



Inver Grove Heights City Council
Monday, January 13, 2025 at 7:00 PM
8150 Barbara Ave, Inver Grove Heights, MN 55077

AGENDA

NOTICE TO RESIDENTS: Individuals may submit written public comments in advance of the meeting by emailing comments to Rebecca Kiernan (rkiernan@ighmn.gov). Comments received prior to **12:00 p.m.** on Monday, January 13, 2025, will be provided to the Council at or before the January 13, 2025 meeting.

1. **Call to Order**
2. **Roll Call**
3. **Approval of Agenda**
4. **Regular Business**
 - A. Multiple Agreements and Land Use Approvals to Permit the Vertical Expansion of Pine Bend Landfill (*continued from Jan. 6, 2025 Council meeting*)
 - B. Resolution Tolling Deadline for Compliance with CUP Condition #14 to February 28, 2025
5. **Adjourn**

This document is available upon a three (3) business day request in alternate formats such as braille, large print, audio recording, etc. Please contact Rebecca Kiernan, City Clerk, at 651.450.2513 or rkiernan@ighmn.gov.



Request for Council Action

SUBJECT: **Multiple Agreements and Land Use Approvals to Permit the Vertical Expansion of Pine Bend Landfill (*continued from Jan. 6, 2025 Council meeting*)**

MEETING DATE: January 13, 2025

ITEM TYPE: Regular Business

CONTACT: Kris Wilson, City Administrator, 651.450.2511

ACTION REQUESTED

The Council is asked to continue its consideration of four actions that, when taken together, allow for the continued operation and vertical expansion of Pine Bend Landfill, located at 2495 117th St.

These include:

1. Zoning Code Text Amendment (requires a 3/5 vote)
2. Conditional Use Permit (requires a 4/5 vote)
3. Amendment to Pine Bend Landfill's Existing Non-Conforming Use Certificate (requires a 4/5 vote)
4. Resolution Authorizing the Appropriate Officials to enter into a new Host Community Agreement and a Special Assessment Agreement with Pine Bend Landfill (requires a 3/5 vote)

There is a January 15 statutory deadline to act on the Zoning Code Text Amendment and Conditional Use Permit. The City Attorney and City Administrator recommend acting on all four items at the same meeting and not dividing them up.

BACKGROUND

In June of 2024, Pine Bend Landfill submitted applications for a zoning text amendment, a Conditional Use Permit (CUP), an amendment to its Non-Conforming Use Certificate (NCUC), and an updated Host Community Agreement - all to allow for a vertical expansion of the landfill, located at 2495 117th St. E. in Inver Grove Heights. The City's Environmental Advisory Commission has reviewed the proposed Conditional Use Permit and recommended it to the Council for approval. Similarly, the Planning Commission held a public hearing on the proposed zoning text amendment, CUP and amended NCUC, beginning November 19 and continuing at their December 3 meeting, and then voted (5-2-2) to recommend approval to the City Council. And finally, the City Administrator and City Attorney have negotiated an updated Host Community Agreement for the Council's consideration.

OVERVIEW

Since initially being permitted by the MPCA in 1971, Pine Bend Landfill has operated on approximately 323 acres located at 2495 117th Street, between Highways 52/55 and Rich Valley Boulevard. The Landfill is a sanitary landfill that accepts solid waste for disposal, including mixed

municipal solid waste, non-hazardous industrial solid waste, construction debris and demolition debris, non-infectious waste, and asbestos. The landfill currently has a permitted airspace design capacity of 33,937,400 million cubic yards, including final cover. As of August 2023, the landfill had a remaining permitted airspace design capacity of approximately 2,986,936 cubic yards, including final cover. The landfill currently estimates an annual fill rate of approximately 600,000 cubic yards. This amount, however, can vary significantly depending on various factors.

The landfill is proposing a vertical capacity expansion of 8,185,800 cubic yards, including 7,888,250 cubic yards of waste and 297,550 cubic yards of final cover material. This vertical capacity expansion is referred to as Phase 7. The Phase 7 design proposes to vertically extend the currently permitted 3:1 final cover slopes around the perimeter of the landfill. The design provides for increased capacity vertically without increasing the landfill footprint horizontally. The expansion would extend the life of the landfill about 13.6 years and increase the landfill's elevation by approximately 86.8 feet at the highest point.

CITY LAND-USE APPROVALS REQUESTED BY LANDFILL

In addition to permits and approvals from the MPCA and Dakota County, Pine Bend Landfill's proposed vertical expansion requires the City's approval of the following:

- A Zoning Ordinance Amendment to allow a vertical capacity expansion of the existing sanitary landfill as a conditional use in the IRM overlay district. This does not change the zoning of the landfill, but rather changes what is allowed under the current zoning - to make a taller landfill permissible via a Conditional Use Permit.
- A Conditional Use Permit to allow a vertical capacity expansion of the landfill to a maximum capacity of 8,185,800 cubic yards, including 7,888,250 cubic yards of waste.
- An amendment to the Landfill's existing Non-Conforming Use Certificate to allow the capacity expansion and maximum elevation increase.

HISTORY OF CITY LAND USE APPROVALS

Pine Bend Landfill initially received a Conditional Use Permit (CUP) for its operation in 1975. The landfill became a legal non-conforming use in 1991 when the City adopted an amendment to its Zoning Code that prohibited final disposal facilities for mixed municipal waste within the I-2 zoning district. That amendment prohibited sanitary landfills, such as Pine Bend's, created the Integrated Resource Management Overlay Zoning District, and placed that overlay zoning district on the Pine Bend Landfill and other properties in the area. The overlay zoning district prohibits certain waste industries, restricts and regulates other waste industries, and requires waste industries to be concentrated in the southeast industrial area of the City. Because the Landfill pre-dated this change to the City's Zoning Code, it is allowed to continue operating as a legal non-conforming use.

Since there were numerous questions regarding exactly how the City's new Zoning Code language applied to the Landfill, the City and the Landfill entered into a Non-Conforming Use Certificate (NCUC) in 1995 to resolve these uncertainties. It clarified the zoning status of the landfill, specified the rights and responsibilities of the landfill, and provided the City with more specific controls which had not been clearly defined in the previous Conditional Use Permit.

Since issuance of the Non-Conforming Use Certificate (NCUC) in 1995, the City has approved several additional requests by Pine Bend for modifications to the NCUC and changes to the Landfill. Most of these requests were for accessory uses or minor revisions, such as the establishment of an energy recovery facility for the generation of electricity, open storage of trucks and trailers, a revised landscaping plan, a modified elevation and grading plan, a compost facility, and stockpiling of soils.

In 2004, the City approved the first capacity expansion for the Landfill, to allow an additional 5.6 million cubic yards. This expansion was primarily a vertical expansion over previously filled areas and a small horizontal expansion where the landfill offices are located.

In 2018, the City approved a side slope capacity expansion of 3.53 million cubic yards. This required a change to the City's zoning ordinance and the approval of a new CUP and NCUC Amendment, just like the currently proposed expansion.

Based on existing airspace capacity, at current filling rates, it is anticipated that the landfill would run out of existing Certificate of Need (CON), which is the permitted tons of solid waste the MPCA has authorized the landfill to receive, by January 2028. Additionally, the terms of the existing Host Community Agreement require the landfill to permanently stop accepting waste for disposal and to close the landfill to the public no later than December 31, 2030, or when the permitted airspace capacity of 32.13 million cubic yards (not including final cover) is reached, whichever occurs first.

CURRENT EXPANSION REQUEST

In June 2022, Pine Bend Landfill made application to the State of Minnesota Pollution Control Agency (MPCA) for the proposed vertical capacity expansion currently under review by the City. The MPCA then prepared an Environmental Assessment Worksheet (EAW) for the expansion. In November 2023, the EAC and City Council reviewed the EAW and submitted comments to the MPCA. The MPCA completed the EAW process by making a finding of a negative declaration, meaning that a more involved Environmental Impact Statement (EIS) was not necessary.

The City, with Barr Engineering's assistance, performed four rounds of technical review of the June 2022 Application and September 2022 Addendum that focused on 12 technical topics: waste acceptance, groundwater monitoring system, leachate recirculation, solid waste composting, groundwater quality, surface water management, waste capacity, liner and leachate collection system design, gas monitoring and gas extraction/treatment systems, final cover design, closure, post-closure, contingency action, operation and maintenance plans, and final assurance cost estimates. In October and November of 2023, the EAC and City Council approved the City's technical review memo that included all recommendations submitted to Pine Bend Landfill and the MPCA. Pine Bend Landfill subsequently modified its June 2022 Application and September 2022 Addendum to the MPCA, based on comments provided by the City during this process.

