraph 14(c) of the Stipulation, but only on and after the Effective Date of this Paragraph 10.

#### **11. Property Value Protection Plan.**

a. BFI agrees to comply with the program described as the "Property Value Protection Agreement" set forth in Exhibit C hereto and hereby incorporated by reference.

b. BFI's compliance with the Agreement set forth in Exhibit C shall be considered by the City to be compliance with the second sentence of Paragraph 17 of the Stipulation.

**12. Environmental Impairment.**

In addition to BFI's other obligations hereunder, its financial responsibility for long-term care and closure of solid waste management facilities on the BFI Property, and its obligation to make payments to appropriate state funds, BFI promises, and pledges its full credit and resources, to correct any environmental impairment arising out of or related to the Landfills. For purposes of this commitment, "environmental impairment" means the release or threatened release of any substances, pollutants, or contaminants at or from the BFI Property so as to harm or threaten harm to human health, welfare or the environment.

This obligation shall not terminate until post-closure certification of the Landfills.

**13. Indemnification.**

BFI shall defend, indemnify and hold the City and its officers, agents and employees harmless from any and all claims, actions, costs, expenses, attorneys' fees, other fees, damages and judgments ("Liability") asserted against or in any way incurred by the City and/or its officers, agents or employees by reason of any and all operations by BFI and/or its officers, agents or employees at the BFI Property. This indemnification is not intended to be nor shall it be applicable to any such Liability to the extent that negligent or wilful acts of the City or its agents solely caused such loss. Nothing herein shall be construed to subject the City or its

officers, agents or employees to liability for negligent acts for which it and/or its officers, agents or employees are immune pursuant to common law or statute or for which they are not otherwise liable.

This indemnification includes but is not limited to the actual or potential liability of the City, in whole or in part, for any releases or threatened releases of contaminants at or from other property to which solid waste, formerly disposed of at the Site 2/3 landfill expansion, has been transported (or for which the transportation has been arranged) by BFI, its agents or successors.

Further, BFI agrees to defend, indemnify and hold the City, its officers, agents and employees harmless from and against any Liability asserted against or incurred by the City arising, in whole or in part, out of the movement of vehicles, or the transportation or spillage of solid waste, to or from the Landfill.

The obligations of this Paragraph shall have no termination date.

#### **14. Insurance.**

BFI shall obtain the following minimum insurance: (a) commercial general liability insurance, on a comprehensive, broad form policy, covering all activities conducted or to be conducted by BFI on or from the BFI Property, including contractual liability coverage for BFI's indemnification obligations hereunder, premises coverage, completed operations coverage, owned and non-owned vehicles and equipment coverage, contractors protective coverage, and waiver of subrogation as against the City (and its officers, agents and employees); and (b) pollution legal liability insurance covering bodily injury and property damage liability arising out of the

actual or threatened release of contaminants from the BFI Property, and covering the costs of remedial action for any contaminants which have been or are threatened to be released from the BFI Property. To the extent permitted by law, all or any part of any required insurance may be provided under a plan of self insurance. Under all coverages the City, its officers, agents and employees shall be named additional insureds by endorsement. Limits of liability for the coverage shall not be less than \$2,000,000 per occurrence and \$6,000,000 annual aggregate. Coverage here required shall be maintained from the date construction commences on the Sites 2 and 3 Landfill expansion until certification that the post-closure period for the Landfills has terminated. BFI shall cause the City to be provided with certificates of insurance evidencing the coverages stated herein, which certificates shall prohibit cancellation of the policies or any significant alteration of the coverages, except upon thirty days' notice to City, and which certificates shall state the City's additional insured status. The City may, upon written request to BFI, obtain a complete copy of any then-applicable policies.

**15. Host Benefit Fee.**

BFI shall pay the City a Host Benefit Fee and, in exchange for said Fee, the City agrees not to levy any additional fees on BFI's disposal of solid waste or operation of the Landfills. Provided, however, the foregoing shall not apply to real estate taxes, to any other fee or tax validly and uniformly made against all members of a class or taxpayers other than as owner or operator of a solid waste management facility, or to any fees or taxes for which BFI is obligated pursuant to state law.

**a. Calculation**

- (1) BFI shall pay the City the following fees:
  - (a) A \$100,000 lump sum fee for solid waste accepted at the solid waste landfill now being conducted on Sites 1 and 2; and,
  - (b) A per-ton based fee, calculated on a calendar quarterly basis, applied to each ton of solid waste accepted at the BFI Property, during the quarter, for disposal at the Site 2/3 landfill expansion. The initial fee shall be \$2.00 per ton.
- (2) (a) The Host Benefit Fee Rate under a.(1)(b) shall be adjusted upward whenever BFI increases its posted gate rate for the disposal of solid waste, not including that portion of the posted gate rate or any increase which is due to fees or taxes or an increase of fees or taxes currently levied or which may be levied in the future by any governmental body. Each upward adjustment shall increase the then-existing fee equal to the percentage increase in the posted gate rate. BFI shall certify, with each Host Benefit Fee payment hereunder, the daily posted gate rate for disposal of solid waste during the quarter for which payment is made, indicating how much of that rate is for government levied or assessed fees, taxes or surcharges.
  - (b) In the event of a posted gate rate increase of 10% or more, BFI may request the opportunity to demonstrate to the City that all or a portion of the increase, in excess of 10%, was necessitated by the requirements of new governmental regulations or permit requirements. The City shall entertain such demonstration

in good faith. Any amount of such increase, in excess of 10%, reasonably demonstrated to have been so necessitated, shall not be considered in upward fee adjustments.

(3) The Host Benefit Fee Rate shall never decrease.

(4) The weight of solid waste actually managed each quarter shall be determined by a certified scale, independently inspected and calibrated semi-annually. Gross tonnages shall be certified in writing by the Controller of BFI, subject to City audit pursuant to Paragraph 8.b..

**b. Payment**

(1) Except as provided in subparagraph (2), the Host Benefit Fee shall be payable to the City on a calendar quarterly basis. Payments must be received by the City by the 30th day of the month following the end of each quarter. Any Host Benefit Fee payment not received by the City by the above deadline shall be subject to a late charge of 2% of the total quarterly Host Benefit Fee plus accrued late charges per month or fraction of a month for which the payment is late.

(2) The payment of the Host Benefit Fee provided in subparagraph a.(1)(a) shall be due to the City as follows:

- (a) \$50,000 of such lump sum fee shall be paid at the time of execution of this Agreement; and,
- (b) \$50,000 of such lump sum fee shall be paid at the time of a final and unappealable determination granting site location or land use approval for the proposed expansion, if such determination is made.

**16. Preference for City Residents and Firms.**



BFI agrees that it shall give preference to suitably skilled applicants residing in the City before hiring applicants residing in other communities for work at the BFI Property, to the extent that such preference does not violate any state or federal employment and civil rights laws or union contracts. Further, BFI agrees that for all work performed by BFI in the City, it shall use its best efforts to have its contractors give preference to hiring new employees from suitably skilled applicants residing in the City before hiring applicants residing in other communities.

BFI agrees that, in awarding contracts for goods or services, it shall give preference to firms based in the City which provide a competitive price or bid (where bidding is required) and which are capable of performing the required work, before contracting with or otherwise retaining firms headquartered elsewhere.

BFI will notify the City promptly of each job opening and contract opportunity at the BFI Property, and shall use its best efforts to provide such notice not less than 48 hours before BFI publicly announces such opening or opportunity.

#### **17. City Obligations.**

The City agrees to suitably maintain the existing structural integrity of all highways within its maintenance jurisdiction which are utilized by BFI in its operations. In addition, the City shall assist BFI in protecting the health, safety and welfare of its citizens by taking all reasonable steps within its power to offer technical and socio-economic advice to BFI, where appropriate. The City shall also aid in public education by making the opinions of its independent experts at the siting hearing on BFI's planned request for site location approval regarding Sites 2 and 3 available to the public in a manner and to the extent which the City, in

its sole discretion, deems appropriate.

**18. Highway Upgrades, Obstructions and Littering.**

BFI agrees to pay all costs incurred by the City in upgrading or widening streets under the City's jurisdiction, or adding or upgrading traffic controls, necessitated, in whole or in part, by the number, speed or weight of vehicles going to or coming from, or reasonably anticipated by the City to be going to or coming from, the Landfills. Only streets, or sections thereof, located within one-quarter mile of the BFI Property shall be subject to the foregoing requirements. Streets, such as residential streets, used for waste collection, and not as main transportation routes to the BFI Property, are specifically excluded from the foregoing requirement.

BFI further agrees to keep all areas at and around the BFI Property free from loose debris or litter resulting from operation and maintenance of the Landfills and shall keep the public streets and adjacent areas at and within one-quarter ( $\frac{1}{4}$ ) mile of the Landfill entrance(s) free from mud, dust and litter from vehicles using the Landfills.

Policing and cleanup of litter during each day of Landfill operation shall be required within the boundaries set forth in Exhibit A and within 500 feet of those boundaries.

**19. Community Information Program.**

BFI agrees to establish a Community Information Program in conjunction with the City which shall include, at a minimum, a staffed hotline, which members of the public may call (anonymously, if preferred), to solicit information concerning operations on the BFI Property or to report incidents of alleged violations of environmental or employee safety and health laws

or regulations, the Landfill permits, the conditions of site location approval and this Agreement. Such hotline shall be staffed by persons knowledgeable about the BFI Property and operations, appointed by and responsible to the Landfills' manager.

b. BFI's compliance with the hotline requirement shall be considered by the City to be compliance with the first sentence of Paragraph 17 of the Stipulation.

**20. Recreational Facilities Agreement.**

Within 12 months of the date of this Agreement, BFI and the City shall conclude a written agreement, pursuant to which BFI will construct certain recreational facilities, such as public trails or paths, on certain properties owned by the City of Zion, adjoining the BFI Property. Compliance with the foregoing is required by this Agreement and the terms of Paragraph 18 of the Stipulation.

**21. Enforcement.**

a. The City and BFI agree that each of them shall have the right to enforce this Agreement by an action in Lake County Circuit Court. However, prior to commencing such action, a party agrees to give the complained-against party ten (10) days written notice of any non-compliance alleged to constitute a violation of this Agreement. In return, within five (5) days after receipt of such notice, the complained-against party agrees to inform the complaining party in writing of all specific defenses which it asserts to the alleged violation. The complained-against party shall have the right to correct such violation within the ten (10) day period, or within such time as the parties may agree in writing. Time periods herein shall not include weekends and holidays.

If such a violation is not corrected by the complained-against party to the satisfaction of the complaining party, the complaining party may seek any and all appropriate relief without limitation and, if successful, shall be entitled to reasonable attorneys' fees and litigation costs.

The right here conferred is not a substitute for nor in derogation of the right of either party to select any other forum for resolution of its rights.

b. BFI represents and warrants that the Landfills and all operations conducted by BFI upon the BFI Property will be conducted in compliance with the applicable requirements of the Illinois Environmental Protection Act and the rules and regulations of the Illinois Pollution Control Board. In the event of a breach of this representation and warranty, the City is authorized to seek enforcement as provided in subparagraph a. above.

22. **Force Majeure.** The performance of this Agreement, except for the payment of Host City Fees already earned, may be suspended by either party in the event performance by a party is prevented by a cause or causes beyond the reasonable control of such party. Such causes shall include, but not be limited to, acts of God, acts of war, riot, fire, explosion, flood or sabotage; lack of adequate fuel, power or raw materials; governmental laws, regulations, requirements, orders or actions; breakage or failure of machinery or apparatus; injunctions or restraining orders; labor trouble, strike or lockout. In the event of a performance-suspending event, the party whose performance is affected shall promptly notify the other party, in writing, describing the event, the anticipated length of suspension, and actions to be taken to mitigate the harmful consequences of such suspension.

23. **Miscellaneous.**

If any provision or subsection hereof or the application thereof to any person or circumstance, is held invalid, the other provisions of this Agreement and/or their applicability to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this Agreement that the same would have been adopted had such invalid provision, if any, not been included herein.

**24. Conformance to County Plan.** The Solid Waste Agency of Lake County, Illinois (SWALCO), of which the City is a member, has established the Lake County Solid Waste Management Plan ("SWALCO Plan"). BFI agrees to continue its participation in and support for SWALCO and to give effect to the SWALCO Plan, where applicable.

**25. Guaranty of Performance.**

As additional consideration for and assurance of performance of this Agreement, BFI and its corporate parent tender, and the City accepts, the Guaranty of Performance attached hereto as Exhibit D.

**26. Authority to Enter Into Agreement.**

BFI hereby represents and warrants that it is a valid and existing Delaware corporation and that the individuals executing this Agreement have been duly authorized by the corporation to act on its behalf and enter into this Agreement. BFI agrees to provide the City with sufficient proof of said authorization which proof shall include but not be limited to an appropriate corporate resolution authorizing the execution of this Agreement.

BROWNING-FERRIS INDUSTRIES OF ILLINOIS, INC.

By: Charles J. Murphy Attest: Robert F. [Signature]  
Its: Vice President Its: Attorney

THE CITY OF ZION

By: B. McCullough Attest: Peter J. Cioni  
Its: MAYOR Its: Dir. of Planning & Zoning

## C.2 – SWALCO / Lake County

**SECOND AMENDMENT TO HOST AGREEMENT BETWEEN**  
**Zion Landfill, INC. Zion Landfill**  
**AND**  
**THE COUNTY OF LAKE, ILLINOIS, AND**  
**THE SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS**

**THIS SECOND AMENDMENT TO HOST AGREEMENT** (hereafter "Second Amendment") is made this \_\_\_\_ day of June, 2021 between Zion Landfill, Inc., an Illinois corporation, (hereinafter referred to as "Zion Landfill" and formerly known as Advanced Disposal Services Zion Landfill, Inc., Veolia ES Zion Landfill, Inc., Onyx Zion Landfill, Inc., and Superior Zion Landfill, Inc.), the County of Lake, Illinois, a body politic and corporate of the State of Illinois (hereinafter referred to as "Lake County"); and the Solid Waste Agency of Lake County, Illinois, an Illinois statutory solid waste agency (hereinafter referred to as the "Agency").

**WHEREAS**, on January 28, 2010, Zion Landfill, which was then known as Veolia ES Zion Landfill, Inc., Lake County and the Agency entered into a Host Agreement (hereinafter referred to as the "Agreement"), regarding the expansion of the landfill, which is owned and operated by Zion Landfill (hereinafter referred to as the "Zion Landfill," which shall also include the Landfill Expansion defined herein when not referred to as the "existing Zion Landfill"), located in the City of Zion, Lake County, Illinois; and

**WHEREAS**, the Agreement was amended on June 24, 2010 to clarify the payment of a fee imposed upon the deposition of waste pursuant to 415 ILCS 5/22.15(j) of the Illinois Environmental Protection Act; and

**WHEREAS**, the current permit boundaries of the Zion Landfill are set forth in the Agreement; and

**WHEREAS**, Zion Landfill desires to expand the waste boundaries of the existing Zion Landfill vertically above the northeasterly portion of the existing Zion Landfill and horizontally onto 65.6 acres north of the existing Zion Landfill, all of which is located in the legal boundary limits of the City of Zion, Illinois (hereinafter referred to as the "Landfill Expansion"); and

**WHEREAS**, the proposed northerly horizontal Landfill Expansion is included in the property legally described in Exhibit A, attached hereto and incorporated herein, and depicted in Exhibit B, attached hereto and incorporated herein; and



**WHEREAS**, Zion Landfill, Lake County and the Agency desire to enter into this Second Amendment to the Agreement, pursuant to the Lake County Solid Waste Management Plan.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration recited in the Agreement, the receipt and sufficiency of which are hereby acknowledged, Zion Landfill, Lake County and the Agency agree as follows:

1. That the above recitals are incorporated as a part of this Second Amendment as though set forth herein.
2. That Section 2 of the Agreement is hereby updated with a new legal description of the lands covered by this Agreement as set forth in Exhibit A, attached hereto, and a new depiction of the lands covered in Exhibit B, attached hereto.
3. That Section 5 of the Agreement is hereby replaced in its entirety with the following paragraphs:
  - a. Commencing on the date on which this Second Agreement is signed by all parties, and subject to force majeure, Zion Landfill agrees to provide disposal capacity for waste generated in Lake County at the existing Zion Landfill and the Landfill Expansion in the amount of 300,000 tons per year for so long as more than one year of disposal capacity in excess of 300,000 tons remains at the Zion Landfill as now or hereafter expanded.
  - b. The guarantee of capacity granted to Lake County by Zion Landfill does not create an obligation for Lake County to deliver any quantity of waste to Zion Landfill and neither the Agency nor Lake County, nor their members shall be liable for any damages, either at law, liquidated or consequential or otherwise, by reason of such failure of delivery.
4. That Section 6 of the Agreement is amended by adding the following sentence to the existing sentence:

The parties to this Second Amendment agree that the Property Value Protection Agreement ("PVPA") provision as set forth in the City of Zion's host agreement dated May 21, 2019 with Zion Landfill covers Bona Fide Sales by qualified Owners under the PVPA and that the rights and benefits set forth in the PVPA are personal to the Owners, unless the sale, conveyance, or transfer is to an heir,

beneficiary, personal representative, guardian, trustee or to terminate a joint tenancy or pursuant to a Decree of Dissolution of Marriage, which are not deemed to be compensated Sales within the meaning of the PVPA and in which case the new property owner shall be entitled to the same protections under the PVPA as the preceding Owner.

5. That Section 7 of the Agreement is amended by adding the following sentence and subsections to the existing sentence.

The parties to this Second Amendment agree that Section 10.a.(1) of the monitoring well contamination provisions in the City of Zion's host agreement with Zion Landfill, dated May 21, 2019, shall be augmented with the additional requirement that private wells located downgradient within 750 feet of the Landfill's affected monitoring well or, if no such well is located within 750 feet of the affected monitoring well, the nearest down gradient private well, which has been subject to Background analysis, shall be sampled for contamination. Within 60 days of non-appealable siting approval, Zion Landfill shall obtain Background analysis data for those wells for which the present owner desires the protection (both existing and those newly included due to the expansion) for whom Zion Landfill does not have Background analysis tests."

6. That a new section is added to the Agreement, Section 8.1 Environmental Safeguards, and that it include the following subsections:

**Section 8.1 Environmental Safeguards**

- a. Zion Landfill shall include in its siting application submitted to the City of Zion and the permit application submitted to the Illinois Environmental Protection Agency the Odor Control Plan attached hereto and incorporated herein as Exhibit C.
- b. Zion Landfill shall include in its siting application submitted to the City of Zion and the permit application submitted to the Illinois Environmental Protection Agency the Noise Control Plan attached hereto and incorporated herein as Exhibit D.
- c. Zion Landfill shall include in its siting application submitted to the City of Zion and the permit application submitted to the Illinois Environmental Protection

Agency the Litter Control Plan attached hereto and incorporated herein as Exhibit E.

- d. Zion Landfill shall include in its siting application submitted to the City of Zion and the permit application submitted to the Illinois Environmental Protection Agency the Wind Erosion/Fugitive Particulate Matter Emission Control Plan attached hereto and incorporated herein as Exhibit F.
- e. Zion Landfill shall continue the existing USDA program for bird mitigation. The bird mitigation plan shall be reviewed on an annual basis with the Agency and updated, if necessary, to adapt to changing conditions at the Landfill. The Bird Monitoring and Control Plan is attached as Exhibit H.
- f. The parties agree that Zion Landfill shall not request any modifications to the plans described in subsections a., b., c., and d.; however, if any of the plans described in subsections a., b., c., and d. of this Section 8.1 are revised or amended as a result of the City of Zion's siting decision, Zion Landfill shall be permitted to submit a permit application to the Illinois Environmental Protection Agency with such plans that are consistent with the siting decision. The parties further agree that the plans described in subsections a., b., c., and d. shall become effective upon non-appealable siting approval (and not issuance of the development permit).
- g. For so long as the Zion Landfill is accepting and depositing waste, Zion Landfill shall provide screening and buffering of all landfilling operations. At a minimum, the screening and buffering shall consist of the following:
  - i. Screening and buffering of landfill operations as described in Criteria 2 (landfill operations) and Criteria 3 (land use compatibility) sections of the Siting Application;
  - ii. Installing a permanent perimeter fence around the landfill to prevent unauthorized site access, including a section of fence from the north side of Foreman Drive, northward toward Russell Road, as further described in the Litter Control Plan in Exhibit E;
  - iii. To the extent it is reasonable so to do, maintaining existing mature trees along the eastern border of the Landfill Expansion area;
  - iv. Presenting a vegetation plan (location, vegetation type, and planting schedule) in the Siting Application. Lake County and the Agency will assist Zion Landfill in attempting to obtain approval for non-native

plantings if non-native plantings are deemed more effective in screening and buffering.

- v. Maintaining, and if necessary, replacing any vegetation utilized to buffer the Landfill Expansion from adjacent properties.

- h. Zion Landfill shall develop and implement a community relations plan and dedicated website to distribute and receive information from the public. The scope of the community relations plan and website is described in Exhibit G.

7. Section 13 of the Agreement is amended to acknowledge that the Landfill Expansion referred to in this 2<sup>nd</sup> Amendment to the Host Agreement is the Landfill Expansion contemplated by the Lake County Solid Waste Management Plan.

8. That a new section, Section 26, is added to the Agreement and that it include the following paragraph:

**Section 26. Siting Conditions**

The parties agree that all "Final Siting Conditions shall become enforceable before the Pollution Control Board by the County and/or the Agency through standing granted by the provisions of this Agreement. For purposes of this 2<sup>nd</sup> Amendment to the Host Agreement, "Final Siting Conditions" shall be siting conditions that were either not appealed or were appealed but upheld by the Pollution Control Board or Illinois Appellate Court.

9. That a new section, Section 27, is added to the Agreement and that it include the following paragraph:

**Section 27. Proposed Changes to Plans and Safeguards**

Zion Landfill shall notify the County and the Agency, at least 90 days in advance, of any proposed change to any of the following: Well Protection Plan, Odor Control Plan, Noise Control Plan, Litter Control Plan, Wind Erosion/Fugitive Particulate Matter Emission Control Plan; and the USDA program for bird mitigation (hereafter "Safeguards"). Should the County or the Agency determine that the proposed change or changes is or are less protective of the public health, safety and/or welfare, then the County or Agency shall, within the 90 days, or such time period as may be agreed to by the Parties, give notice to Zion Landfill of that determination. Should Zion Landfill proceed with a change to which the County or the Agency has provided its determination that the

change is less protective of the public health, safety and/or welfare, then the County and/or the Agency may seek injunctive relief under the terms of this Agreement in the Circuit Court of the Nineteenth Judicial District (Lake County) to prevent the change from occurring.

IN WITNESS WHEREOF, Zion Landfill, Inc., County of Lake and the Solid Waste Agency of Lake County have caused this Second Amendment to be executed in their respective names, have caused their respective corporate seals to be hereto affixed, and have caused this Second Amendment to be attested, all by their duly authorized officers and representatives, and Zion Landfill, Inc., County of Lake and the Solid Waste Agency of Lake County have caused this Second Amendment to be dated as of the date and year first written above.

SOLID WASTE AGENCY OF LAKE  
COUNTY, ILLINOIS

Attest:

Walt S. [Signature]  
Secretary

By:

Jenn Refack [Signature]

LAKE COUNTY, ILLINOIS

By:

AMT [Signature]

Attest:

Roder M O'Connor [Signature]  
County Clerk

ZION LANDFILL, INC.

