

SOLID WASTE DISPOSAL FACILITATION AGREEMENT

This Solid Waste Disposal Facilitation Agreement (“AGREEMENT”) is entered into by and between Manitowoc County, Wisconsin, a body corporate pursuant to Wis. Stat. § 59.01 (“MANITOWOC COUNTY”) and the _____ of _____, a municipal corporation created pursuant to the Laws of the State of Wisconsin (“MUNICIPALITY”).

WHEREAS, MANITOWOC COUNTY entered into a Waste Disposal Agreement with Waste Management of Wisconsin, Inc. dated _____, 2019 pertaining to waste disposal at the Ridgeview Landfill, a copy of which is attached hereto as *Exhibit A* and incorporated as if fully set forth herein (“MASTER AGREEMENT”); and

WHEREAS, MUNICIPALITY wishes to enter into an agreement with MANITOWOC COUNTY to secure the benefits of the MASTER AGREEMENT pertaining to waste disposal at the Ridgeview Landfill as negotiated by MANITOWOC COUNTY;

NOW, THEREFORE, in consideration of the premises set forth above, and the mutual agreements, covenants, promises, and obligations set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. RECITALS. The foregoing Recitals are hereby incorporated as if fully set forth herein and are hereby made a part of this AGREEMENT.

2. TERM. This AGREEMENT shall commence on May 1, 2019 at 12:00 a.m. and end on April 30, 2034 at 11:59 p.m., which is the end date of the last of the two (2) “ADDITIONAL TERMS” (as that term is defined in the MASTER AGREEMENT) provided for under Paragraph 4 of the MASTER AGREEMENT. Notwithstanding the foregoing, if MANITOWOC COUNTY does not enter into either ADDITIONAL TERM with “OPERATOR” (as that term is defined in the MASTER AGREEMENT), MANITOWOC COUNTY may terminate this AGREEMENT by providing MUNICIPALITY at least thirty (30) days written notice of its intent to terminate this AGREEMENT.

3. MASTER AGREEMENT. MUNICIPALITY agrees to be bound by the terms and conditions of MASTER AGREEMENT as if fully set forth in this AGREEMENT.

4. SOLID WASTE DISPOSAL.

a. MUNICIPALITY agrees that it shall ensure, through any and all means possible, that all “ACCEPTABLE WASTE” (as that term is defined in the MASTER AGREEMENT) from within its boundaries is hauled and disposed of at the Ridgeview Landfill. MUNICIPALITY agrees that it will not pay for disposal of ACCEPTABLE WASTE at any licensed landfill except the Ridgeview Landfill, provided OPERATOR agrees to accept such ACCEPTABLE WASTE on the terms and conditions outlined in the MASTER AGREEMENT.

MUNICIPALITY may develop and participate in programs designed to facilitate source separation, recycling, and incineration.

b. MUNICIPALITY agrees that the cost of all programming necessary to ensure the delivery of all ACCEPTABLE WASTE to the Ridgeview Landfill is MUNICIPALITY's sole responsibility. If MUNICIPALITY fails to develop the programming necessary to ensure the delivery of all ACCEPTABLE WASTE to the Ridgeview Landfill, MANITOWOC COUNTY may recover any cost that it incurs relating to the failure of MUNICIPALITY to deliver its ACCEPTABLE WASTE to the Ridgeview Landfill.

5. **RECYCLING.** If MUNICIPALITY has not entered into a Recycling Agreement with MANITOWOC COUNTY, MUNICIPALITY agrees that the billing rate for disposal of ACCEPTABLE WASTE at the Ridgeview Landfill shall be increased by not less than Five and 00/100 Dollars (\$5.00) and not more than Ten and 00/100 Dollars (\$10.00) per ton, as determined by MANITOWOC COUNTY's Public Works Committee or any other committee designated by MANITOWOC COUNTY's Board of Supervisors.

6. **BILLING AND PAYMENT.** COUNTY shall invoice MUNICIPALITY on a monthly basis. The monthly invoice shall include the tonnage disposed of for the billing period, the then current disposal rate, and the total amount due. All invoices must be paid within thirty (30) days of date of the monthly invoice. MUNICIPALITY shall be responsible for ensuring timely payment to MANITOWOC COUNTY.