Before the MPCA can act on Pine Bend Landfill's application to the state, the City of Inver Grove Heights and Dakota County must receive, review and act on expansion applications submitted by the Landfill. Pine Bend Landfill submitted an application to the City of Inver Grove Heights on June 17, 2024, to initiate this process with the City.

Barr Engineering's Final Letter Report (attached and dated November 8, 2024), reviews Pine Bend Landfill's application to the City. During this review, Barr Engineering paid particular attention to waste capacity, groundwater quality and trends, surface water, and gas migration and trends. Barr's review states the key environmental-related considerations regarding the proposed Phase 7 expansion are:

- Potential negative impacts would be increased visibility from nearby properties, and a potential increase in litter and odor due to the proposed increased landfill height.
- Landfill gas is currently collected, cleaned, and conveyed into a nearby natural gas pipeline. Additional landfill gas generated by the increased waste disposal would increase the quantity of gas supplied to the natural gas pipeline and therefore would be an environmental benefit,

assuming the existing operation has the capacity to process additional gas.

- It is not expected that offsite subsurface migration of landfill gas would increase with the proposed Phase 7 expansion because it is believed that the source of the subsurface gas is waste in the older, unlined area. However, the issue of how to reduce or mitigate the existing subsurface gas migration remains.
- There is a potential negative environmental impact to surface water because the proposed Phase 7 expansion includes an increase in the amount of 3:1 (horizontal:vertical) sideslopes that will increase the rate of surface water runoff and potentially increase the amount of erosion on the sideslopes. However, these potential negative environmental impacts are mitigated with the proposed final cover and stormwater management systems that are designed to accommodate the steeper sideslopes.

EXPANSION-RELATED DOCUMENTS

1. Zoning Ordinance Amendment

The City's zoning ordinance prohibits the establishment of new sanitary landfills accepting mixed municipal solid waste, although it permits the expansion of existing sanitary landfills in certain circumstances. However, the proposed height and capacity of Pine Bend's proposed Phase 7 vertical expansion are not permitted under the existing zoning ordinance. In order for the landfill to expand vertically as proposed, the City's zoning ordinance would need to be amended to allow both the increase in height and the increase in airspace/capacity of the landfill. The attached zoning ordinance amendment would permit the requested vertical expansion of the landfill to a maximum elevation of 1,105.8 feet, as measured from mean sea level, National Geodetic Vertical Datum of 1929, and would allow the expanded design capacity of the sanitary landfill to a total capacity of 42,123,200 cubic yards, including final cover soils.

2. Non-Conforming Use Certificate Amendment

Pine Bend Landfill operates under a Non-Conforming Use Certificate (NCUC), which has been amended several times. The NCUC is a lengthy document that lays out in great detail how the landfill is permitted to operate, establishes the maximum height of the landfill, and approves various site plan-related documents. The proposed NCUC amendment increases the allowed height of the landfill, and includes the proposed Phase 7 expansion plans as part of the approved site plan documents.

3. Conditional Use Permit

If the attached zoning ordinance amendment, as described above, is approved, in order for Pine Bend Landfill to move forward with its vertical expansion, a CUP must be issued for that expansion. The proposed CUP would allow the landfill the ability to expand its height and volume as requested in its current application. The CUP contains a number of conditions, many of which are identical to the conditions included in the CUP issued in 2018 for the horizontal expansion of the landfill. It also contains a number of new and revised conditions, in particular conditions related to addressing subsurface gas migration.

4. Resolution Approving Agreements

The fourth item presented for Council consideration is a Resolution that authorizes the appropriate

officials (Mayor and City Clerk) to sign two agreements: 1) an updated Host Community Agreement, and 2) a Special Assessment Agreement. In addition to the Resolution, these two Agreements are also attached, along with a summary of the terms of the proposed Host Community Agreement.

FISCAL IMPACT

Please see the attached summary of the proposed Host Community Agreement for an overview of the financial impacts of the Agreement.

RECOMMENDATION

The City's Environmental Advisory Commission has reviewed and recommended the attached Conditional Use Permit, and the Planning Commission voted to recommend approval of the CUP, plus the Zoning Code Amendment and Amendment to the Non-Conforming Use Certificate.

I recommend approval of the Host Community Agreement, as well as the above referenced land-use actions.

ATTACHMENTS

1. Summary of Host Community Agreement (January 2 2025)
2. Ordinance Amending Zoning Code to Allow for Phase 7 Expansion of Pine Bend Landfill (Jan. 2025)
3. Pine Bend Landfill Condition Use Permit (Phase 7 Expansion Jan 2025)
4. Amendment to Non Conforming Use Certificate for Phase 7 Expansion of Pine Bend Landfill (Jan 2025)
5. Resolution Approving Agreements (PBL Phase 7 Expansion Jan 2025)
6. V2FINAL 2025 HCA for 1.06.2025 CC Mtg
7. Agreement Waiving Right to Appeal Certain Assessments Against Pine Bend Landfill Parcel
8. Final Technical Report from Barr Engineering Regarding Pine Bend Landfill Phase 7 Expansion (November 8 2024)

Memo



TO: Mayor & City Councilmembers
FROM: Kris Wilson, City Administrator
CC: Bridget Nason, City Attorney
DATE: January 2, 2025
RE: Summary of Proposed Host Community Agreement

The City Attorney and I have been negotiating with Pine Bend Landfill (PBL) for approximately the past six months regarding the terms of a new Host Community Agreement (4th Amended and Restated Host Community Agreement) to coincide with PBL's requested land-use approvals for its proposed Phase 7 expansion.

The following is a summary of the proposed Agreement. A copy of the full Agreement is also attached to the Request for Council Action.

Term of the Agreement

The term of the Agreement is January 1, 2025 through December 31, 2032. This term was selected with the goal of lining up the term of the City's Host Community Agreement with that of Dakota County's Host Community Agreement. The County has a practice of entering into 5-year Host Community Agreements with PBL. Their current Agreement extends through the end of 2027. The City did not want to enter into that short of an agreement, so sought to match up with the end of what is expected to be the County's next 5-year agreement - in 2032.

Landfill Closure Date

Changes the required closure date of the landfill from December 31, 2030 to December 31, 2042 (unless the authorized volume of waste is reached first). Includes language requiring a successor Host Community Agreement to be negotiated prior to December 31, 2032 in order for PBL to continue operating. Having approval to operate through the full life of Phase 7 was a critical issue to PBL and a necessary part of the agreement in order to get other terms and conditions sought by the City.

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Host Community Fees

The following is a comparison of the Host Community Fees under the current Host Community Agreement, which runs through the end of 2030 and the proposed Agreement, which would run through 2032:

CURRENT HCA	2025	2026	2027	2028	2029	2030		
Lump Sum	\$225,000	\$225,000	\$225,000	\$125,000	\$125,000	\$0		
Per Ton								
1 to 260,000 tons	\$8.34	\$8.69	\$9.05	\$9.42	\$9.79	\$10.17		
260,001 to 400,000 tons	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00		
400,001 tons and beyond	\$8.34	\$8.69	\$9.05	\$9.42	\$9.79	\$10.17		

PROPOSED HCA	2025	2026	2027	2028	2029	2030	2031	2032
Lump Sum	\$250,000	\$257,000	\$265,225	\$273,182	\$281,377	\$289,819	\$298,513	\$307,468
Per Ton								
All tons	\$8.00	\$8.24	\$8.49	\$8.74	\$9.00	\$9.27	\$9.55	\$9.84

The estimated impact of the proposed new fee structure on City revenues varies significantly depending on the year and how many tons is assumed to be landfilled at PBL in a given year. Because of the current fee structure, where tons 260,001 through 400,000 are charged just \$1.00 per ton, revenues do not follow a straight line in relationship to tonnage. The new Agreement proposes a single rate for all tons landfilled. Similarly, in the current Agreement, the annual lump sum payment phases out, but under the new Agreement it would gradually increase over time.

If PBL accepts only 290,000 tons of waste in 2025, the City could expect revenues to be approximately 6% higher under the new agreement than they would be under the current Agreement. However, if PBL accepts 390,000 tons in 2025, the City could expect revenues to be approximately 33% higher - because there would be so many more tons paying the full rate that previously would have paid just \$1.00. Lastly, if PBL accepts 490,000 tons in 2025, the City could expect revenues to be approximately 27% higher than under the current Agreement. City staff have taken to calling the \$1.00 per ton for tons 260,001 through 400,000 the "donut hole" in the current Host Community Agreement. The proposed Agreement gets rid of the donut hole, but the benefit of that varies depending on the tonnage accepted each year.