By:

[Signature]

Attest:

Angela C. [Signature]



## Lake County Illinois

Agenda Item #

**46**

### Text File

File Number: 10-0595

Introduced: 6/22/2010

Current Status: Joint Committee

Version: 1

Matter Type: resolution

#### Title

Joint resolution approving the First Amendment of Host Agreement between Veolia ES Zion Landfill, Inc. and Lake County, Illinois, and The Solid Waste Agency of Lake County, Illinois.

#### Body

**AMENDMENT OF HOST AGREEMENT BETWEEN  
VEOLIA ES ZION LANDFILL, INC. AND  
LAKE COUNTY, ILLINOIS, AND**

**THE SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS**

THIS AMENDMENT OF HOST AGREEMENT BETWEEN VEOLIA ES ZION LANDFILL, INC., LAKE COUNTY, ILLINOIS, AND THE SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS (hereinafter referred to as "Amendment") is made this \_\_\_\_ day of June, 2010 between Veolia ES Landfill, Inc., an Illinois Corporation, (hereinafter referred to as "Veolia"), Lake County, Illinois, a body politic and corporate of the State of Illinois (hereinafter referred to as "Lake County"), and the Solid Waste Agency of Lake County, Illinois (hereinafter referred to as the "Agency").

**WHEREAS**, on January 28, 2010, Veolia, Lake County and the Agency entered into a Host Agreement (hereinafter referred to as the "Agreement"), regarding the expansion of Veolia's landfill located in the City of Zion, Lake County, Illinois; and

**WHEREAS**, said Agreement provided for the payment of certain Host Fees to Lake County and the payment of a fee imposed upon the deposition of waste pursuant to 415 ILCS 5/22.15(j) (hereinafter referred to as the "Statutory Fee") to the Agency, provided that Lake County shall have first taken all necessary action to amend its prior authorization to collect the Statutory Fee and the Agency shall have taken all necessary action to impose and collect the Statutory Fee; and

**WHEREAS**, Lake County has not taken all necessary action to amend its prior authorization to collect the Statutory Fee and the Agency has not yet taken all necessary action to impose and collect the Statutory Fee, but Lake County and the Agency are authorized by the Amendment to do so at any time; and

**WHEREAS**, Lake County and the Agency wish to alter the parties to which the Statutory Fee is paid under the Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration recited in the Agreement, the receipt and sufficiency of which are hereby acknowledged, Veolia, Lake County and the Agency

agree as follows:

1. That the above recitals are incorporated as a part of this Amendment as though set forth herein.
2. That Section 4.e of the Agreement is hereby replaced with the following paragraph:
  - c. The fee (currently \$1.27/ton) paid to Lake County by Veolia pursuant to Section 22.15(j) of the Act (415 ILCS 5/22.15(j)) (hereinafter referred to as the "Statutory Fee") hereafter shall be paid to Lake County and the Agency, according to the following allocation: seventy-five percent (75%) to the Agency and twenty-five percent (25%) to the County. Payment of the Statutory Fee according to said allocation shall be conditioned upon Lake County and the Agency having first taken all necessary actions required by Section 22.15(j) to impose and collect the Statutory Fee according to said allocation. In the event 415 ILCS 5/15(j) is amended to provide for an increase or decrease in the Statutory Fee, the increase or decrease shall have no effect upon said allocation or upon the amount of the Host Benefit Fee paid pursuant to paragraph a, above.
3. Except as provided herein, all terms and conditions of the Agreement shall remain in full force and effect. If any provisions of the Agreement and this Amendment are inconsistent, the terms and conditions of this Amendment shall apply and supersede the terms of the Agreement.

IN WITNESS WHEREOF, Veolia, Lake County and the Agency have caused this Amendment to be executed in their respective names, have caused their respective corporate seals to be hereto affixed, and have caused this Amendment to be attested, all by their duly authorized officers and representatives, and Veolia, Lake County and the Agency have caused this Amendment to be dated as of the date and year first written above.

SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS

By: Garrett Mount

Attest:

Barbara J. Amadio  
Secretary

LAKE COUNTY, ILLINOIS

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

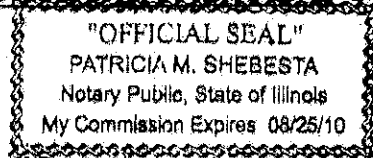
Attest:

\_\_\_\_\_  
County Clerk

VEOLIA ES ZION LANDFILL, INC.

By: James A. Lewis

Attest: Patricia M. Shebesta



Staff Summary

- On January 28, 2010 the Lake County Board approved the Host Agreement with Veolia ES and SWALCO, which was done in accordance with the Solid Waste Management Plan.
- The Host Agreement contained a section (Section 4.c) that addressed the local surcharge fee collected pursuant to State statute. This provision stated that the local surcharge fee would only be collected by SWALCO and not Lake County because at the time the Host Agreement was finalized this was the expected approach to collecting the local surcharge.
- Also on the agenda is a new Intergovernmental agreement between Lake County and the Solid Waste Agency of Lake County regarding the collection of the local surcharge and splitting of the Solid Waste Management Tax Fund. This new IGA requires that both SWALCO and Lake County collect the local surcharge with separate ordinances; therefore, the Veolia ES Host Agreement needs to be amended to allow for both entities to collect the local surcharge.



**AMENDMENT OF HOST AGREEMENT BETWEEN  
VEOLIA ES ZION LANDFILL, INC. AND  
LAKE COUNTY, ILLINOIS, AND  
THE SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS**

THIS AMENDMENT OF HOST AGREEMENT BETWEEN VEOLIA ES ZION LANDFILL, INC., LAKE COUNTY, ILLINOIS, AND THE SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS (hereinafter referred to as "Amendment") is made this 24<sup>th</sup> day of June, 2010 between Veolia ES Landfill, Inc., an Illinois Corporation, (hereinafter referred to as "Veolia"), Lake County, Illinois, a body politic and corporate of the State of Illinois (hereinafter referred to as "Lake County"), and the Solid Waste Agency of Lake County, Illinois (hereinafter referred to as the "Agency").

**WHEREAS**, on January 28, 2010, Veolia, Lake County and the Agency entered into a Host Agreement (hereinafter referred to as the "Agreement"), regarding the expansion of Veolia's landfill located in the City of Zion, Lake County, Illinois; and

**WHEREAS**, said Agreement provided for the payment of certain Host Fees to Lake County and the payment of a fee imposed upon the deposition of waste pursuant to 415 ILCS 5/22.15(j) (hereinafter referred to as the "Statutory Fee") to the Agency, provided that Lake County shall have first taken all necessary action to amend its prior authorization to collect the Statutory Fee and the Agency shall have taken all necessary action to impose and collect the Statutory Fee; and

**WHEREAS**, Lake County has not taken all necessary action to amend its prior authorization to collect the Statutory Fee and the Agency has not yet taken all necessary action to impose and collect the Statutory Fee, but Lake County and the Agency are authorized by the Amendment to do so at any time; and

**WHEREAS**, Lake County and the Agency wish to alter the parties to which the Statutory Fee is paid under the Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration recited in the Agreement, the receipt and sufficiency of which are hereby acknowledged, Veolia, Lake County and the Agency agree as follows:

1. That the above recitals are incorporated as a part of this Amendment as though set forth herein.
2. That Section 4.c of the Agreement is hereby replaced with the following paragraph:
  - c. The fee (currently \$1.27/ton) paid to Lake County by Veolia pursuant to Section 22.15(j) of the Act (415 ILCS 5/22.15(j)) (hereinafter referred to as the "Statutory Fee") hereafter shall be paid to Lake County and the Agency, according to the following allocation: seventy-five percent (75%) to the Agency and twenty-five percent (25%) to the County. Payment of the Statutory Fee according to said allocation shall be conditioned upon Lake County and the Agency having first taken all necessary actions required by Section 22.15(j) to impose and collect the Statutory Fee according to said allocation. In the event 415 ILCS 5/15(j) is amended to provide for an increase or decrease in the Statutory Fee, the increase or decrease shall have no effect upon said allocation or upon the amount of the Host Benefit Fee paid pursuant to paragraph a, above.
3. Except as provided herein, all terms and conditions of the Agreement shall remain in full force and effect. If any provisions of the Agreement and this Amendment are inconsistent, the terms and conditions of this Amendment shall apply and supersede the terms of the Agreement.

IN WITNESS WHEREOF, Veolia, Lake County and the Agency have caused this Amendment to be executed in their respective names, have caused their respective corporate seals to be hereto affixed, and have caused this Amendment to be attested, all by their duly authorized officers and representatives, and Veolia, Lake County and the Agency have caused this Amendment to be dated as of the date and year first written above.

SOLID WASTE AGENCY OF LAKE  
COUNTY, ILLINOIS

By: Larry T. Mount

Attest:

Barbara K. Hladik  
Secretary

LAKE COUNTY, ILLINOIS

By: *[Signature]*

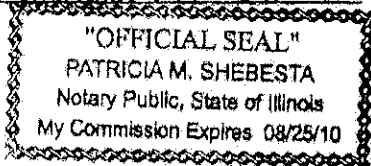
Attest:  
*Cindy M. Payano*  
County Clerk

CHIEF DEPUTY COUNTY CLERK

VEOLIA ES ZION LANDFILL, INC.

By: *James A. Lewis*

Attest:  
*Patricia M. Shebesta*



**HOST AGREEMENT BETWEEN VEOLIA ES ZION**  
**LANDFILL, INC., AN ILLINOIS CORPORATION AND**  
**LAKE COUNTY, ILLINOIS AND THE**  
**SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS**

This HOST AGREEMENT (hereinafter referred to as the "Agreement") is made this 28<sup>th</sup> day of January, 2010 among Veolia ES Zion Landfill, Inc., (hereinafter referred to as "Veolia"), Lake County, Illinois (hereinafter referred to as the "Lake County") and the Solid Waste Agency of Lake County, Illinois (hereinafter referred to as the "Agency").

**WHEREAS**, Veolia owns certain lands located within the City of Zion, Lake County, Illinois (hereinafter referred to as "Property");

**WHEREAS**, the Property is legally described in Exhibit A, attached hereto and incorporated herein; and

**WHEREAS**, a portion of the Property is currently used and permitted by the State of Illinois for a landfill (hereinafter referred to as "Existing Landfill"); and

**WHEREAS**, the Property includes approximately 26.47 acres (hereinafter referred to as "Expansion Property") which is not part of the Existing Landfill; and

**WHEREAS**, Veolia desires to expand the Existing Landfill vertically on a portion of the Existing Landfill and horizontally onto the Expansion Property (hereinafter referred to as "Landfill Expansion"); and

**WHEREAS**, Veolia intends to file with the City of Zion an application for local siting approval for the Landfill Expansion under Section 39.2 of the Illinois Environmental Protection Act (hereinafter referred to as the "Act"), and

**WHEREAS**, Lake County has adopted a Solid Waste Plan (hereinafter referred to as the "Plan") for the County of Lake pursuant to the Illinois Solid Waste Planning and Recycling Act (415 ILCS 1.51 *et seq*); and

**WHEREAS**, the Agency was formed to prepare and implement the Plan; and

**WHEREAS**, the Plan states that, prior to filing a siting application, an applicant for an expansion of an existing landfill shall "first enter into Host Community Benefit Agreements with Lake County, SWALCO and the governing body with jurisdiction over the proposed facility;" and

**WHEREAS**, Veolia, Lake County and the Agency desire to enter into this Host Agreement, consistent with the Plan; and

**WHEREAS**, the City of Zion is the governing body with local siting jurisdiction over the proposed facility, and on June 17, 2008, Veolia entered into an Amendment of Host City Agreement with the City of Zion, consistent with the Plan; and

**WHEREAS**, Lake County, through its Health Department, has entered into a delegation agreement with the Illinois Environmental Protection Agency (hereinafter referred to as the "IEPA") for the inspection of existing and closed landfills within Lake County.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and the other good and valuable consideration recited in this Agreement, the receipt and sufficiency of which are hereby acknowledged, Veolia, Lake County and the Agency agree as follows:

**Section 1. Incorporation of Recitals**

The above recitals are incorporated into this Agreement as though set forth herein.

**Section 2. Lands Covered.**

This Agreement covers the Property, which is legally described in Exhibit A, attached hereto. The Property, including the Expansion Property, is depicted in Exhibit B, attached hereto.

**Section 3. Effective Date.**

This Agreement shall become effective upon the signing of this Agreement (hereinafter referred to as the "Effective Date").

#### **Section 4. Host Benefit Fee**

a. Commencing on January 1, 2012 (hereinafter referred to as the "Commencement Date"), Veolia shall pay Lake County a host benefit fee in the total sum of one dollar forty one cents (\$1.41) for each ton of solid waste permanently disposed of in the Existing Landfill and the Landfill Expansion (hereinafter referred to as "Host Benefit Fee"), provided that the Host Benefit Fee shall not apply to or be payable for the following material:

- i. Clean soil material;
- ii. Material that is used for Alternative Daily Cover or road base and consists of brick, concrete, asphalt or wood, including such material that is crushed, broken, chipped or ground (hereinafter referred to as "Alternative Use Material"), provided that: (1) for Alternative Use Material for which Veolia receives payment, Veolia shall pay a Host Benefit Fee for each ton of such material that is in excess of four thousand (4,000) tons in any calendar year; and (2) for Alternative Use Material that Veolia purchases or accepts free of charge, Veolia shall pay a Host Benefit Fee for each ton of such material that is in excess of the quantity of such material that is equal to ten percent (10%) of the total tonnage of waste and Alternative Use Material received in any calendar year.
- iii. Construction materials, including soil, sand, pipe bedding, surface water management structures, pipes, compost, mulch, clay, gravel, crushed concrete, stone and synthetic materials, used for liner, leachate drainage and collection, surface water management, gas management, and intermediate and final cover, provided that all of such materials shall be clean ("Construction Material").

Veolia may file a written request with Lake County and the Agency for approval of additional Alternative Use Material and/or Construction Material, which request Lake County and the Agency shall review and consider in good faith. Veolia's written request for such approval shall include a statement of the manner in which such additional material would have a beneficial use in the Landfill Expansion and a market value for uses other than for use within a landfill. Unless otherwise exempt from payment of the Host Benefit Fee pursuant to this Section, 4.a., those wastes that receive a Beneficial Use Determination by the IEPA under 415 ILCS 5/22.54 (enacted by Public Act 96-0489) shall not be exempt from the payment of the Host Benefit Fee. Lake County may review Veolia's books and records under Section 4.e. below for the purpose of confirming the amount of solid waste permanently

disposed in the Landfill Expansion that is not exempt from the Host Benefit Fee pursuant to this Section 4.a. A Host Benefit Fee shall not be payable to the Agency.

- b. Beginning on the first anniversary of the Commencement Date, the Host Benefit Fee shall be increased from the Host Benefit Fee of the previous year by two and one-half percent (2.50%).
- c. The fee (currently \$1.27) paid to Lake County by Veolia pursuant to Section 22.15(j) of the Act (415 ILCS 5/22.15(j)) (hereinafter referred to as the "Statutory Fee") shall be paid to the Agency in the manner as described by statute, provided that Lake County shall have first taken all necessary action to repeal its prior authorization to collect the Statutory Fee and the Agency shall have taken all necessary action to impose and collect the Statutory Fee. In the event 415 ILCS 5/15(j) is amended to provide for an increase or decrease in the Statutory Fee, the increase or decrease in the amount of fee shall have no effect upon the amount of the Host Benefit Fee paid pursuant to Paragraph a, above.
- d. The Host Benefit Fee shall be payable to Lake County on a monthly basis. Payments shall be delivered to Lake County no later than the 30<sup>th</sup> day of the month following the end of each month. Late payments shall accrue interest at the statutory rate provided in Paragraph 5/2-1303 of the Code of Civil Procedure (735 ILCS 5/2-1303)
- e. Veolia shall keep complete and accurate books and records relating to the determination of the Host Benefit Fees owed under §4 of this Agreement, in an auditable form. Veolia shall permit Lake County's designated representatives access to such books and records for inspection and photocopying, during the Landfill Expansion's normal business hours, which inspection and photocopying shall be at the expense of Lake County and the Agency and shall be no more than annually. Lake County's designated representatives shall maintain as confidential the information contained in such books and records, but shall be permitted to disclose such information to employees and consultants, which Lake County, in its reasonable discretion, deems appropriate in order to monitor the accuracy of the payments of the Host Benefit Fees in compliance with this Agreement, provided that such employees and consultants shall be subject to the obligation to keep such information confidential. In the event such inspection reveals any underpayment(s) of the Host Benefit Fee, Veolia shall promptly pay to Lake County the amount(s) of such underpayment(s), together with simple interest at the rate of nine percent (9%) per annum from the time any such Host Benefit Fees

were due and owing to Lake County, and reimburse Lake County for its costs and expenses of such inspection and, if necessary, collection, including reasonable professional and attorneys fees in connection therewith. In the event that such inspection reveals any overpayment(s) of the per ton fees, including the Host Benefit Fee and the Statutory Fee, Veolia may credit the amount of such overpayment(s) against the payments of the Host Benefit Fee and the Statutory Fee in subsequent months. Inspection of Veolia's books and records and claims for underpayment shall be made no later than three years following the year for which inspection is being made, provided that interest on any underpayment shall stop accruing one year following the year for which the inspection is being made. Claims for underpayment shall be waived if not made during said three-year period.

#### **Section 5. Capacity Guarantee**

- a. Notwithstanding that the Capacity Guarantee set forth in Section 4.06 of the Disposal Agreement between Browning-Ferris Industries of Illinois, Inc. and Solid Waste Agency of Lake County, Illinois, dated as of December 8, 1994, (hereinafter referred to as "Disposal Agreement") has been exhausted, Veolia agrees to provide to the Agency from the Effective Date to the Commencement Date disposal capacity in the Existing Landfill for Solid Waste and Special Waste originating from within the corporate boundaries of Lake County (hereinafter referred to as "Lake County Waste") in an amount up to four hundred twenty-five thousand (425,000) cubic gate yards per calendar year ("Transition Capacity Guarantee"). The Transition Capacity Guarantee shall be pro rated for the fraction of a calendar year to which the guarantee applies. If the Agency does not use the full Transition Capacity Guarantee in any calendar year or fraction thereof, the unused capacity shall be released in favor of Veolia, and the Agency shall not be entitled to use said unused capacity in subsequent years.
- b. Commencing on the date on which an operating permit is issued by the IEPA for the Landfill Expansion (hereinafter referred to as the "Permit Date"), and subject to force majeure, Veolia agrees to provide disposal capacity at the Landfill Expansion in the combined amount of 300,000 tons per year for a minimum of six (6) years after the Permit Date (hereinafter referred to as "Annual Capacity



Guarantee"). The Annual Capacity Guarantee shall be reduced on a pro rata basis if the first or last year is not a full calendar year. Furthermore, the Annual Capacity Guarantee shall be reduced proportionately if the City of Zion, through a siting condition, or the IEPA, through its permitting process, reduces the disposal capacity of the Landfill Expansion below 8,953,000 air space cubic yards.

- c. If Lake County Waste in the Landfill Expansion accounts for more than the Annual Capacity Guarantee, then the Parties agree to appropriately adjust the period of time over which the Annual Capacity Guarantee is applicable.
- d. Under any circumstances, the failure to deliver any quantity of Lake County Waste to the Landfill Expansion shall not be construed to be a breach of any obligation under this Agreement, and shall not obligate the Agency or Lake County, or their members to pay any damages, either at law, liquidated or consequential or otherwise, by reason of such failure of delivery.
- e. A Veolia engineer shall, within 60 days after the end of each calendar year, certify to the Agency and Lake County the amount of Lake County Waste and total Municipal Waste deposited at the Landfill Expansion for the prior year. Said certification shall also identify the remaining disposal capacity contained within the Landfill Expansion at the end of the calendar year. In addition, Veolia shall provide to the Agency and Lake County a copy of the capacity certification report filed by Veolia with the IEPA.

#### **Section 6. Property Value Protection Plan**

During the term of this Agreement, Veolia shall maintain the Property Value Protection Plan provision as contained in the Host City Agreement dated May 11, 1994 between Veolia and the City of Zion and as amended from time to time.

#### **Section 7. Well Monitoring**

During the term of this Agreement, Veolia shall maintain the Well Monitoring provision as contained in the Host City Agreement dated May 11, 1994 between Veolia and the City of Zion and as amended from time to time.

## **Section 8. Environmental Audit**

At the request of Lake County or the Agency, Veolia shall prepare and certify to the Agency and/or Lake County an environmental audit pursuant to the reasonable requirements of the Agency. Such audit may be requested periodically, but no more often than one time per calendar year, as long as the Landfill Expansion remains open for the receipt of waste. This audit shall demonstrate Veolia's state of compliance with all federal, state or local environmental laws, rules or regulations applicable to the Landfill Expansion and with any conditions or requirements specified in any local siting conditions imposed by the City of Zion and shall include all supporting documents and records. In the alternative, Lake County or the Agency may perform its own periodic environmental audit no more than two times per calendar year, in which case, upon reasonable notice from Lake County or the Agency, Veolia shall provide reasonable access to the Property and all applicable documentation and records to facilitate said environmental review. Unless the Agency is aware of adverse environmental conditions at the Landfill Expansion and notifies Veolia of the same, there shall be no more than two environmental audits per calendar year, whether said audits are prepared by Veolia, Lake County or the Agency.

## **Section 9. Visitation of Premises**

- a. During the term of this Agreement, Lake County's designated representatives (except for competitors of Veolia) shall have the right to visit the Property in the presence of a representative of Veolia if approved in advance by Veolia (which approval shall not be unreasonably withheld) and provided that such visitation shall be conducted in a manner so as to minimize interference with Veolia's performance of its obligations under this Agreement and its operation of the Property.
- b. In connection with any such visits, Lake County and the Agency shall comply, and shall cause their agents, representatives, employees or invitees to comply, with all reasonable rules and regulations adopted by Veolia, including a requirement that each Person visiting the Veolia Property shall sign a statement containing terms and conditions reasonably satisfactory to Veolia, which may require, among other things, that each Person agree to assume the risk of injury during the inspection or visit but not the risk of injury due to the intentional or negligent acts or omissions of Veolia.

- c. Sections 9.a. and 9.b. of this Agreement shall not affect the authority of the Lake County Health Department or other regulatory agencies having jurisdiction over landfill operations to conduct inspections of the Property under the terms of said department's delegation agreement with the IEPA.

#### **Section 10. Obligations of Lake County and the Agency**

As reasonably requested by Veolia, Lake County and the Agency shall assist Veolia in protecting the health, safety and welfare of its citizens by taking all reasonable steps within their power to offer technical and socio-economic advice to Veolia, where appropriate. Lake County and the Agency shall also aid in public education concerning the process for siting a pollution control facility under the Act in a manner and to the extent which Lake County and the Agency in their sole discretion, deem appropriate.

#### **Section 11. Representations**

The Parties represent that they have the requisite power, authority and legal right to enter into and perform their obligations set forth in this Agreement, and the execution, delivery and performance has been authorized by the corporate authorities thereof and constitutes a legal, valid and binding obligation of each respective Party

#### **Section 12. Assignment**

- a. Veolia commits that it will be the sole operator of the Property and will not transfer ownership of the Property or assign its rights and obligations to operate the Property, without the written approval of Lake County or the Agency, which approval shall not be unreasonably withheld. Unless Veolia retains ultimate compliance responsibility under the federal Clean Air Act, Veolia shall not transfer ownership of the gas management system for the Property (hereinafter referred to as "Gas System") or assign its rights and obligations to operate the Gas System, without the written approval of Lake County or the Agency, which approval shall not be unreasonably withheld.
- b. If Veolia decides to transfer ownership of the Property or assign its rights and obligations to operate the Property, upon written notice of said transfer request (hereinafter referred to as the "Transfer Notice"), Lake County and the Agency shall consider (a) the ability of

the transferee, both financially and operationally, to comply with the terms of this Agreement, the terms of all licenses and permits, all other applicable federal and state statutes and regulations, and local ordinances and (b) the past record of convictions or admissions of violations of the transferee (and any subsidiary or parent corporation) in the field of solid waste management and landfill gas management. Within fifteen (15) days after receipt of the Transfer Notice, Lake County and the Agency may request from Veolia such information as may be reasonably necessary to make a determination of the suitability of the transferee under (a) and (b) of this Section 12.b. The Agency and Lake County may require an additional written commitment by the transferee to assume and comply with the duties and obligations of this Agreement and any Siting Conditions. Lake County and the Agency shall have forty-five (45) days after receipt of the Transfer Notice from Veolia, or if additional information is requested by the Agency and Lake County, forty-five (45) days after receipt of such additional information, to review a proposed transfer of ownership of the Property or assignment of Veolia's rights and obligations to operate the Property. If Lake County or the Agency fails to approve or deny Veolia's request for approval within such time period, such request shall be deemed approved.

- c. If Veolia decides to transfer ownership of the Gas System or assign its rights and obligations to operate the Gas System, including ultimate compliance responsibility under the federal Clean Air Act, upon written notice of said transfer request (hereinafter referred to as the "Gas System Transfer Notice"), Lake County and the Agency shall consider (a) the ability of the transferee, both financially and operationally, to comply with the terms of this Agreement, the terms of all licenses and permits, all other applicable federal and state statutes and regulations, and local ordinances and (b) the past record of convictions or admissions of violations of the transferee (and any subsidiary or parent corporation) in the field of solid waste management and landfill gas management. Within fifteen (15) days after receipt of the Gas System Transfer Notice, Lake County and the Agency shall request from Veolia such information as shall be reasonably necessary to make a determination of the suitability of the transferee under (a) and (b) of this Section 12.c. The Agency and Lake County may require an additional written commitment by the transferee to assume and comply with the duties and obligations of

this Agreement and any Siting Conditions that are relevant to the operations of the Gas System. Lake County and the Agency shall have forty-five (45) days after receipt of the Gas System Transfer Notice from Veolia, or if additional information is requested by the Agency and Lake County, forty-five (45) days after receipt of such additional information, to review a proposed transfer of ownership of the Gas System or assignment of Veolia's rights and obligations to operate the Gas System. If Lake County or the Agency fails to approve or deny Veolia's request for approval within the time period set forth above, such request shall be deemed approved.

- d. Subsections a., b. and c. of this Section 12 shall not apply to the operations of Site 1, Phase A, and Site 1, Phase B, of the Veolia Property, which phases remain under the operation of Browning-Ferris Industries of Illinois, Inc. Site 1, Phase A, and Site 1, Phase B, are depicted in Exhibit C, attached hereto.

### **Section 13. Consistency With the Plan**

Lake County and the Agency agree and acknowledge that the Landfill Expansion is currently consistent with the Plan. Lake County and the Agency agree to make this representation in regard to Veolia's proposal for the Landfill Expansion with respect to consistency with the Plan under the siting criterion set forth in 415 ILCS 5/39.2(a)(viii). Lake County and the Agency agree that they will not amend the Plan in a manner that would be inconsistent with said representation prior to the earlier of the date that is 180 days after the date of this Agreement, which is the date first above written, or the date which is the day after Veolia files with the City of Zion under Section 39.2 of the Act an application for local siting approval for the Landfill Expansion.

### **Section 14. Enforcement**

The Agency, Lake County and Veolia agree that each of them shall have the rights available in law or equity to enforce the terms of this Agreement in Lake County Circuit Court. However, prior to commencing such action, a party agrees to give the complained-against party thirty (30) days written notice of any non-compliance alleged to constitute a violation of this Agreement. In return, within fifteen (15) days after receipt of such notice, the complained-against party agrees to inform the complaining party in writing of specific defenses which it asserts to the alleged

violation. The complained-against party shall have the right to correct such violation within the thirty (30) day period, provided, however, that if regulatory review and approval are necessary to correct such violation, and Veolia diligently pursues such regulatory review and approval, the time to commence correction of the violation shall include the time reasonably necessary to prepare an application for regulatory approval and the time for regulatory review. Time periods herein shall not include weekends or holidays

#### **Section 15. Veolia Responsibilities**

- a. Veolia agrees to accept and properly dispose of Lake County Waste at the Landfill Expansion site, and shall maintain the Landfill Expansion in such a manner as to meet the Annual Capacity Guarantee.
- b. Veolia shall comply with all applicable laws, regulations and permits issued thereunder in connection with the operation of the Property, including all law, regulations and permits relating to the receipt of hazardous waste. Veolia agrees that it will not request permits from IEPA for the receipt of hazardous waste to be knowingly deposited in the Landfill Expansion.

#### **Section 16. Rejection Rights**

This Agreement shall not affect or diminish the right of Veolia to reject, in accordance with its policies, procedures, agreements, rules and regulations, deliveries of waste, including Lake County Waste.

#### **Section 17. Term**

Unless sooner terminated, this Agreement shall continue in effect: (1) as long as disposal capacity remains in the Existing Landfill; (2) during the pendency of an application for local siting approval for the Landfill Expansion pursuant to Section 39.2 of the Act, the appeal period thereof, and within three (3) years after any such approval; (3) during the pendency of a request for a development or operational permit from the IEPA for the Landfill Expansion, or the appeal period thereof; or (4) as long as capacity remains in the Landfill Expansion. If none of the foregoing are applicable, Veolia may terminate this Agreement by sending a notice of termination to the Agency and Lake County.

## **Section 18. Indemnification**

- a. Veolia agrees to protect, indemnify and hold harmless the Agency, Lake County, their members, employees or agents (hereinafter referred to as "Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses or suits, and reasonable attorneys' fees, and shall defend the Indemnified Parties, including appeals, for personal injury to, or death of, any person or persons, or for loss or damage to property arising out of the negligence, willful misconduct or breach of this Agreement by Veolia. Veolia is not, however, obligated to protect, indemnify or hold harmless any Indemnified Party for loss or claim resulting from breach of this Agreement by, or the negligence or willful misconduct of, any Indemnified Party. Veolia's aforesaid indemnity is for the exclusive benefit of the Indemnified Parties and in no event shall such indemnity inure to the benefit of any third party. This indemnity shall survive the termination of this Agreement but no claims for indemnification shall be made more than thirty days after the Indemnified Parties, or any of them, have formal notice of a claim by service of process.
- b. The Agency and Lake County agree to protect, indemnify and hold harmless Veolia, its partners and affiliates, employees or agents ("Veolia Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses or suits, and reasonable attorneys' fees, and shall defend the Veolia Indemnified Parties, including appeals, for personal injury to, or death of, any person or persons, or for loss or damage to property arising out of the negligence, willful misconduct or breach of this Agreement by the Agency or Lake County. The Agency and Lake County are not, however, obligated to protect, indemnify or hold harmless any Veolia Indemnified Party for loss or claim resulting from breach of this Agreement by or the negligence or willful misconduct of any Veolia Indemnified Party. The Agency and Lake County's aforesaid indemnity is for the exclusive benefit of the Veolia Indemnified Parties and in no event shall such indemnity inure to the benefit of any third party. This indemnity shall survive the termination of this Agreement but no claims for indemnification shall be made more

than thirty days after the Veolia Indemnified Parties, or any of them, have formal notice of a claim by service of process.

#### **Section 19. Insurance.**

Veolia shall obtain the following minimum insurance: (a) commercial general liability insurance, on a comprehensive, broad form policy, covering all activities conducted or to be conducted by Veolia on or from the Existing Landfill or Landfill Expansion, including contractual liability coverage for Veolia's indemnification obligations hereunder, premises coverage, completed operations coverage, owned and non-owned vehicles and equipment coverage, contractors protective coverage, and waiver of subrogation as against the Agency and the County (or their members, employees or agents); and (b) pollution legal liability insurance covering bodily injury and property damage liability arising out of the actual or threatened release of contaminants from the Existing Landfill or Landfill Expansion, and covering the costs of remedial action for any contaminants which have been or are threatened to be released from the Existing Landfill or Landfill Expansion. To the extent permitted by law, all or any part of any required insurance may be provided under a plan of self-insurance. Under all coverages the Agency and the County, their employees and agents shall be named as additional insured by endorsement. Limits of liability for the coverage shall not be less than \$2,000,000.00 per occurrence and \$6,000,000.00 annual aggregate. Coverage here required shall be maintained from the effective date of this Agreement until certification that the post-closure period has terminated. Veolia shall cause the Agency and the County to be provided with certificates of insurance evidencing the coverages stated herein, which certificates shall prohibit cancellation of the policies or any significant alteration of the coverages, except upon thirty days written notice to the Agency and the County, and which certificates shall state the Agency's and the County's additional insured status. The Agency or the County may, upon written request to Veolia, obtain a complete copy of any applicable policies. This Section shall survive the termination of this Agreement.

#### **Section 20. Notices**

All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or sent by



certified mail, postage prepaid, return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or day upon which the U.S. Postal Service does not deliver mail.

a. If to the Agency:

Executive Director  
Solid Waste Agency of Lake County, Illinois  
1311 North Estes Street  
Gurnee, IL 60031

With copy to:

Larry M. Clark  
Attorney at Law  
700 North Lake Street, Suite 200  
Mundelein, IL 60060

b. If to the County:

Lake County Administrator  
18 North County Street, 9<sup>th</sup> Floor  
Waukegan, IL 60085

With copy to:

Lake County State's Attorney  
18 North County Street, Fourth Floor  
Waukegan, IL 60085

c. If to Veolia:

Veolia ES Zion Landfill  
c/o Landfill Manager  
701 Green Bay Road  
Zion, IL 60099

With copies to:

Michael K. Slattery  
Senior VP and General Counsel  
Veolia Environmental Services North America Corp.  
200 E. Randolph St., Suite 7900  
Chicago, IL 60601

And

Gerald P. Callaghan  
Freeborn & Peters LLP  
311 S. Wacker Drive  
Suite 3000  
Chicago, IL 60606

Such notices shall not be required for routine communications or payments by the Parties.

**Section 21. Severability**

In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the provisions of this Agreement, as so amended, modified, supplemented or otherwise affected by such action.

**Section 22. Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators and trustees of the respective Parties.

**Section 23. Covenants Run With The Land**

Upon issuance by the IEPA of an operating permit for the Landfill Expansion, the Parties agree that the covenants, agreements and understandings contained in this Agreement, including without limitation the obligation to pay the Host Benefit Fee, touch and concern the Expansion Property, and that such covenants, agreements, and understandings shall run with the property, and Veolia agrees that Lake County or the Agency may prepare, and Veolia shall promptly execute duplicate originals of an instrument, in recordable form, which will constitute a memorandum of this Agreement, attaching an executed copy of this Agreement as an exhibit, and record such memorandum in the Office of the Lake County, Illinois Recorder of Deeds.

**Section 24. Replacement of Disposal Agreement.**

The Disposal Agreement shall remain in effect until the Commencement Date, provided that Veolia shall pay Lake County, not the Agency, the following additional amounts under the

Disposal Agreement ("Additional Amounts"): (a) for each ton of Solid Waste and Special Waste received during calendar year 2010 for which Veolia pays the Affected Area Compensation Fee under the Disposal Agreement, Veolia shall pay Lake County the additional amount of fifteen cents (\$0.15); and (b) for each ton of Solid Waste and Special Waste received during calendar year 2011 for which Veolia pays the Affected Area Compensation Fee under the Disposal Agreement, Veolia shall pay Lake County the additional amount of twenty cents (\$0.20). The Additional Amounts for 2010 and 2011 are not cumulative and shall be added only to the Affected Area Compensation Fee otherwise due for the specific calendar year under the Disposal Agreement. The Additional Amounts shall be paid monthly consistent with the procedure for payment of the Affected Area Compensation Fee under the Disposal Agreement. After the Effective Date, Veolia shall not pay to the Agency the Affected Area Compensation under the Disposal Agreement or the Additional Amounts under this Agreement but shall make such payments to Lake County. The Disposal Agreement shall automatically terminate on the Commencement Date. The Agency and Lake County agree that until the Disposal Agreement is terminated Veolia shall continue to pay Affected Area Compensation Fees and the Additional Amounts to Lake County for the same categories of Solid Waste and Special Waste for which Veolia has paid the Agency in the past. Lake County and the Agency agree that Veolia's prior payments of Affected Area Compensation Fees to the Agency satisfy Veolia's financial obligations under the Disposal Agreement up to the Effective Date and that Veolia's payments of Affected Area Compensation Fees and the Additional Amounts to Lake County after the Effective Date will satisfy Veolia's financial obligations under the Disposal Agreement until the Commencement Date.

#### **Section 25. Reimbursement of Fees.**

The Parties to this Agreement agree that the payment of the Host Benefit Fee will be made by Veolia based on the expectation that Veolia will receive all approvals that are necessary for the Landfill Expansion. In the event that all approvals are not received by Veolia for the Landfill Expansion, Lake County agrees to and shall reimburse Veolia for the difference between the Host Benefit Fees paid under this Agreement and the sum of the Affected Area Compensation Fees and the Additional Amounts that would have been paid under the Disposal Agreement if the Disposal Agreement had remained in effect after the Commencement Date. Notwithstanding the

foregoing, if Veolia terminates this Agreement pursuant to Section 17, except if the reason for termination is that there is no longer capacity in the Landfill Expansion, Veolia shall be entitled to receive reimbursement from Lake County.

IN WITNESS WHEREOF, Veolia, Lake County and the Agency have caused this Agreement to be executed in their respective names, have caused their respective corporate seals to be hereto affixed, and have caused this Agreement to be attested, all by their duly authorized officers and representatives, and Veolia, Lake County and the Agency have caused this Agreement to be dated as of the date and year first written above.

SOLID WASTE AGENCY OF LAKE  
COUNTY, ILLINOIS

By: Larry T. Mount

Attest:

Barbara J. Amadio  
Secretary

LAKE COUNTY, ILLINOIS

By: Jeff Belmont

Attest:

William R. Heerden  
County Clerk

VEOLIA ES ZION LANDFILL, INC.

By: Jimmy

Attest:

James A. Lewis

## Exhibit A

# PLAT OF SURVEY

**Parcel 1:**  
That part of the Northwest Quarter of Section 12, Township 46 North, Range 12 East of the Third Principal Meridian, lying East of the centerline of Green Bay Road, in Lake County, Illinois.

**Parcel 2:**  
The Northwest Quarter of Section 7, Township 46 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois.

**Parcel 3:**  
That part of the Northeast Quarter of Section 7, Township 46 North, Range 12 East of the Third Principal Meridian described as follows: Commencing at the Northeast corner of said Northeast Quarter, thence West along the Section line to the East line of the West 75 acres of said Northeast Quarter, thence South along the East line of said West 75 acres, 1243 feet (1243 feet measured); thence East 1402.5 feet (1305.48 feet measured) to the Southwest corner of FORMAN'S SUBDIVISION, thence North 1244.04 feet, more or less, to the point of beginning (except that part of the above described parcel described as follows: Beginning at the Northeast corner of Section 8, also being the Northeast corner of Lot 4 in FORMAN'S SUBDIVISION, thence South 0 degrees 21 minutes 50 seconds West along the West line of Section 8, 609.85 feet; thence South 80 degrees 38 minutes 02 seconds West, 180.5 feet; thence North 0 degrees 21 minutes 58 seconds West on a line parallel to the West line of Lot 4, 370.30 feet; thence West parallel to the North line of the Northeast Quarter of Section 7, 34.50 feet; thence North 0 degrees 21 minutes 58 seconds West 241.25 feet (241.29 feet measured), more or less to the North line of said Section 7, thence East along said North line, 214.50 feet to the point of beginning), TOGETHER WITH the West 75 acres of the Northeast Quarter of Section 7, all in Township 46 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois.

**Parcel 4**  
That part of the Northwest Quarter of Section 7 and of the Northwest Quarter of Section 8, Township 46 North, Range 12 East of the Third Principal Meridian, described as follows: Beginning at a point on the East line of the Northwest Quarter of Section 7, above said, 75 1/3 rods (1243 feet), (1244.04 feet measured) South of the North line of said Quarter Section, running thence West on a line parallel to the North line of said Quarter Section, 65 rods (1022.5 feet), (1305.48 feet measured); thence South, on a line parallel to the West line of said Quarter Section, 40 rods (660 feet), (658.85 feet measured) thence East on a line parallel to the North line of said Section, (1386.53 feet measured) to a point on the East line of said Northwest Quarter, thence North along the East line of the Northwest Quarter of Section 7, a distance of (224.78 feet measured) to the West right-of-way line of Kenosha Road, 40 feet distant from the centerline of said road; thence North along said West right-of-way line, a distance of 224.37 feet, more or less, to a point bearing South 88 degrees 21 minutes 24 seconds East from the point of beginning, also being the Southeast corner of Lot 1 in FORMAN'S SUBDIVISION, thence North 88 degrees 21 minutes 24 seconds West, 232.30 feet, (233.31 feet measured), to the point of beginning, in Lake County, Illinois.

**Parcel 5**  
Lot 1, Lot 2, Lot 3 and the South 164 feet of Lot 4 (as measured along the West line thereof) of FORMAN'S SUBDIVISION, being a subdivision in the Northwest Quarter of Section 8, Township 46 North, Range 12 East of the Third Principal Meridian, according to the plat thereof, recorded November 20, 1954, as Document No. 1012214, in Book 1600 of Records, page 664, in Lake County, Illinois.

**Additional Parcels (cross-hatched)**  
(Lot 4 except the South 340 feet and except the North 240 feet and except the West 60 feet) in FORMAN'S SUBDIVISION, being a subdivision in the Northwest Quarter of Section 8, Township 46 North, Range 12 East of the Third Principal Meridian, according to the plat thereof, recorded November 20, 1954, as Document No. 1012214, in Book 1600 of Records, page 664, in Lake County, Illinois.

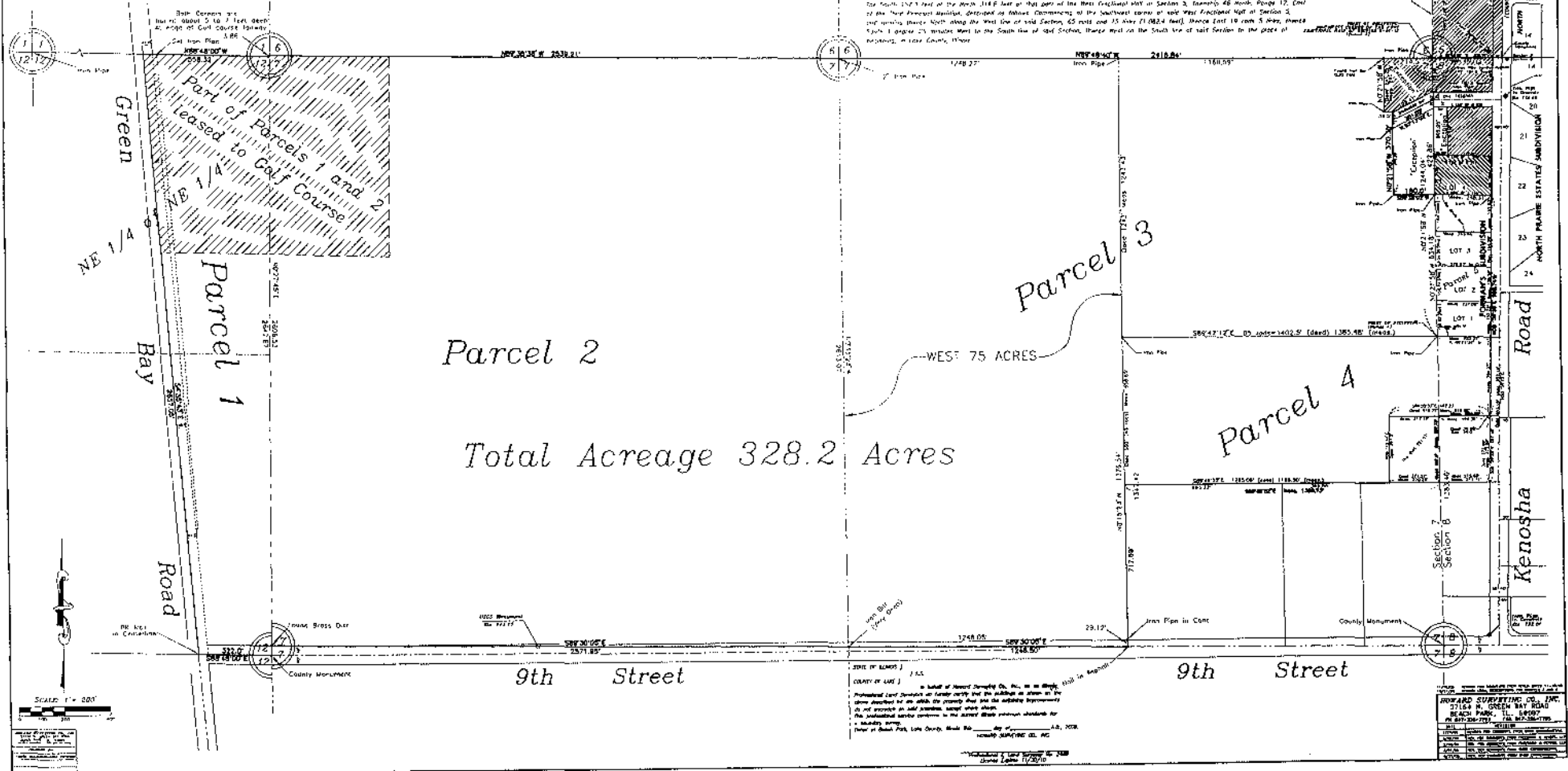
AND  
The North 26 feet of the South 340 feet of Lot 4 in FORMAN'S SUBDIVISION, being a subdivision in the Northwest Quarter of the Northwest Quarter of Section 8, Township 46 North, Range 12 East of the Third Principal Meridian, according to the plat thereof, recorded November 20, 1954, as Document No. 1012214, in Book 1600 of Records, page 664, in Lake County, Illinois.

AND  
That part of the Northwest Quarter of the Northwest Quarter of Section 7, Township 46 North, Range 12 East of the Third Principal Meridian, described as follows: Beginning at the Northwest corner of the Northwest Quarter of the Northwest Quarter, thence South along the East line of said Section 7, 134.0 feet, thence West along the North line of a certain Parcel 2 of a Plat of Division recorded June 18, 1974, as Document No. 1668563, in Book 53 of Plats, page 68, 7.65 feet; thence Southwesterly along the Northwest line of said Parcel 2, 192.41 feet; thence West parallel to the North line of said Northwest Quarter of the Northwest Quarter of Section 7, 28.3 feet; thence North 241.25 feet, more or less, to the North line of said Section 7, thence East along said North line 214.5 feet to the point of beginning, all in Lake County, Illinois.

