

**AMENDMENT TO THE CORPORATE BENEFACTOR
AGREEMENT BETWEEN KENOSHA COUNTY AND
WASTE MANAGEMENT OF WISCONSIN, INC.**

This Amendment (“Amendment”) is made and entered into by and between Kenosha County, a Wisconsin municipality (“County”) and Waste Management of Wisconsin, Inc. a Wisconsin corporation (“Operator”), this _____ day of October, 2008.

RECITALS

WHEREAS, the parties previously entered into a Corporate Benefactor Agreement (“Agreement”) dated April 17, 2000; and,

WHEREAS, the Operator has applied to the County for the necessary zoning and conditional use permit to allow the construction and operation of an expansion of its current landfilling activities to be known as the “Western Expansion” at the Pheasant Run Recycling and Disposal Facility (RDF); and

WHEREAS, said Western Expansion is to be located in the Town of Paris on a portion of the former Sabin farm and is preliminarily described in Exhibit A; and

WHEREAS, the Operator has commenced the siting process by sending a notice dated February 20, 2003 to the County pursuant to Sec. 289.22(1m) Wis. Stats.; and

WHEREAS, the County adopted a resolution dated March 18, 2003 pursuant to Sec. 289.33(6), appointed members to the negotiating committee pursuant to Sec. 289.33(7) and has participated in the negotiating process pursuant to Sec. 289.33(9); and

WHEREAS, the Operator and County have discussed certain concerns regarding the Agreement; and,

WHEREAS, the parties desire to address these concerns by amending the prior Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Amendment and other consideration, the parties agree that the Agreement shall be amended or revised as follows:

1. The first sentence of Article I “Term” of the Agreement shall be deleted and replaced with the following:

“The Term of the Agreement shall extend until solid waste is no longer being disposed of in the existing Pheasant Run RDF, the Western Expansion or any future additional expansion(s) of the Pheasant Run RDF provided the County has approved such additional expansion(s) (hereinafter referred to collectively as the “Facilities”).”

2. Article II shall be deleted in its entirety and replaced with the following:

“Waste Management agrees to continue to make an annual donation (“Annual Donation”) to Kenosha County on or before January 6th of each year during the Term of this Agreement. The amount of the Annual Donation shall continue to be \$250,000 until January 6, 2011. On January 6, 2011 and on each anniversary thereafter during the Term of this Agreement the Annual Donation shall be adjusted according to the amount of solid waste disposed in the Pheasant Run RDF (including the Western Expansion) in the preceding calendar year according to the following paragraph.

If over 800,000 tons of solid waste were disposed in the preceding year, the prevailing Annual Donation shall be increased by 4%. If more than 650,000 tons but less than 800,000 tons were disposed of in the preceding year, the prevailing Annual Donation shall be increased by 2%. If more than 500,000 tons but less than 650,000 tons were disposed of in the preceding year, the prevailing Annual Donation shall not be adjusted. If less than 500,000 tons were disposed of in the preceding year, the prevailing Annual Donation shall be reduced by 2%; provided however, at no time during the term of this Agreement shall the Annual Donation ever be less than \$250,000.

For example, if the Operator disposes of 800,000 tons of solid waste anywhere in its Pleasant Run RDF including the Western Expansion during the calendar year 2010, then on January 6, 2011 the Annual Donation shall be increased from \$250,000 by 4% to \$260,000. If during the calendar year 2011 the Operator disposes more than 650,000 but less than 800,000 tons of solid waste in its Pheasant Run RDF, then on January 6, 2012 the Annual Donation shall be increased by 2% from \$260,000 to \$265,200.

Annually, the Operator shall provide the County a written statement of the number of tons of solid waste disposed of in the Pheasant Run RDF the preceding year.”

3. Article III shall be deleted in its entirety.
4. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year shown below.

WASTE MANAGEMENT OF WISCONSIN, INC.