Tonnage landfilled at PBL in recent years is as follows:

Year	Tons
2021	549,288
2022	491,656
2023	291,874

2024	333,544 (est.)
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Finally (in regard to fee payments), the proposed agreement converts what is currently stated as a minimum monthly payment into a minimum annual payment and keeps it flat at the 2025 equivalent. Tonnage would have to drop below 90,000 tons per year for these minimum amounts to ever be triggered, which seems unlikely.

	CURRENT	PROPOSED
Year	Sum Total of Minimum Monthly Payments	Minimum Annual Payment
2025	\$720,000	\$720,000
2026	\$720,000	\$720,000
2027	\$720,000	\$720,000
2028	\$864,000	\$720,000
2029	\$876,000	\$720,000
2030	\$888,000	\$720,000
2031	NA	\$720,000
2032	NA	\$720,000

Settlements & Waiver of Claims

The Host Community Agreement also seeks to bring closure to two outstanding landfill related matters.

- 1.) The City and PBL mutually agree that Pine Bend Landfill’s obligations under the 1993 Southern Water System Extension Agreement have been fully satisfied, following payment of the amounts owed for 2020-2024, which total just under \$198,000. This 1993 Agreement was entered into when the state and federal government found groundwater contamination in the area and ordered PBL to pay for the extension of municipal water service to impacted properties, so that they could stop using water from their private wells. The core capital costs of this water extension were paid by PBL years ago, at the time the system was extended, however the Agreement created an ongoing annual obligation until certain conditions were met. One such condition is relatively clear - which is the connection of PBL to the City’s sanitary sewer system. This is expected to happen with the 117th St. reconstruction project. The other conditions are somewhat murky and, it could be argued, impossible to ever fully achieve.

Starting in January 2020, old emails indicate there was some debate between prior City staff and the prior City Attorney regarding the appropriateness/enforceability of the Agreement and invoicing of the ongoing, annual amount was paused. In 2021, Finance Director Hove began discussions with the prior City Attorney seeking clarification on this matter. However, it took until 2023 for an invoice to be sent and at that point PBL objected and argued that

their obligation had been fulfilled. Staff sought the inclusion of this term in the new Host Community Agreement in order to bring closure to this more than 30-year-old agreement and to generate the \$198,000 in revenue to the City's Water Capital Fund.

- 2.) The City and PBL mutually agree that both parties accept and agree that all prior payments due under the current and past Host Community Agreements have been properly made and accepted. This is an effort to tie up any remaining disagreements over the implementation of the current Host Community Agreement, which resulted from the City approving it in 2018 and the MPCA not issuing the corresponding Certificate of Need (CON) until 2021. At one point, the City claimed that PBL owed it money and PBL claimed that the City owed it a refund. With this language, both parties accept and acknowledge what has already been paid and that no back payments are due by PBL and no refunds are due from the City.

Special Assessment Agreement

Additionally, the HCA adds an additional \$2 million Special Assessment Waiver on top of the existing \$1 million Special Assessment Waiver for the reconstruction of 117th Street that was previously obtained as part of the 2018 HCA negotiations. This means Pine Bend Landfill is waiving its right to appeal these assessments, up to the noted amount, and will pay them once adopted the City Council as part of the normal assessment process. The additional \$2 million special assessment waiver is intended to apply towards the costs for the extension of sanitary sewer service, which is anticipated to be part of the 117th St. project.

Additional Host Community Agreement Changes

In addition to the key terms outlined above, the draft HCA:

- Removes outdated language and references to past obligations already paid to the City by PBL over the years.
- Continues existing language defining routine and extraordinary fires, and obligates PBL to compensate the City for fighting an extraordinary fire. Continues other related language outlining the firefighting and emergency response obligations of both the City and PBL.
- Continues PBL's \$15,000 annual donation to the City's Parks & Recreation Department.
- Continues and clarifies existing requirements for PBL to indemnify the City for any causes of action or liability related to the landfill operation, including migration of landfill gas beyond the landfill property itself.
- Continues language obligating PBL to cover the City's "reasonable" consultant and legal costs associated with the Host Community Agreement, CUP and NCUC. Adds a cap on this amount of \$20,000 annually.

- Continues Republic Services' obligation to pick up trash and recycling from City facilities at no cost and adds the following:

8.02 City Organics.

If, at any time during the term of this Agreement, BFIWSNA offers residential or commercial organics collection to any persons or property within the City of Inver Grove Heights, BFIWSNA shall arrange for the pickup, hauling, and disposal of organics from City sources for the remainder of the term of this Agreement at no charge to the City. City sources will include City Hall, public works buildings, fire stations, the Community Center, Aquatic Center and Ice Arena, golf course, park buildings (provided that the City collects organics and deposits them in a suitable container at a single location in each park that is accessible by BFIWSNA'' trucks), and other similar City-owned structures.

Summary

The proposed Host Community Agreement is structured similarly to past agreements. Provided the tonnage of waste accepted at the landfill each year continues at a pace similar to that of the past few years, it is anticipated that the new HCA fee structure will generate increased annual revenue from HCA fees for the City.

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE
SECTION 10-13E-6 RELATED TO EXPANSION OF THE AIR SPACE OF AN
EXISTING SANITARY LANDFILL**

Section One. Amendment. Section 10-13E-6 of the Inver Grove Heights City Code related to expansion of the air space of an existing sanitary landfill is hereby amended to read as follows. The deleted language is shown with ~~striketrough~~ and the added language is shown underlined:

Expansion of the air space of an existing sanitary landfill, provided all the following conditions are met:

- A. The existing sanitary landfill must have a nonconforming use certificate.
- B. The existing sanitary landfill must be in compliance with and must remain in compliance with the nonconforming use certificate, as amended.
- C. The layer of expanded air space on the existing sanitary landfill where disposal will occur must have a liner, leachate extraction system and landfill gas extraction system. The liner and these extraction systems must be approved by the MPCA, the County and the City before disposal can occur in the expanded air space.
- D. The landfill must also have in place an existing leachate extraction system and a leachate removal and management plan. The leachate removal and management plan must be approved by the MPCA.
- E. The landfill must also have in place an existing landfill gas extraction system and a landfill gas management plan. The landfill gas management plan must be approved by the MPCA.
- F. The final contour height of the sanitary landfill, as expanded (including the final cover system), must not exceed 1,105.8 feet ~~be more than one percent (1%) higher than the final contour (including the final cover system) as previously approved in the nonconforming use certificate, as amended.~~ Measurements shall be taken from mean sea level, National Geodetic Vertical Datum of 1929.
- G. The expanded air space must not increase the parcel boundaries of the existing sanitary landfill as previously approved in the nonconforming use certificate, as amended.
- H. The design capacity of the sanitary landfill, including the expansion area, shall not exceed a total capacity of 42,123,200 cubic yards, including final cover system. ~~volume of the expanded air space for disposal (not including the final cover system) must not be more than forty percent~~

~~(40%) of the cubic yards of air space for disposal (not including the final cover system) that were allowed in the previously approved nonconforming use certificate, as amended.~~

I. The types of waste to be disposed in the expanded air space may only include the following:

1. Construction debris and demolition debris;
2. Infectious waste which has been processed so as to become noninfectious;

3. Mixed Municipal solid waste from whatever source including, but not limited to, mixed Municipal solid waste material from composting, energy recovery facilities, and recycling facilities and processes;

4. Nonhazardous industrial solid waste including, but not limited to, industrial incinerator ash, all in accord with the industrial waste management plan; and

5. Solid wastes approved by the MPCA for use as cover material including, but not limited to, foundry sands and certain sludges.

~~J. The surface square footage of the final cover system for the entire sanitary landfill, as expanded, must not be more than 8.5 acres greater than the surface square footage of the final cover system that would have been placed if the air space of the sanitary landfill had not been expanded.~~

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this ____ day of _____, 2025.

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich, Mayor

ATTEST:

Rebecca Kiernan, City Clerk

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW A VERTICAL EXPANSION OF PINE BEND LANDFILL**

CASE NO. _____

PROPERTY LOCATED AT 2495 EAST 117TH STREET

WHEREAS, an application for a Conditional Use Permit for an airspace capacity vertical expansion (“Vertical Expansion”) of the Pine Bend Sanitary Landfill (“Pine Bend Landfill” or “Landfill”) has been submitted by BFI Waste Systems of North America, LLC (“BFI” or “BFI Waste Systems of North America”); and

WHEREAS, BFI is the owner of a portion of the property located at 2495 East 117th Street (“Property”) and legally described in **Exhibit A** (that portion of the Property which the Landfill is located on and which expansion of Landfill is proposed is solely that real property legally described as Lot 1, Block 1, Pine Bend Sanitary Landfill, Dakota County, Minnesota), which proposed vertical expansion area is depicted in **Exhibit B**, attached hereto; and

WHEREAS, the Property is currently zoned 1-2, General Industry and IRM, Integrated Resource Management Overlay Zoning District; and

WHEREAS, the proposed Vertical Expansion of Pine Bend Landfill is a conditional use in the IRM, Integrated Resource Management Overlay Zoning District; and

WHEREAS, in accordance with Minnesota Statutes, Section 462.357, subd. 3, a public hearing concerning the proposed Conditional Use Permit was held before the Inver Grove Heights Planning Commission on November 19, 2024 and December 3, 2024; and

WHEREAS, this is the third application for a conditional use permit for an airspace capacity expansion of Pine Bend Sanitary Landfill since 1995.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Inver Grove Heights, that a Conditional Use Permit for the Vertical Expansion of the Pine Bend Landfill on that portion of the Property legally described as Lot 1, Block 1, Pine Bend Sanitary Landfill to allow: 1) an increase in height of the Landfill of an additional 86.8 feet to a maximum elevation of 1,105.8 feet (National Geodetic Vertical Datum of 1929); and 2) to increase the permitted design capacity of the Landfill by 8,185,800 cubic yards, inclusive of final cover soils,

(7,888,250 cubic yards excluding final cover soils) to a total permitted airspace capacity of 42,123,200 cubic yards is **APPROVED** subject to the following **CONDITIONS**:

1. The City and BFI agree that prior to the vertical expansion allowed by this Conditional Use Permit, the total permitted/ultimate airspace capacity of Pine Bend Landfill was 33,937,400 cubic yards, inclusive of final cover materials, and the maximum permitted height of the Landfill was 1,019 feet (National Geodetic Vertical Datum of 1929).
2. The terms and conditions of the conditional use permit for an airspace capacity expansion for Pine Bend Landfill, dated March 22, 2004 (Resolution 04-48), as well as the terms and conditions of the conditional use permit for a side slope expansion for Pine Bend Landfill, dated April 9, 2018, (Resolution 18-69), to the extent the same are contradicted by any of the terms and conditions of this Resolution are hereby superseded by this Resolution.
3. The vertical expansion of the Landfill approved by this Conditional Use Permit shall be constructed and operated in substantial conformity with the following Approved Plans:
 - a. The “Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill,” prepared by Stantec dated June 2023, Revised July 2024, including the Plan Sheets found in Appendix C.
 - b. Comment response memorandum prepared by Stantec dated September 23, 2024.
 - c. Comment response letter from Republic Services dated October 29, 2024.
4. The area of the 2004 capacity expansion shall be limited to the area defined as Phase 5 on the Approved Plans, the area of the 2018 side slope capacity expansion shall be limited to the area defined as Phase 6 on the Approved Plans, and this Vertical Expansion shall be limited to the area defined and shown as Phase 7 on the Approved Plans.
5. BFI and Pine Bend Landfill shall comply with all applicable terms and conditions found in:
 - a. Resolution No. 6330 Approving a Conditional Use Permit for an Energy Recovery Facility for the Generation of Electricity, dated May 30, 1995
 - b. Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Landfill for a Sanitary Landfill, dated November 27, 1995
 - c. Resolution No. 2001-86 Approving a Conditional Use Permit for Open Storage for Truck and Trailer Storage/Parking, dated July 9, 2001
 - d. Resolution 01-117 Adopting a Revised Landscaping Plan, dated September 10, 2001

- e. Resolution No. 02-32 Amending the Non-Conforming Use Certificate by Modifying the Phasing Plan, Maximum Elevation, and Final Grading and Storm Water Plans, dated March 11, 2002
- f. Resolution No. 02-127 Approving a Conditional Use Permit for the Stockpiling of Clean Soil Material as an Accessory Use to an Existing Landfill to a Maximum of 335,100 Cubic Yards, dated August 26, 2002
- g. Resolution No. 04-48 Approving a Conditional Use Permit to Allow an Airspace Capacity Expansion of Pine Bend Landfill, dated March 22, 2004; as modified by this resolution.
- h. Resolution No. 04-49 Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Landfill for a Sanitary Landfill, dated March 22, 2004
- i. Resolution No. 04-51 Declaring Lapse of Nonconforming Use Rights for Pine Bend Sanitary Landfill to Operate a Compost Facility, dated March 22, 2004
- j. Resolution No. 04-50 Approving A Conditional Use Permit for the Stockpiling of . Clean Soil Material as an Accessory Use to an Existing Landfill to a Maximum of 355,100 Cubic Yards, dated March 22, 2004
- k. Resolution No. 18-69 Approving a Conditional Use Permit to Allow a Side Slope Capacity Expansion of Pine Bend Landfill, dated April 9, 2018
- l. Resolution No. 18-70. Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill, dated April 9, 2018.
- m. Resolution No. 25-___ Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Landfill for a Sanitary Landfill, dated November 27, 1995, as subsequently amended

With the exception of the conditions found in Section 13 herein, to the extent any of the conditions in the above documents are in conflict, except to the extent specifically noted otherwise, the most restrictive conditions found in the documents listed above shall apply.

- 6. Section 5 through 10 of the Nonconforming Use Certificate (NCUC), as amended, shall also apply to this Vertical Expansion and the terms and conditions of those sections are made part of this Conditional Use Permit and incorporated by reference.

7. Notwithstanding anything to the contrary contained in Pine Bend Landfill's Solid Waste Management Plan, the types of waste to be disposed in the 2004 airspace capacity expansion, the 2018 side slope capacity expansion, and this Vertical Expansion, shall only include the following:
 - a. Construction debris and demolition debris.
 - b. Infectious waste which has been processed so as to become non-infectious.
 - c. Mixed municipal solid waste from whatever source including, but not limited to, mixed municipal solid waste material from composting, energy recovery facilities, and recycling facilities and processes. The term mixed municipal solid waste shall be as defined in Section 1.29 of the "Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and Sanitary Landfill," issued on November 27, 1995.
 - d. Non-hazardous industrial solid waste including, but not limited to, industrial incinerator ash, all in accord with the Industrial Waste Management Plan. The term industrial solid waste shall be as defined in Section 1.24 of the "Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and Sanitary Landfill," issued on November 27, 1995.
 - e. Solid wastes approved by the MPCA for use as cover material including, but not limited to, foundry sands and certain sludges.
8. If sanitary sewer is extended to the Landfill Property, BFI shall connect the Landfill's leachate collection/storage systems to the sanitary sewer, pay its pro rata share of special assessments (in conjunction with other lands served by the sanitary sewer extension) immediately or over a term determined by the City Council but not less than five years and not more than ten years, and pay connection and hook up charges, as soon as the sanitary sewer is accepted for use by the City.
9. Hours for the construction of the 2004 airspace capacity expansion, the 2018 side slope capacity expansion, and this Vertical Expansion shall be:

Monday through Friday	6:00 AM to 8:00 PM
Saturday	6:00 AM to 4:00 PM

Upon the request of BFI, temporary extensions of hours or days of construction may be approved by the City Administrator.

The hours of operation of the Landfill shall be as stated in Pine Bend Landfill's Non-Conforming Use Certificate.

10. BFI and Pine Bend Landfill's operations shall comply with all applicable Federal laws and regulations, Minnesota State Statutes, Minnesota Rules, Dakota County Ordinances and Regulations, and the terms of MPCA Solid Waste Permit SW-45 as it may be amended.
11. In addition to compliance with all applicable Minnesota Statutes, Minnesota Rules and the terms of MPCA Solid Waste Permit SW-45 as it may be amended, BFI and the Landfill shall comply with the following additional special conditions regarding surface water and groundwater monitoring and groundwater compliance boundary requirements:
 - a. As part of its annual report to the MPCA, BFI may use alternative methods for the groundwater trend analysis, if approved in advance by the City.
 - b. BFI shall conduct additional investigations, if required by the City Council, when hydrogeologic changes occur or continued release of contaminants to groundwater warrant, as determined by the City Council. BFI shall start the investigation within 60 days after determined by the City Council, complete the investigation within 360 days including design for additional groundwater remedial measures, and implement remedial measures within 180 days of City Council's approval of remedial measures design.
 - c. Required water sampling may be waived by the City Administrator in conjunction with either the Community Development Director or Public Works Director, in the case of extenuating circumstances, such as inaccessibility caused by deep snow or wet soils. If such a waiver is granted, the City Council will be notified at its next regular meeting and the waiver shall be discussed at the next quarterly meeting with the City and BFI and documented in the meeting minutes.
12. In addition to compliance with all applicable Minnesota Statutes, Minnesota Rules and the terms of MPCA Solid Waste Permit SW-45 as it may be amended, BFI and the Landfill must comply with the following special conditions relating to the Landfill's dual gas/leachate extraction system:
 - a. As part of the annual report, BFI shall describe the system operations and maintenance, including quality and quantity of leachate collected, and provide recommendations for system modifications.
 - b. BFI shall perform the following and discuss efforts as part of the annual report, which is due March 1st each year, to:

- i. Operate, maintain, and update the dual gas/leachate extraction system to maximize leachate extraction to the greatest extent practicable.
 - ii. Lower pump intakes or provide an explanation of why pumps could not, or should not, be lowered.
 - iii. Allow one full year of "dry" operations before removing pumps or provide explanation regarding why the pumps need to be removed and why they cannot be reinstalled.
 - iv. Monitor leachate head level in wells after pumps are removed.
 - v. Evaluate the market availability of new pumps that could be installed in the dual gas/leachate extraction wells.
 - vi. Reinstall pumps in wells currently in the dual gas/leachate extraction system and continually operate the pumps.
 - vii. Install pumps in existing wells and pumping stations and add them to the dual gas/leachate extraction system or provide an explanation of why the pumps could not, or should not, be installed.
 - c. Requirements for the dual gas/leachate extraction system may be waived by the City Administrator in conjunction with either the Community Development Director or Public Works Director, in the case of extenuating circumstances, such as inability to reinstall pumps or if it is technically unfeasible to operate or maintain the dual gas/leachate extraction system. If such a waiver is granted, the City Council will be notified at its next regular meeting and the waiver shall be discussed at the next quarterly meeting with the City and BFI and documented in the meeting minutes.
13. BFI and Pine Bend Landfill must achieve compliance with Minnesota Rule 7035.2815, Subpart 11 regarding landfill gas management, including future similarly applicable Minnesota Rule revisions, for six consecutive months as certified by a professional engineer prior to the following, whichever occurs first:
 - a. Filling of waste beyond 35.00 million cubic yards (excluding final cover); or
 - b. January 1, 2027

The City Council may, but is not required, to waive this requirement, if the City Council determines that adequate progress is being made to mitigate subsurface gas migration.

If this requirement is not waived, and if the City formally determines, after giving Pine Bend Landfill and BFI notice and an opportunity to be heard, that compliance with this condition is not achieved, then before a deadline to be set by the City at the time of such a determination, Pine Bend Landfill and BFI must temporarily cease accepting waste for disposal at the Pine Bend Landfill until this condition is met; after such a determination by the City, when Pine Bend Landfill and BFI demonstrate to the City's satisfaction that the condition is met, waste may once again be accepted for disposal at the Pine Bend Landfill.

Until compliance is achieved for six consecutive months as required above, BFI must present progress on its efforts to achieve compliance to the City of Inver Grove Heights Environmental Commission in the first quarter of every year and report progress in the annual report to the MPCA.

All ongoing gas migration related work plans and reports must be submitted to the City for review and comment.

The requirement contained above is not an election of remedies by the City and is not a waiver of the City's right and remedies under the conditional use permits or under the nonconforming use certificate or under any host community agreement.

The City specifically reserves the right to take action to enforce Minnesota Rule 7035.2815, Subpart 11 and to exercise its rights and remedies under the conditional use permits and under the non-conforming use certificate or under any host community agreement with respect to any past, existing or future violations of Minnesota Rule 7035.2815, Subpart 11, including future similarly applicable Minnesota Rule revisions.

No remedy conferred upon or reserved to the City in this or any other conditional use permit or in the non-conforming use certificate or in any host community agreement shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the conditional use permits or the non-conforming use certificate or in the host community agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

During the time that the Pine Bend Landfill must temporarily cease to accept waste for disposal in the event that the City has made a formal determination that the above condition is not met, BFI must nonetheless continue to pay the City the fees and payments stated in

Section 7 of the Fourth Restated and Amended Host Community Agreement dated _____, 2025, by and among BFI Waste Systems of North America, LLC, Browning-Ferris Industries, Inc. and the City of Inver Grove Heights (as amended from time to time); and Pine Bend Sanitary Landfill and BFI Waste Systems of North America, LLC must meet and comply with the other obligations stated in the Fourth Restated and Amended Host Community Agreement (as amended from time to time) including, but not limited to, the Host Community Fee, the Minimum Monthly Payment, the Annual Payment, the Per Ton Payment, and any and all other payments required under the Fourth Restated and Amended Host Community Agreement.

14. BFI shall perform a subsurface gas concentration trend analysis at least once per year, and shall include the same in future annual reports.
15. BFI shall provide documentation showing the horizontal and vertical extent of the subsurface gas plume both on the Property and beyond the Property, including on adjacent properties; this shall be updated at least once per year and shall be included with future annual reports to the City.
16. BFI or Pine Bend Landfill shall maintain a Minnesota Pollution Control Agency air emission permit for the Renewable Natural Gas facility.
17. BFI, as the current owner and operator of the Landfill, and any future owner or operator of Pine Bend Landfill, shall be responsible for complying with all of the obligations and conditions contained in this Conditional Use Permit. All references to BFI in this CUP shall apply to BFI as the current owner and operator of the Landfill and to any future owners and operators of the Landfill.
18. Breach of the terms of any Host Community Agreement between the City and BFI is deemed to be violation of this Conditional Use Permit.
19. This Conditional Use Permit shall become effective only upon all of the following occurring:
 - a. The execution of the Fourth Restated and Amended Host Community Agreement by the City and BFI;
 - b. The Fourth Restated and Amended Host Community Agreement becoming effective; and

- c. Approval of this Conditional Use Permit by the Commissioner of the Minnesota Pollution Control Agency, pursuant to Minnesota Statutes, Section 473.811, subd. 4a.

20. This Conditional Use Permit shall only remain effective if there is a Host Community Agreement in effect between the City and BFI. The City and BFI have approved the Fourth Restated and Amended Host Community Agreement which by its terms expires on December 31, 2032. BFI acknowledges and agrees that if that Fourth Restated and Amended Host Community Agreement is not extended or a new Fifth Restated and Amended Host Community Agreement is not executed by both the City and BFI on or before December 31, 2032, Pine Bend Landfill and BFI shall cease acceptance of waste on the Property on January 1, 2033, and no further waste shall be disposed on the Property until such time as the expiration date of the Fourth Restated and Amended Host Community Agreement is extended in writing by the parties, or a new Fifth Restated and Amended Host Community Agreement is executed.

21. Any violation of the terms and conditions of this Conditional Use Permit shall be grounds for revocation of the Conditional Use Permit.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to record a certified copy of this resolution at the Dakota County Recorder's Office.

Adopted by the City Council of the City of Inver Grove Heights this ____ day of _____, 2025.

AYES:

NAYS:

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich
Its: Mayor

ATTEST:

Rebecca Kiernan, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2025, before me a Notary Public within and for said County, personally appeared Brenda Dietrich and Rebecca Kiernan to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF LANDFILL PROPERTY

Real property located in Dakota County, Minnesota legally described as follows:

Lot 1 Block 1, Lot 1, Block 2, and Outlot A, PINE BEND SANITARY LANDFILL.

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION AMENDING RESOLUTION NO. 6465 GRANTING A NON-
CONFORMING USE CERTIFICATE FOR PINE BEND SANITARY LANDFILL FOR A
SANITARY LANDFILL**

The City Council of the City of Inver Grove Heights does hereby resolve as follows:

WHEREAS, BFI Waste Systems of North America, LLC (BFI) owns and operates the Pine Bend Sanitary Landfill (Landfill) located on the north side of 117th Street and legally described on the attached Exhibit A.

WHEREAS, on November 27, 1995, the City Council of the City of Inver Grove Heights approved Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and Sanitary Landfill (hereinafter referred to as the Non-Conforming Use Certificate).

WHEREAS, on March 11, 2002, by Resolution No. 02-32 the City Council amended the Non-Conforming Use Certificate to allow the maximum elevation limitation of the landfill to change from 1020 feet above sea level to 1,010 feet above mean sea level, to allow for steeper landfill side slopes without inadvertently increasing the airspace capacity of the Landfill.

WHEREAS, on March 22, 2004, by Resolution No. 04-49, the City amended the Non-Conforming Use Certificate to allow a greater airspace capacity for the disposal of solid waste by a CUP, increase the permitted final height of the landfill by nine feet, and revised the list of approved site plan documents by amending Section 3.3, Section 3.5, and Exhibit D to the Non-Conforming Use Certificate.

WHEREAS, on April 9, 2018, by Resolution No. 18-70, the City Council amended the Non-Conforming Use Certificate to allow a side slope expansion of the Landfill, amending Section 5.6.1, Section 5.8.3, and Exhibit D of the Non-Conforming Use Certificate.

WHEREAS, BFI in writing has accepted and agreed to the existing Non-Conforming Use Certificate, as amended by the resolutions noted above.

WHEREAS, the City and BFI desire to amend the Non-Conforming Use Certificate in the manner set forth hereafter.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
INVER GROVE HEIGHTS AS FOLLOWS:**

A. Section 3.5 of the Non-Conforming Use Certificate is amended in its entirety to read as follows:

3.5 **Sanitary Landfill – Maximum Elevation Limitation.** No part of the final landfill contour shall exceed an elevation of 1,105.8 feet above mean sea level, National Geodetic Vertical Datum of 1929. That elevation includes the final cover system.

B. Section 5.4 of the Non-Conforming Use Certificate is amended in its entirety to read as follows:

5.4 **Final Cover System Timing for Lined Areas.** The final cover system shall be placed on areas of Pine Bend Sanitary Landfill as described in the Solid Waste Permit (SW-45) issued by the MPCA in 2015, except that if a Conditional Use Permit (CUP) for a Vertical Expansion of the Landfill allowing a final height of the landfill to a height of not more than 1,105.08 feet above mean sea level, National Geodetic Vertical Datum of 1929, is approved, then the final cover system shall be placed as shown on the Plans approved as part of that CUP and on Exhibit D of this NCUC.

C. Exhibit D of the Non-Conforming Use Certificate is amended to read as follows:

**EXHIBIT D
SITE PLAN FOR PINE BEND SANITARY LANDFILL**

The Site Plan includes six sheets as found in the Non-Conforming Use Certificate, as approved by the City Council on November 27, 1995, as follows:

Sheet 1 - Monitoring Systems, Gas Extraction System, Leachate Collection System and Lined/Unlined Areas

Sheet 2 - Entrances from 117th Street, Fence (Permanent), Buildings and Landscape Areas

Sheet 3 - Composting Areas, Fire Lanes, Fences (Permanent) and Temporary Open Storage Areas

Sheet 4 - Final Closure Grading and Stormwater Management

Sheet 5 - Landscape Plan

Sheet 6 -Landscape Details

Together with the amendments as shown in the following documents:

- a. Landscape Plan, dated May 2001
- b. “Proposed Final Grades”, “Final Grade Comparison”, and “Final Grade Isopach Map, dated April, 2001
- c. Narrative and Plans of “Application to the City of Inver Grove Heights for the Pine Bend Landfill”, dated August 2003
- d. Twenty-six plan sheets, titled “Permit Application, Pine Bend Landfill – SW 45, Prepared for BFI Waste Systems of North America, Inc.”, dated February 2002, January 2003, and August 2003.
- e. “Response to comments for BFI Pine Bend Landfill,” as prepared by Wenck Associates Inc., dated November 11, 2003.

Together with the amendments as shown in the following additional documents:

1. The following appendices found in the “Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill – Phase 2 Development” prepare by WENCK Associates, Inc., dated and revised February 2018 (Revised February 2018 City Application)
2. Appendix C – Plan Sheets – Including 28 permit design plan sheets
3. Appendix E – Stormwater Management Model and Calibrations

To the extent Appendix C and Appendix E of the Revised February 2018 City Application are inconsistent with the previous documents comprising the Site Plan, Appendix C and Appendix E of the Revised February 2018 City Application shall control and prevail.

Together with the amendments as shown in the following additional documents:

1. Narrative and Plans of “Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill Phase 7 Development, MPCA Permit #SW-45,” dated June 2024, Revised July 2024 including the comment responses a and b below (the “2024 Revised City Application”).
 - a. Comment response memorandum prepared by Stantec data September 23, 2024.
 - b. Comment response letter from Republic Services dated October 29, 2024.
2. Appendix C – Plan Sheets, consisting of a 19-page Plan Set titled “BFI Waste Systems of North America, LLC Pine Bend Landfill Inver Grove Heights, Minnesota 2022 Major Permit Modification” prepared by Stantec and dated 2022.02.21, which are included with the 2024 Revised City Application.
3. Appendix E – Stormwater Management Model and Calibrations, which is included with the 2024 Revised City Application.

To the extent that Appendix C and Appendix E of the 2024 Revised City Application are inconsistent with the previous documents comprising the Site Plan, Appendix C and Appendix E of the 2024 Revised City Application shall control.

D. All other sections, terms, provisions, and conditions of the Non-Conforming Use Certificate shall remain in full force and effect.

E. This Non-Conforming Use Certificate Amendment shall become effective only upon the approval and execution of the Fourth Amended and Restated Host Community Agreement by the City of Inver Grove Heights and BFI and approval of this NCUC Amendment by the Commission of the Minnesota Pollution Control Agency, pursuant to Minnesota Statutes, Section 473.811, subd. 4a.

F. This Resolution and the following Acceptance shall be recorded with the Dakota County Recorder against the land constituting the Landfill, which land is described on the attached Exhibit A.

Passed this ____ day of _____, 2025.

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich, Mayor

ATTEST:

Rebecca Kiernan, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2025, before me a Notary Public within and for said County, personally appeared Brenda Dietrich and Rebecca Kiernan to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

EXHIBIT A

Real property located in Dakota County, Minnesota and legally described as follows:

Lot 1, Block 1, Lot 2, Block 1, and Outlot A, PINE BEND SANITARY LANDFILL.

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING 4TH AMENDED AND RESTATED
HOST COMMUNITY AGREEMENT AND MEMORANDUM OF AGREEMENT
FOR WAIVER OF ASSESSMENT APPEALS**

WHEREAS, the City of Inver Grove Heights (City) has approved a Conditional Use Permit (CUP) for a vertical expansion of the Pine Bend Landfill; and

WHEREAS, a condition of the approval of that CUP is that the City and BFI Waste Systems of North America, LLC enter into a 4th Restated and Amended Host Community Agreement; and

WHEREAS, the Council has reviewed and approved the attached 4th Restated and Amended Host Community Agreement (Agreement), which Agreement likewise calls for the recording of a summary memorialization of the Agreement as well as the recording of a memorandum of agreement related to the special assessment waiver regarding the 117th Street Project.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Inver Grove Heights as follows:

1. The Council hereby approves the attached 4th Amended and Restated Host Community Agreement, subject to any minor revisions approved by the City Attorney, and authorizes execution by the Mayor and City Clerk of the same.
2. The Council authorizes execution of summary memorialization of the Host Community Agreement in a form approved by the City Attorney and recording of the same.
3. The Council authorizes execution and recording of the attached Memorandum of Agreement regarding the special assessment appeal waiver, subject to any minor revisions approved by the City Attorney.

Passed this 6th day of January, 2025.

Brenda Dietrich, Mayor

Attest:

Rebecca Kiernan, City Clerk

**FOURTH (4TH)
RESTATED AND AMENDED
HOST COMMUNITY AGREEMENT BY AND
AMONG BFI WASTE SYSTEMS OF NORTH AMERICA, LLC,
BROWNING-FERRIS INDUSTRIES, LLC, AND
THE CITY OF INVER GROVE HEIGHTS, MINNESOTA**

SECTION 1. RECITALS.

1.01 Parties. This **FOURTH (4TH) AMENDED AND RESTATED HOST COMMUNITY AGREEMENT (Agreement)**, dated as of _____, 2025, is entered into by and among the City of Inver Grove Heights (City), a Minnesota municipal corporation, and BFI Waste Systems of North America, LLC (BFIWSNA), a Delaware limited liability company, and Browning-Ferris Industries, LLC (BFI), a Delaware limited liability company (each referred to singly as Party or together as Parties).

1.02 The Landfill. BFIWSNA is a wholly owned subsidiary of BFI. BFIWSNA owns and operates a sanitary landfill known as the Pine Bend Sanitary Landfill (PBSL or Landfill), located within the city of Inver Grove Heights, Dakota County, Minnesota.

1.03 Landfill Regulation. BFIWSNA operates the Landfill pursuant to Solid Waste Permit No. 45 (SW-45), issued by the Minnesota Pollution Control Agency (MPCA), various licenses issued by Dakota County, and other applicable laws and regulations.

1.04 City Authority. The City possesses certain regulatory authority over PBSL, including, but not limited to, zoning authority and surface water drainage authority.

1.05 History of Landfill Within the City. The Parties have an extensive history of interaction regarding the Landfill. This includes issuance of a Non-Conforming Use Certificate (NCUC) in 1995, which NCUC has been amended several times; approval of Conditional Use Permits (CUPs) for various uses at the Landfill, including prior vertical and horizontal expansions, and associated Host Community Agreements. The history of these interactions and approvals are detailed more fully in the prior Host Community Agreements between the Parties, including the Third Amended and Restated Host Community Agreement between the Parties dated April 9, 2018.

1.06 Current City Permits and Approvals. The Landfill is or has been subject to the following City permits and approvals:

- a. Resolution No. 6330 Approving a Conditional Use Permit for an Energy Recovery Facility for the Generation of Electricity, dated May 30, 1995;
- b. Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill, dated November 27, 1995;

- c. Resolution No. 2001-86 Approving a Conditional Use Permit for Open Storage for Truck and Trailer Storage/Parking, dated July 9, 2001;
- d. Resolution 01-117 Adopting a Revised Landscaping Plan, dated September 10, 2001;
- e. Resolution No. 02-32 Amending the Non-Conforming Use Certificate by Modifying the Phasing Plan, Maximum Elevation, and final Grading and Storm Water Plans, dated March 11, 2002;
- f. Resolution No. 02-127 Approving a Conditional Use Permit for the Stockpiling of Clean Soil Material as an Accessory Use to an Existing Landfill to a Maximum of 335, 100 Cubic Yards, dated August 26, 2002;
- g. Resolution No. 04-48 Approving a Conditional Use Permit to Allow an Airspace Capacity Expansion of Pine Bend Sanitary Landfill, dated March 22, 2004;
- h. Resolution No. 04-49 Amending Resolution No. 6465 Granting a Non Conforming Use Certificate for Pine Bend Sanitary Landfill For a Sanitary Landfill, dated March 22, 2004;
- i. Resolution No. 04-51 Declaring Lapse of Nonconforming Use Rights For Pine Bend Sanitary Landfill To Operate a Compost Facility dated March 22, 2004;
- j. Resolution No. 04-50 Approving A Conditional Use Permit for the Stockpiling of Clean Soil Material as an Accessory Use to an Existing Landfill to a Maximum of 355,100 Cubic Yards, dated March 22, 2004;
- k. Resolution No. 18-69 Approving a Conditional Use Permit to Allow a Side Slope Capacity Expansion of Pine Bend Landfill, dated April 9, 2018 (Case No. 07-36 NCUC);
- l. Resolution No. 18-70 Amending Resolution No. 6465 Granting a Non Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill dated April 9, 2018;
- m. Resolution No. 25-____ Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill;
- n. Resolution No. 25-____ Approving a Conditional Use Permit to Allow a Vertical Expansion of Pine Bend Landfill;
- o. The Host Community Agreement dated May 30, 1995;
- p. The Restated and Amended Host Community Agreement dated March 22, 2004;

- q. The Second (2nd) Amended and Restated Host Community Agreement dated October 27, 2008;
- r. The Third (3rd) Amended and Restated Host Community Agreement dated April 9, 2018; and
- s. This Fourth (4th) Amended and Restated Host Community Agreement dated _____, 2025.

1.07 Agreement to End Operations. Since 2004, BFIWSNA and BFI have agreed to stop accepting waste for disposal at the Landfill and to close the Landfill by a set date. This date has changed from March 31, 2016 (Restated and Amended Host Community Agreement) to December 31, 2030 (2nd Amended and Restated Host community Agreement and 3rd Amended and Restated Host Community Agreement), to December 31, 2042 (4th Amended and Restated Host Community Agreement), provided that this Agreement will expire, in which case the Landfill is required to immediately cease acceptance of waste as of January 1, 2033, if an Amendment to this Agreement or a New Host Community Agreement is not executed between the City and BFIWSNA and BFI on or before January 1, 2033. The Parties acknowledge that this agreement by BFIWSNA and BFI to permanently stop accepting waste for disposal at the Landfill and to close the Landfill to the public has been key to the City's current and previous expansion approvals.

1.08 Intent of the Parties. This Agreement is entered into by the Parties for the purposes of: (1) Establishing the principles of association between the City as the host community to the PBSL and BFIWSNA as the owner and operator of the PBSL; (2) providing compensation to the City for the anticipated direct and indirect costs associated with the presence and operation of PBSL, its related solid waste management units and activities, its response and remediation activities, its ongoing permitting activities, and its emergency preparedness planning; (3) preventing landfill development on the West 100 Acres (the "West 100 Acres" is that real property identified as of the date of this Agreement by Dakota County Parcel ID Numbers 20-03300-51-011 and 20-03300-26-011) while fostering other development on the Property; (4) assuring that BFIWSNA will take certain fire prevention actions and provide certain firefighting capabilities at the Landfill; (5) accelerating certain remedial activities at the Landfill; and (6) amending and restating in its entirety the Original Host Community Agreement; the Restated and Amended Host Community Agreement; the Second (2nd) Restated and Amended Host Community Agreement; and the Third (3rd) Restated and Amended Host Community Agreement.

SECTION 2. AUTHORITY.

2.01 BFIWSNA. BFIWSNA enters into this Agreement pursuant to its limited liability company powers and by authorization of its Board of Governors.

2.02 BFI. BFI enters into this Agreement pursuant to its limited liability company powers and by authorization of its Board of Governors.

2.03 City. The City enters into this Agreement pursuant to powers granted to it by Minnesota Statutes, Chapters 412, 429, 444, 462, 465, and 471 and by authorization of the City Council.

2.04 Allied Waste Industries, LLC. Allied Waste Industries, LLC, guarantees this Agreement pursuant to its limited liability company powers and by authorization of the Board of Governors.

SECTION 3. ADMINISTRATION.

3.01 Points of Contact. This Agreement shall be administered by the Parties' Points of Contact listed below:

- a. **The City's Point of Contact.** The City's Point of Contact shall be its City Administrator, 8150 Barbara Avenue, Inver Grove Heights, Minnesota 55077, Telephone: (651) 450-2511, Fax (651) 450-2502.
- b. **BFIWSNA's Point of Contact.** BFIWSNA's Point of Contact shall be its General Manager, Pine Bend Landfill, 2495 East 117th Street, Inver Grove Heights, Minnesota 55077, Telephone (651) 457-2778, Fax (651) 457-7433.
- c. **BFI's Point of Contact.** BFI's Point of Contact shall be its General Counsel, Browning-Ferris Industries, LLC, 18500 North Allied Way, Phoenix, AZ 85054.

3.02 Notices. Any notice, demand, direction, request, or other instrument authorized or required by this Agreement to be given to or filed with any Party or any agency, shall be deemed sufficiently given or filed if and when sent by (a) United States certified or registered mail, return receipt requested, postage prepaid, or (b) with a nationally recognized overnight courier service, in either case, addressed to the Party to receive the same, to the attention of that Party's Point of Contact.

SECTION 4. OPERATIONS AND CONSULTATIONS.

4.01 Operational Compliance. The Landfill shall be operated in accordance with MPCA Solid Waste Permit SW-45, as amended and reissued from time to time, the NCUC as it may be amended from time to time, the terms and conditions of any applicable Conditional Use Permits (CUPs), applicable Dakota County licenses, and all other applicable laws and regulations., including, but not limited to, the City permits, approvals and agreements listed in Section 1.06 above.