AND  
The North 124 feet of Lot 4 in FORMAN'S SUBDIVISION, being a subdivision in the Northwest Quarter of Section 8, Township 46 North, Range 12 East of the Third Principal Meridian, according to the plat thereof, recorded November 20, 1954, as Document No. 1012214, in Book 1600 of Records, page 664, in Lake County, Illinois.

[[Except the North 374.5 feet that part of the West Fractional Half of Section 5, Township 46 North, Range 12 East of the Third Principal Meridian, described as follows: Commencing at the Southwest corner of said West Fractional Half of said Section 5, and running thence North on the West line of said Section, 65 rods and 15 feet, thence East 79 rods and 15 feet; thence South 7 degrees and 25 minutes East to the South line of said Section, and thence West along the South line of said Section to the point of beginning, in Lake County, Illinois.

AND  
The South 124.5 feet of the North 340 feet of Lot 4 in FORMAN'S SUBDIVISION, being a subdivision in the Northwest Quarter of Section 8, Township 46 North, Range 12 East of the Third Principal Meridian, described as follows: Commencing at the Southwest corner of said West Fractional Half of said Section 5, and running thence North on the West line of said Section, 65 rods and 15 feet, thence East 79 rods and 15 feet; thence South 7 degrees and 25 minutes East to the South line of said Section, and thence West along the South line of said Section to the point of beginning, in Lake County, Illinois.

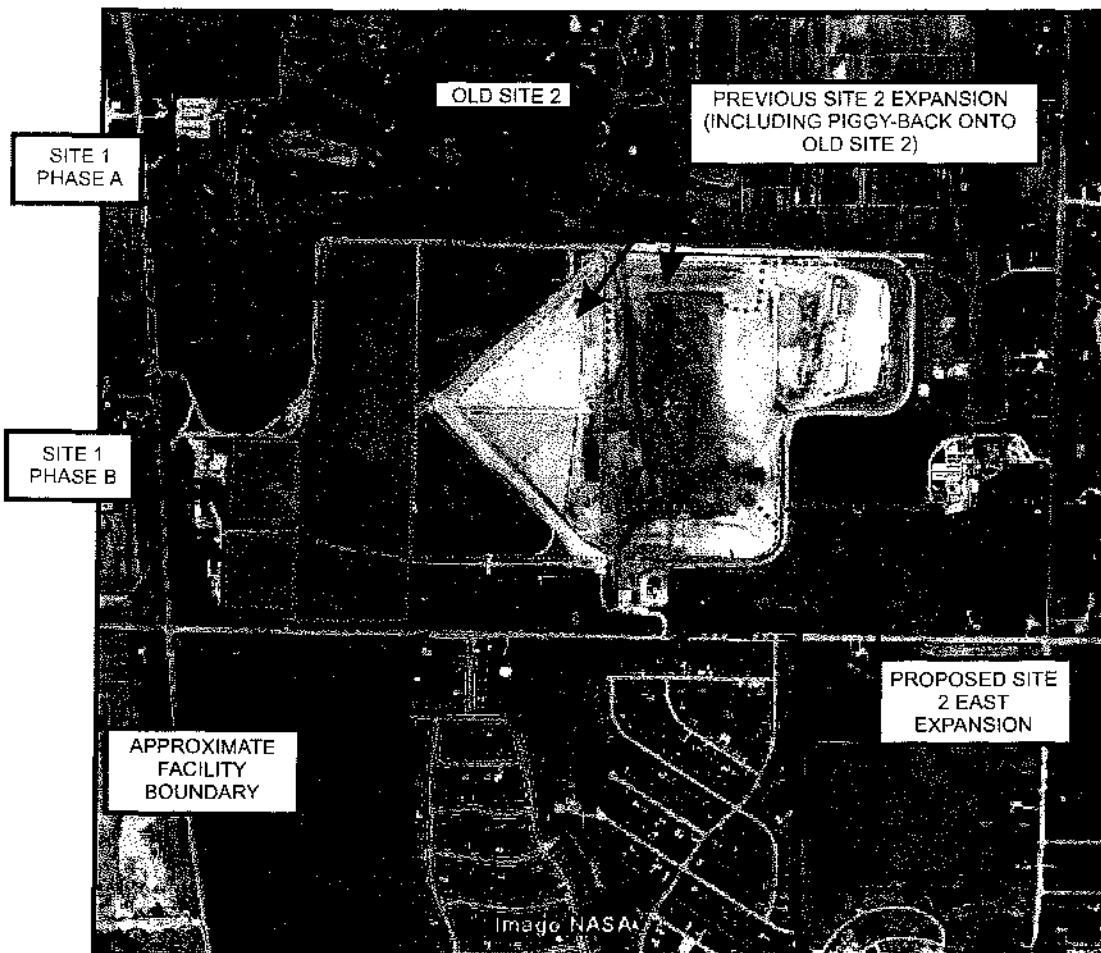


## Exhibit B





## PROJECT LOCATION



Aerial Photo From Google Earth - 2007 Europa Technologies Image NASA, 2007 Navteq

0 ft 1,300 ft



### ZION LANDFILL SITE 2 EAST EXPANSION HYDROGEOLOGIC INVESTIGATION

FIGURE 2.2-2  
SITE LOCATION MAP

APPROVED BY: MNF

PROJ. NO.: 122150

DATE: JULY 2009

## Exhibit C



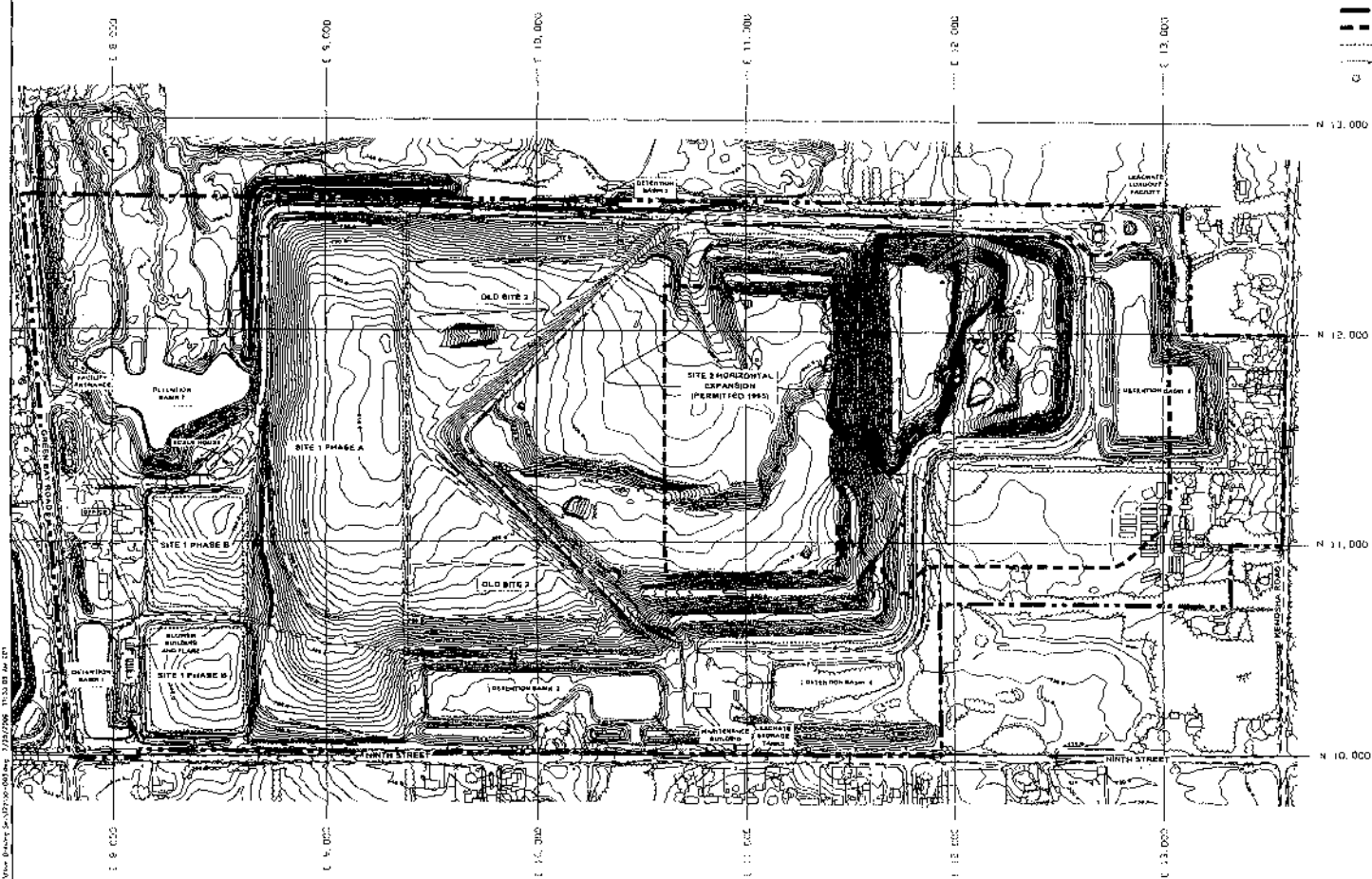
GRAPHIC SCALE  
0 100 200  
Feet

### LEGEND

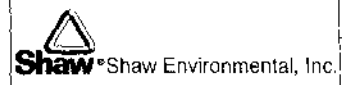
- APPROXIMATE PROPOSED FACILITY BOUNDARY
- - - PROPOSED EXPANSION WASTE AREA
- EXISTING PERMITTED LIMIT OF WASTE AREA
- EXISTING FENCE
- VULNERABILITY
- CULVERTS

### NOTES

1. EXISTING CONTOURS DEVELOPED FROM SITE AERIAL TOPOGRAPHIC SURVEY BY MARINEZ CORPORATION ON APRIL 16, 2007.
2. FOR CLARITY, NOT ALL SITE FEATURES MAY BE SHOWN.
3. CURRENT TOPOGRAPHY MAY DIFFER FROM THAT SHOWN.
4. THE PROPOSED FACILITY BOUNDARY IS APPROXIMATELY 710.3 ACRES.
5. THE PROPOSED EXPANSION WASTE AREA IS APPROXIMATELY 80.3 ACRES, 120.5 ACRES HORIZONTAL EXPANSION AND 54.8 ACRES VERTICAL EXPANSION.



REV	NO	DATE	DESCRIPTION



VEOLIA E.S. ZION LANDFILL-SITE 2 EAST EXPANSION  
CITY OF ZION, ILLINOIS  
EXISTING FACILITY TOPOGRAPHY

PROJ. NO:	122150	DATE:	APR 2008
DESIGNED BY:	ROS	DRAWING NO.	D3
DRAWN BY:	ROS		
CHECKED BY:	ROS		
APPROVED BY:	DAM		3 OF 22 SHEETS

## C.3 – Village of Winthrop Harbor

**RESOLUTION 2021 – R - 13**

**A RESOLUTION ACCEPTING THE CONTRIBUTION AGREEMENT  
BETWEEN ZION LANDFILL, INC. AND VILLAGE OF WINTHROP HARBOR**

**WHEREAS**, Zion Landfill, Inc. (“the company”) is the current operator of the landfill located generally north of 9<sup>th</sup> Street, between Green Bay Road and Kenosha Road, and

**WHEREAS**, the company has purchased certain property to the north of and adjacent to the said landfill, and in so doing, the company is in the process of seeking the appropriate approvals from all necessary units of government to expand the landfill onto the said property, and

**WHEREAS**, the landfill, including the area designated for the expansion is currently located within the City of Zion, and

**WHEREAS**, established Illinois law requires that local siting authority for landfill establishment or expansion is held by the village or city in which the proposed site is located, which law gives the City of Zion rather than the Village of Winthrop Harbor siting authority over this site and the proposed expansion, and

**WHEREAS**, the Village currently has an existing agreement with the company (through its predecessors, Veolia and Advanced Waste Disposal) which provides for payments to the Village on certain tonnage of materials hauled to and disposed of at the company’s landfill, and

**WHEREAS**, the current agreement has a limited lifespan in the context that it covers only the current land used for the company’s landfill and not the expansion area, and

**WHEREAS**, as part of the process of the landfill expansion, the Village, along with other governmental agencies, and with the assistance of the Solid Waste Agency of Lake County has negotiated with the company to extend the current agreement to the expansion area in recognition of the impact of the expansion of the landfill on the residents of this Village and the surrounding areas, but also recognizing the statutorily-limited inability of the Village to exercise significant siting authority over the landfill, and

**WHEREAS**, despite the limitations, and with the assistance of SWALCO, representatives of the Village and the Company have reached a tentative agreement to extend the term of the existing agreement to the entire landfill, including the proposed expansion area, which will have the effect of providing payments for many additional years up to the point in time when the landfill closes and ceases accepting waste for disposal, and

**WHEREAS**, the parties’ tentative agreement is set forth in written form, attached hereto as Exhibit A, and

**WHEREAS**, the corporate authorities do find and declare that the Exhibit A proposal, is clearly in the best interests of this Village, its citizens and its taxpayers, and

**NOW THEREFORE, BE IT RESOLVED** by the Village of Winthrop Harbor, Lake County, Illinois, as follows:

**SECTION ONE:** The proposed Contribution Agreement with Zion Landfill, Inc. in the form attached hereto as Exhibit A is approved and ratified in all respects.

**SECTION TWO:** The Mayor, Clerk and all other Village officials are specifically directed to execute the Exhibit A proposal on behalf of the Village, and to take any and all other steps necessary to effectuate and comply with all terms and provisions of the Exhibit A proposal, so as to bring the monetary benefits therein offered to the citizens and taxpayers of this community.

**SECTION THREE:** This resolution shall take effect immediately upon passage.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WINTHROP HARBOR, ILLINOIS, ON THIS 17<sup>th</sup> DAY OF August, 2021.

ATTEST:

  
DR. MICHAEL BRUNO, MAYOR

  
JULIE RITTENHOUSE, VILLAGE CLERK

## **CONTRIBUTION AGREEMENT**

### **BETWEEN ZION LANDFILL, INC. AND VILLAGE OF WINTHROP HARBOR**

**THIS CONTRIBUTION AGREEMENT** ("Agreement") is made this 17th day of August, 2021 (the "Effective Date"), between Zion Landfill, Inc., an Illinois corporation ("Zion Landfill"), and the Village of Winthrop Harbor, an Illinois municipal corporation ("Village").

**WHEREAS**, Zion Landfill operates a landfill in Zion, Illinois ("Landfill"); and

**WHEREAS**, Zion Landfill has paid a monetary contribution based on certain tons of materials accepted for disposal to the Village since the landfill was first opened in the 1980's; and

**WHEREAS**, a portion of the Landfill was formerly located within the corporate boundaries of the Village; and

**WHEREAS**, in 2006, the Village and Zion Landfill, which was then called Veolia ES Zion Landfill, Inc., entered into an agreement to disconnect lands from the Village of Winthrop Harbor, which agreement was entitled "Proposal" and was approved by Village Resolution 2006-R-18 on July 18, 2006 (the "Disconnection Agreement"); and

**WHEREAS**, the Disconnection Agreement served to terminate all prior agreements between the Village and Zion Landfill, and to work a novation of all terms and conditions incorporated in those prior agreements, with specific modifications laid out in the text of the said Disconnection Agreement; and

**WHEREAS**, pursuant to the terms of the Disconnection Agreement, the Village agreed to disconnect the portion of the proposed Landfill that was located within its corporate boundaries in consideration of the payment by Zion Landfill of a certain sum of money on each ton of waste received at the Landfill upon which Zion Landfill pays a fee to the State of Illinois for the Solid Waste Management Fund pursuant to 415 ILCS 5/22.15; and

**WHEREAS**, Zion Landfill proposes to expand the Landfill on approximately 110 acres located north of the Landfill ("North Expansion"); and

**WHEREAS**, Zion Landfill intends to file with the City of Zion (the local siting authority) an application for local siting approval for the North Expansion under Section 39.2 of the Illinois Environmental Protection Act ("Local Siting Application"); and

**WHEREAS**, the Village recognizes the need of the community, Lake County and the region to have access to conveniently located facilities for solid waste disposal; and

**WHEREAS**, Zion Landfill asserts that the siting of the North Expansion would provide a suitable facility for the management of waste, which is necessary to prevent adverse effects on the environment and to protect public health, safety and growth; and

**WHEREAS**, the Village acknowledges that so long as the expanded landfill is built and maintained to the current and future best management practices prescribed by law, regulation, and industry standards, the site provides the benefits described by Zion Landfill, and acknowledges further that the siting itself is outside of its jurisdiction or control, which causes the Village to rely upon the City of Zion as host, the Illinois Environmental Protection Agency ("IEPA") and Pollution Control Board ("PCB") as the siting and principal regulatory agencies, and upon the Solid Waste Agency of Lake County ("SWALCO") and the Lake County Health Department ("LCHD") as the primary jurisdictional agencies charged with oversight of landfill operations at this site (currently and as proposed to be expanded) to ensure that continued and expanded operations will provide the benefits described by Zion Landfill above; and

**WHEREAS**, the Village recognizes the importance of encouraging planned and orderly land use development, and recognizes the needs of industry and business, which includes solid waste disposal and the Village further acknowledges the societal need to plan for the long-term availability of suitable facilities for the treatment, storage and disposal of waste, which is necessary to preserve the economic strength and viability of the entire market area served by the landfill; and

**WHEREAS**, in furtherance of the above findings, the Village recognizes the benefits of the North Expansion, which would provide a suitable facility for the management of waste, provided the strict utilization of the best management practices as described hereinabove; and

**WHEREAS**, in connection with the proposed North Expansion, Zion Landfill wishes to continue to provide financial contributions to the Village for its environmental programs, including its proposed eco campus, and for other municipal purposes; and

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and the other good and valuable consideration recited in this Agreement, the receipt and sufficiency of which are hereby acknowledged, Zion Landfill and the Village agree as follows:

**Section 1. Recitals.**

The above recitals are incorporated as part of this Agreement as though set forth herein.

**Section 2. Lands Covered.**

This Agreement applies to and covers the Landfill and the North Expansion.

**Section 3. Payments to the Village.**

Zion Landfill agrees to make the following payments to the Village:

- a. Within thirty (30) days after the Effective Date of this Agreement, Zion Landfill shall pay to the Village the sum of Fifty Thousand Dollars (\$50,000) to support the Village's proposed eco-campus. The Village agrees to formally recognize Zion



Landfill's financial support of the eco campus and to publicize such support in a manner mutually agreed upon by Zion Landfill and the Village.

b. During the Term of this Agreement, Zion Landfill agrees to pay to the Village the sum of one dollar (\$1.00) for each ton of waste received at the Landfill and the North Expansion, based on the same types of waste that Zion Landfill pays a fee to the State of Illinois for the Solid Waste Management Fund pursuant to 415 ILCS 5/22.15 ("Per Ton Fee"). Zion Landfill's obligation to pay the Per Ton Fee for waste received at the North Expansion is conditioned on approval of the Local Siting Application by the City of Zion and approval by the Illinois Environmental Protection Agency of a permit authorizing Zion Landfill to operate the North Expansion.

#### **Section 4. In Kind Benefits to the Village.**

Zion Landfill agrees to provide the following additional benefits to the Village:

a. Commencing on the date of final, non-appealable approval of the Local Siting Application with the City of Zion and the Illinois Environmental Protection Agency ("IEPA") for the North Expansion ("Final Approval"), Zion Landfill agrees to accept for disposal, free of charge, at the Landfill and the North Expansion up to 200 tons of solid waste annually from properties owned by the Village. Zion Landfill's obligation to accept and dispose of such waste at the North Expansion is conditioned on approval of the Local Siting Application by the City of Zion and approval by the Illinois Environmental Protection Agency ("IEPA") of a permit authorizing Zion Landfill to operate the North Expansion. In addition, all solid waste received from the Village must be authorized for disposal by the IEPA permit for the Landfill and the North Expansion and shall not contain any special or hazardous waste. Zion Landfill shall not be required to pay the Per Ton Fee on the solid waste delivered to the Landfill and the North Expansion by the Village under this Section 4.a.

b. Commencing on the date of Final Approval, Zion Landfill shall provide annually to residents of the Village two free clean-up events per year. The events shall occur annually on two Saturdays from 8:00 am to 3:00 pm. The dates of the clean-up events shall be mutually approved by the Village and Zion Landfill. At the events, residents shall deliver waste for disposal to the parking area or other area designated by the Landfill near the Landfill entrance on Green Bay Road and shall be required to provide proof of residency in the Village. Zion Landfill's obligation to accept and dispose of waste delivered by residents at the North Expansion is conditioned on approval of the Local Siting Application by the City of Zion and approval by the Illinois Environmental Protection Agency ("IEPA") of a permit authorizing Zion Landfill to operate the North Expansion. In addition, all solid waste received from residents must not contain any special or hazardous waste and must be authorized for disposal by the IEPA permit for the Landfill and the North Expansion. Zion Landfill shall not be required to pay the Per Ton Fee on the solid waste delivered to the Landfill and the North Expansion by Village residents under this Section 4.b.

c. During the Term of this Agreement, Zion Landfill agrees to allow the Solid Waste Agency of Lake County ("SWALCO") to use the Landfill's parking area near the site entrance on Green Bay Road for a household chemical waste collection event one time every five years, provided that SWALCO shall be responsible for transporting the household chemical waste to a facility that is permitted to receive such material, which facility shall not include the Landfill or the North Expansion.

#### **Section 5. Local Siting Application.**

The Village recognizes that the Zion Landfill is an existing contributor to the economic base of the Village, which helps offset some of the less desirable aspects of being located as close as the Village is to a very large landfill and that Zion Landfill is a positive corporate community partner. In consideration of the contributions made by the Zion Landfill to the Village and in recognition of Zion Landfill's proposals to continue to utilize best management practices in conformity with the proscriptions of the IEPA, PCB, SWALCO and LCHD, the Village agrees that it shall not oppose the Local Siting Application or participate in the hearing of the Local Siting Application in such a way as to object to the North Expansion or otherwise take a position in opposition to the North Expansion.

#### **Section 6. Termination of Disconnection Agreement.**

This Agreement shall supersede and replace the Disconnection Agreement and all of its predecessors, which are hereby terminated and no longer in force and effect.

#### **Section 7. Effective Date and Term.**

The Term of this Agreement shall commence on the Effective Date and shall terminate on the date on which the Landfill and the North Expansion are no longer receiving solid waste for disposal and the date on which Zion Landfill begins activities to close the Landfill and the North Expansion pursuant to state regulations. The termination of Zion Landfill's obligations under the Disconnection Agreement and the satisfaction any claims thereunder shall be effective as of the Effective Date. There are no outstanding payments due from Zion Landfill to the Village under the Disconnection Agreement.

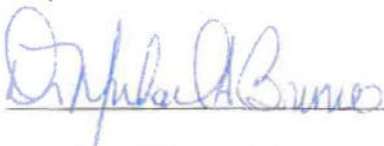
#### **Section 8. Counterparts.**

This Agreement may be signed in counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. This Agreement shall terminate on the later of the date

IN WITNESS WHEREOF, the Village and Zion Landfill have caused this Agreement to be executed by their duly authorized officers and representatives on the dates written below.

VILLAGE OF WINTHROP HARBOR

ZION LANDFILL, INC.

By: 

Its: Dr. Michael Bruno, Mayor

Attest:

By: 

Its: Julie Rittenhouse, Village Clerk

By: 

Its: MIKE STECKIGT  
REGION VICE PRESIDENT

Attest:

By: 

Its: NOTARY PUBLIC