7. **INDEMNIFICATION.** MUNICIPALITY agrees to defend, hold harmless, and indemnify MANITOWOC COUNTY and its agents, boards, commissions, committees, departments, employees, officials, and officers for any and all liability of every kind and character, including liability arising from or for actions, causes of action, costs, charges, claims, damages, demands, expenses, fees, judgments, liens, losses, obligations, penalties, proceedings, reasonable attorney fees, settlements, and suits, for injury to persons, death, or damage to property (collectively "CLAIMS") arising in connection with or directly or indirectly out of this AGREEMENT, the MASTER AGREEMENT, and/or MUNICIPALITY's collection, transportation, disposal, and/or delivery of waste. MUNICIPALITY agrees that its duty to defend, hold harmless, and indemnify MANITOWOC COUNTY applies to all CLAIMS whether it is alleged that MANITOWOC COUNTY was negligent and without regard to whether such claims are groundless, false, or fraudulent. In the event that MANITOWOC COUNTY is determined to be negligent, MUNICIPALITY will be relieved of its duty to indemnify MANITOWOC COUNTY only to the extent of MANITOWOC COUNTY's negligence as determined by mutual agreement or by judgment entered by a court of competent jurisdiction. MUNICIPALITY agrees that the rights and obligations set forth in this Paragraph shall survive the termination or expiration of this AGREEMENT.

8. **IMMUNITY.** MANITOWOC COUNTY is a governmental entity entitled to governmental immunity under law, including Wis. Stat. § 893.80. Nothing contained in this

AGREEMENT shall waive the rights and defenses to which MANITOWOC COUNTY may be entitled under law, including all immunities, limitations, and defenses under Wis. Stat. § 893.80 or any subsequent amendment thereof. The rights and obligations set forth in this Paragraph shall survive the termination or expiration of this AGREEMENT.

9. NOTICE. Any notice given under this AGREEMENT shall be in writing and shall be deemed to have been properly given when delivered in person or by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to MANITOWOC COUNTY: _____

COPY to: _____

If to MUNICIPALITY: _____

10. RESERVATION OF RIGHTS; NO WAIVER.

a. No condition, covenant, or term of this AGREEMENT shall be waived unless the waiver is made in writing and signed by duly authorized representatives of both parties.

b. The failure of MANITOWOC COUNTY to take action with respect to any breach by MUNICIPALITY of any covenant, condition, or obligation in this AGREEMENT shall not be a waiver of such covenant, condition, or obligation or a subsequent breach of the same or any other covenant, condition, or obligation.

11. CHOICE OF LAW. This AGREEMENT shall be construed and enforced in accordance with the laws of the State of Wisconsin. Any lawsuit related to or arising out of a dispute under this AGREEMENT shall be commenced and tried in the circuit court of Manitowoc County, Wisconsin, and MANITOWOC COUNTY and MUNICIPALITY agree to submit to the exclusive jurisdiction of the circuit court of Manitowoc County, Wisconsin for such lawsuits.

12. ASSIGNMENT PROHIBITED. This AGREEMENT shall not be assigned without the written consent of the other party. Any assignment shall expressly provide for the assignee to assume and become bound by all of the assigning party's obligations under this AGREEMENT. No assignment shall relieve a party of any of its obligations, express or implied,

under this AGREEMENT. The assigning party shall provide the other party with an executed copy of any assignment.

13. INDEPENDENT CONTRACTOR STATUS. The parties agree and understand that they shall perform their obligations under this AGREEMENT as independent parties to the AGREEMENT. Nothing in this AGREEMENT shall be construed to make either party an agent, employee, employer, partner, or representative of the other party or to otherwise create any other association between the parties.

14. SIGNATURE AUTHORITY. The persons signing this AGREEMENT warrant that they have been authorized to enter into this AGREEMENT by and on behalf of their respective parties and that they have full and complete authority to bind their respective parties by executing this AGREEMENT.

15. PARAGRAPH HEADINGS. All paragraph and subparagraph headings contained in this AGREEMENT are for convenience in reference only, and are not intended to define or limit the scope of any provision.

16. COUNTERPARTS. This AGREEMENT may be executed in several counterparts, each of which shall be taken to be an original, and all collectively but one instrument.

17. MODIFICATION. This AGREEMENT may not be altered, amended, or modified except by a written agreement which expressly states that it constitutes an amendment to this AGREEMENT and which has been signed by duly authorized representatives of the parties.

18. SEVERABILITY. The provisions of this AGREEMENT are severable and if any condition, covenant, or term is found to be invalid, unenforceable, or void by a court of competent jurisdiction, then the remainder of the AGREEMENT shall remain in full force and effect and shall not in any way be affected, impaired, or invalidated.

19. ENTIRE AGREEMENT. This AGREEMENT constitutes the entire agreement between the parties and supersedes any and all other agreements, oral or written, between the parties with respect to its subject matter. Each party acknowledges that no agreement, inducement, promise, or representation has been made by or on behalf of any party except as specifically set forth herein. Each party agrees that no agreement, promise, or statement that is not contained in this AGREEMENT shall be binding on any party. Each party acknowledges and agrees it has relied on its own judgment in entering into this AGREEMENT.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this AGREEMENT on the dates shown below.

[Signatures on Following Page]

MANITOWOC COUNTY

By: Gerard Neuser
Director, Public Works Department

Date: _____

By: _____
Jessica Backus
County Clerk

Date: _____

MUNICIPALITY

By: _____

Its: _____

Name: _____

Date: _____