By: _____
Michael Fleming, Market Area General Manager

Date: _____

KENOSHA COUNTY

By: _____
Jim Kreuser, County Executive

Date: _____

Attest: _____
Edna Highland, County Clerk

Date: _____

By: _____
George E. Melcher, Director
Department of Planning and Development

Date: _____

APPROVED AS TO FORM:

By: _____
Frank V. Volpintesta, Esq.
Kenosha County Corporation Counsel

Date: _____

ETHICS COMPLIANCE ADDENDUM

It is agreed and understood by all parties to this contract that:

- I. In addition to ethical standards set forth in Wisconsin Statutes section 19. 59 for all county employees and officials [either elected or appointed] Kenosha county has adopted an ethics policy that is applicable to county employees in conducting county business. That policy may be reviewed at http://www.co.kenosha.wi.us/corpc/documents/05_ch_et.pdf. it is further understood that all county employees and officials [either elected or appointed] are prohibited from engaging in any criminal conduct contrary to Wisconsin Statutes sections 946.12 involving misconduct in public office and 946.13 involving a private interest in a public contract.
- II. This ethics policy is intended to ensure that public trust in Kenosha county government is maintained and that decisions affecting the county and its citizens are made fairly and impartially for the benefit of all citizens and not for personal gain. This policy precludes the misuse or misappropriation of county property or funds for personal use or otherwise, use or disclosure of confidential information for personal gain or otherwise, elimination of conflicts of interests, receipt of gifts or favors or other considerations of value by county employees, the use of the employee's public position to influence or gain unlawful benefits or to influence or gain advantages or privileges for the employee, and the conducting of personal business or campaigning during working hours.
- III. This policy, furthermore, requires employees to disclose and report to the proper authorities any violation of this policy or State Statute by either other employees or by any non-employee or citizen seeking to or aiding or abetting in efforts to circumvent this policy. Any employee failing to make such disclosure or report is subject to discipline. This contract also requires that any party contracting with Kenosha County also report any such violation to either the District Attorney or Corporation Counsel for Kenosha County.
- IV. By executing this contract, each party certifies that it knows of no conflicts of interest or appearance of a conflict or appearance of an impropriety on the part of any current or former county official or employee who may have had a role on deciding which proposal or bid will be accepted, and
- V. By executing this contract, each party certifies that no attempt has been made by anyone on behalf of the party submitting a proposal or bid to directly or indirectly illegally influence the awarding of a contract by promise of or delivery of any consideration or any thing of value to a current or former County official or employee or family or household member of a current or former County official or employee, or in any other manner contrary to law, and

VI. The parties acknowledge that Kenosha County is a municipal corporation legally bound to comply with the Wisconsin Open Meetings and Public Records laws and that as such, unless otherwise allowed for by law, all aspects of this agreement are subject to open discussion and disclosure are a matter of public record. It is furthermore agreed to that no party will take any action to obstruct the operation of these laws. If records are created or maintained or in the custody of the provider, as an independent contractor, they, along with the raw data used to create the record, are, nevertheless, public records. Within legal constraints related to confidentiality and privacy protection, such records must be made immediately available to the public upon request and in the format in which they were created. Provider agrees to hold the County harmless and to indemnify the County for all costs, fees, including all attorney fees and judgments and damages of whatever kind for which the County may be held liable due to the provider's failure to comply with the Wisconsin Public Records and Open Meetings laws.

VII. That any subsequent finding of a violation of either the County's ethics policy or Wisconsin Statutes sections, 19.59, 946.12 and 946.13 by any party or any agent of any party acting either alone or acting in concert with a current or former Kenosha County official or employee may result, at the sole option of Kenosha County, in this agreement being declared null and void and / or may result in the party violating this policy being debarred from submitting proposals, bids or contracting with Kenosha County for a specified period of time in the future.

Dated at Kenosha, Wisconsin this _____ day of _____, 20__.

Kenosha County, by:

_____, by:
