

APPENDIX C.1
CITY OF ZION

AMENDMENT OF HOST CITY AGREEMENT

THIS AMENDMENT OF HOST CITY AGREEMENT (hereinafter referred to as "Amendment") is made this 17th 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	Days of Unexcused Failure to Achieve Performance Standards
\$100	1 st through 14 th day
\$250	15 th through 30 th day
\$750	31 st through 44 th day
\$1000	45 th through 60 th day
\$1250	61 st through 74 th day
\$1500	75 th through 90 th day
\$2000	91 st 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

By: J. Jerome Bennett
Its: Mayor Pro-Tem

Attest:

By: Judy Z. Mackey
Its: City Clerk

VEOLIA ES ZION LANDFILL, INC.

By: J. Mull
Its: J. Mull, Reg. Vice President

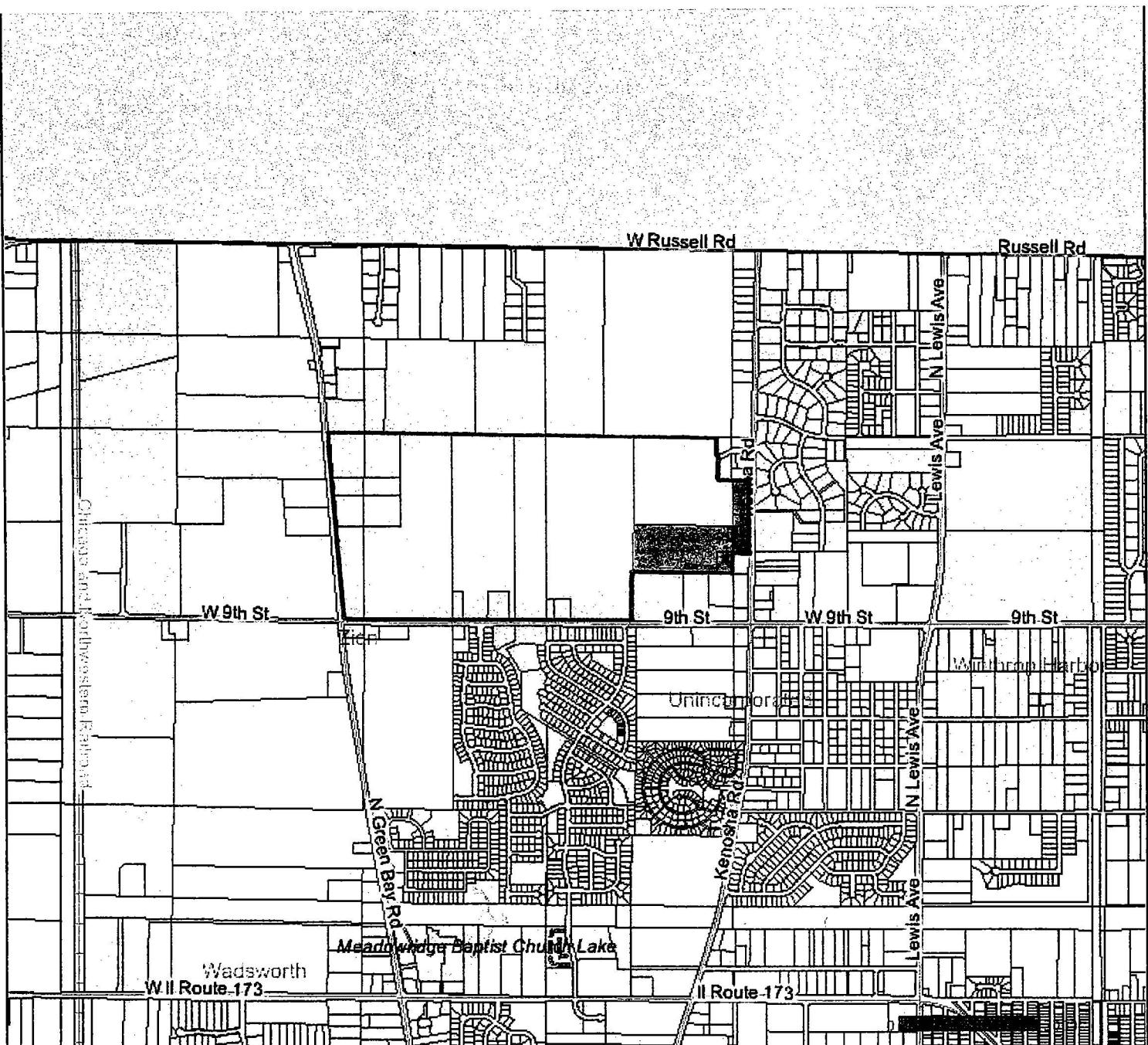
Attest:

By: Melissa M
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 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 11th 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.

FINAL
(Rev. 05/10/94)

BROWNING-FERRIS INDUSTRIES OF ILLINOIS, INC.

By:

Its:

Attest:

Its:

THE CITY OF ZION

By:

Its:

Attest:

Its:

AMENDMENT OF HOST CITY AGREEMENT

THIS AMENDMENT OF HOST CITY AGREEMENT (hereinafter referred to as "Amendment") is made this 17th 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	Days of Unexcused Failure to Achieve Performance Standards
\$100	1st through 14th day
\$250	15th through 30th day
\$750	31st through 44th day
\$1000	45th through 60th day
\$1250	61st through 74th day
\$1500	75th through 90th day
\$2000	91st 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

By: J. Horace Bennett
Its: Mayor Pro-Tem

Attest:

By: Judy Z. Mackey
Its: City Clerk

VEOLIA ES ZION LANDFILL, INC.

By: J. M. R.
Its: Raji Visi Renuk

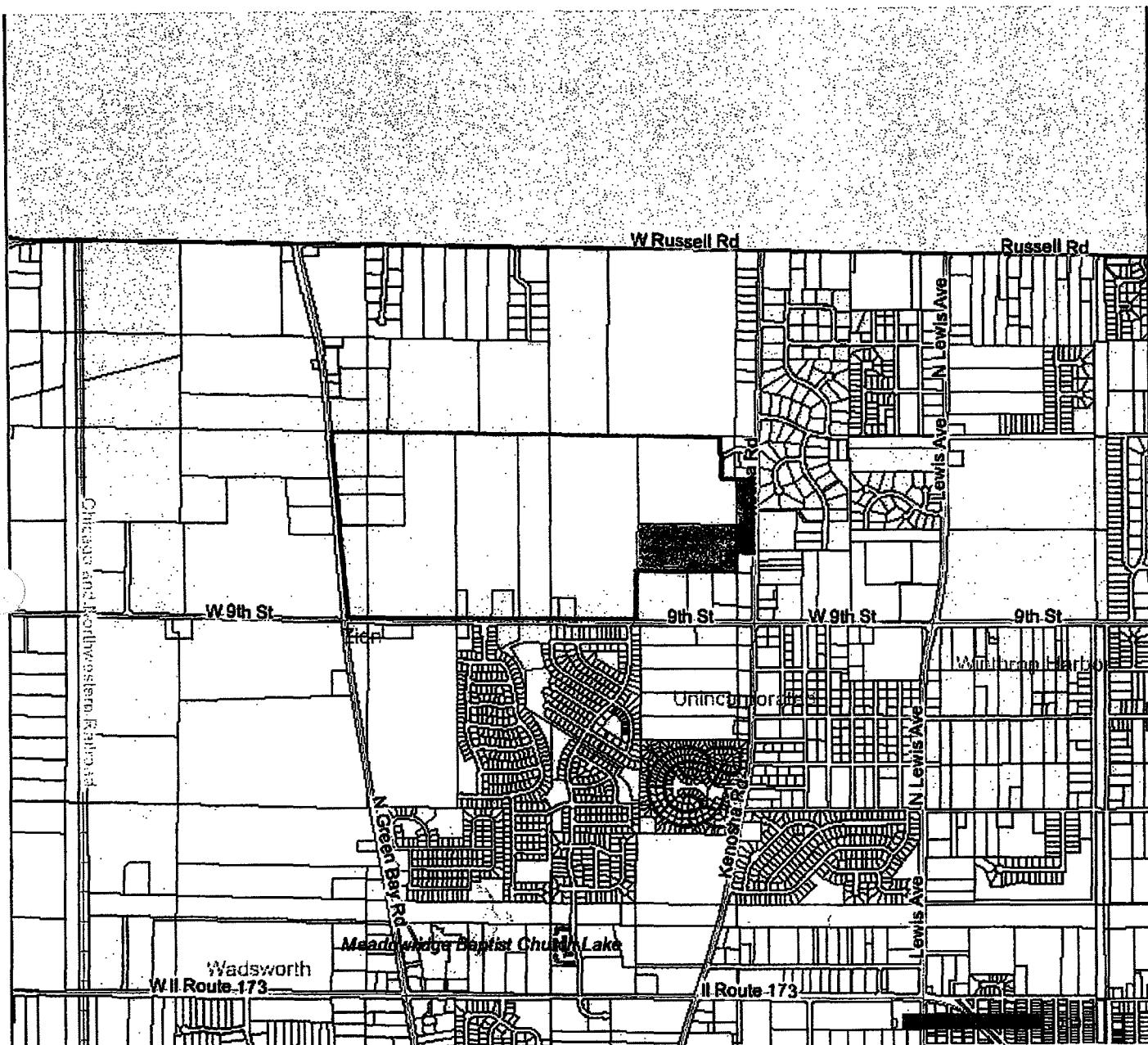
Attest:

By: Melinda M.
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 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.