4.02 Regular Consultation. The Parties will use their best, good faith efforts to resolve informally any dispute arising under this Agreement. To avoid disputes and to promote informal dispute resolution, at the request of any Party, the Parties shall meet to review compliance with

this Agreement and to review general operational and regulatory matters. The agenda at such meetings may include, but is not limited to:

- a. Filling operations in the Landfill's lined area.
- b. Any modification in financial assurances, including modifications in the cost estimates on which financial assurances are based.
- c. Any modification in closure or post-closure care plans.
- d. Reports or studies issued by the state or county.
- e. Volumes and tons of waste received and remaining capacity.
- f. Any plans for Landfill redevelopment or development on the West 100 Acres.
- g. Any modifications to the groundwater monitoring systems, the gas monitoring, collection, and destruction systems, the leachate collection systems, and the liner.
- h. Any operational deviations from permitted standards, exceedances of regulatory limits, or other noteworthy operational matters.
- i. Any changes that might affect emergency planning or firefighting.

4.03 Special Consultation Regarding Permits and Licenses. Before seeking any new federal, state, county, or other license or permit, or a modification to any existing license or permit, or before seeking any approval to redevelop the Landfill or develop the West 100 Acres, BFIWSNA will meet with City staff to present the proposal for a new or modified permit or license or development or redevelopment plan and offer the opportunity for City staff and consultants to review and comment on the proposal. If special circumstances, including but not limited to a threat to health and safety or legal requirements, necessitate proceeding immediately with a license, permit, or modification application, BFIWSNA will inform the City of its action at least contemporaneously with the filing of any application and arrange for a meeting to review the proposal.

4.04 Responsibility to Consult. Before seeking changes in any federal, state, county, or other law, license, permit, or regulation affecting the Landfill, the City will meet with Landfill representatives and offer the opportunity for review and comment on the proposal. If special circumstances, including but not limited to a threat to health and safety or legal requirements, necessitate proceeding immediately with a change in law, license, permit, or regulation, the City will inform BFIWSNA of its action at least contemporaneously with initiating action on the change and arrange for a meeting to review the proposal.

SECTION 5. FIRE PROTECTION.

5.01 Firefighting and On-Going Emergency Planning. The City's Fire Department has responded in the past to several fires at PBSL and at other landfills in the City. Landfill fires can present unique challenges. The City, therefore, wants to assure that certain fire prevention actions are undertaken by BFIWSNA. The City further wants to assure that a sufficient water supply is present at the Landfill for future firefighting and that other firefighting and communication equipment is available. In addition, the City anticipates that BFIWSNA and the City's Fire Department will need to engage in ongoing planning and communication about fire prevention and firefighting at the Landfill.

5.02 BFIWSNA's Responsibilities. BFIWSNA, as the owner and operator of the Landfill, is obligated by Minnesota Rule Part 7035.2595 to make "prior arrangements" with a local fire department for services that may be needed at the Landfill. Dakota County Ordinance No. 110 obligates BFIWSNA to either have an agreement with a local fire department or to have adequate firefighting equipment of its own on site. BFIWSNA desires to meet its obligations under Minnesota Rule 7035.2595 and Dakota County Ordinance No. 110 through the terms of this Agreement, for the duration of this Agreement.

5.03 Roads and Water Supply. The Parties desire to have in place at the Landfill adequate access roads and an adequate water supply so that the City's firefighting equipment can be effectively mobilized and used at the Landfill to fight fires.

5.04 No Special Duty. The Parties do not wish to impose any duty on the City to fight Landfill fires beyond that specified by statute or common law. The existence of this Agreement shall not be construed to create a special duty owed to BFIWSNA or others by the City. The Parties desire that this Agreement not in any way abrogate the sovereign immunity enjoyed by the City, or the statutory liability limits specified in Minn. Stat. Chapter 466.

5.05 Terms. The following terms, unless otherwise specifically defined elsewhere in this Agreement, shall have the following meanings:

- a. **Private Water Supply.** "Private Water Supply" means and includes a system, network, and combination of wells, pumps, tanks, hydrants, and related equipment such that a water supply of 1,500 gallons per minute can be produced and supplied for at least 120 consecutive minutes for use in fighting a fire at the Landfill. The system shall be installed in accordance with the Minnesota Fire Code.
- b. **Fire Suppression Equipment.** "Fire Suppression Equipment" means and includes, jointly and severally, the following:
 1. A multi-purpose portable ABC fire extinguisher of at least twenty pounds capacity located in each of the heavy equipment vehicles used at the Landfill;
 2. A multi-purpose portable ABC fire extinguisher of at least five pounds capacity located in each of the trucks located at the Landfill; and

3. At least two backpack pump cans maintained at locations specified by the Fire Marshall.

5.06 Active Sites. “Active Sites” mean those areas of the Landfill where treatment, processing and disposal of solid waste is actively occurring, as opposed to those areas of the Landfill where disposed solid waste has received intermediate or final cover in accordance with MPCA rules.

5.07 Road Maintenance. BFIWSNA, at its own expense, shall maintain and repair the access roads to the Active Sites and a perimeter road around the entirety of Lot 1, Block 1, Pine Bend Sanitary Landfill. The roads shall be maintained in good condition so that they will be passable at all times by any vehicle. BFIWSNA shall be solely responsible for snowplowing and for removing all vegetation and debris from the roads. The perimeter road shall continue to be at least 20 feet in width and shall be maintained with an all-weather surface so as to support all fire apparatus of the City. The perimeter road shall be maintained to have a minimum capacity of 18,000 pounds gross weight. The required width of the perimeter road shall not be obstructed in any manner, including by parked vehicles.

5.08 Keys for Gates. BFIWSNA shall provide the City with duplicate keys for all gates at the Landfill so that the City may have access to the roads specified in Section 5.07. Keys shall be placed in an approved fire department key box at the main gate or at some other mutually agreed-upon location.

5.09 Map of Roads. The location of permanent roads at the Landfill, including the perimeter road, shall be as specified on the plat documents on file with the City. BFIWSNA shall provide the City with a map of the permanent and temporary roads at the Landfill. BFIWSNA shall be responsible for updating this map whenever any new temporary or permanent roads are made or old temporary or permanent roads are removed and shall provide an updated copy to the City. BFIWSNA shall provide a current map to the City within thirty (30) days for the date of execution of this Agreement.

5.10 Right of Entry. The City's fire, police, and inspection departments shall have the right at all times to enter the Landfill and to utilize all the roads at the Landfill.

5.11 Fire Breaks. If the City's fire department orders BFIWSNA to construct a fire break around one or more of the Active Sites, BFIWSNA shall do so at its own expense. The width of the fire break around the Active Sites shall be specified by the City's fire department. The perimeter road shall be considered as a fire break around the perimeter of the Landfill. BFIWSNA shall maintain the perimeter road as a fire break. BFIWSNA at all times shall keep the fire breaks free from all combustible materials and free from vegetation and debris.

5.12 Fire Suppression Equipment. BFIWSNA shall provide and maintain the Fire Suppression Equipment at the Landfill at all times. All Fire Suppression Equipment shall be tested at least annually and maintained to ensure proper operation at all times.

5.13 Water Supply. BFIWSNA, at its own expense, shall maintain the Private Water Supply at the Landfill so that it is operational on a year-round basis. BFIWSNA shall keep the areas adjacent to the Private Water Supply (including all hydrants) accessible to the City's firefighting equipment at all times. The City shall have the right to use the Private Water Supply to suppress fires outside of the Landfill, as well as fires that occur within the perimeter of the Landfill. There shall be no charge to the City for the City's use of the Private Water Supply for purpose of suppressing and extinguishing fires, whether outside or within the Landfill.

5.14 No Special Duty. The Parties agree that the City has no special duty to fight any fire occurring at the Landfill beyond that specified by statute or common law. By entering into this Agreement, the City is not agreeing to fight all or any fires occurring at the Landfill and is not assuming any special duty to BFIWSNA or to any third parties to fight fires at the Landfill.

5.15 No Warranty. The City does not represent and in no way warrants that the City's fire department is properly trained, equipped, or staffed to fight a fire at the Landfill.

5.16 Discretionary Acts. The Parties agree that the City's decisions whether to fight a Landfill fire and the methods by which such fires are fought shall be considered discretionary acts as defined by Minn. Stat. § 466.03, subd. 6, and, as such, shall be actions protected by the doctrine of sovereign immunity. BFIWSNA and BFI hereby waive any rights they might otherwise have to challenge the City's decisions with respect to Landfill fires.

5.17 Communications Equipment. BFIWSNA shall, at the City's request and at BFIWSNA's expense, provide a command post where firefighting equipment can be mobilized and where communications equipment and supervisory personnel can be established and assembled. Further, BFIWSNA shall, at the City's request and at BFIWSNA's expense, allow the City to use BFIWSNA's communications equipment at the Landfill, including, but not limited to, telephones and two-way radios.

5.18 Insurance. BFIWSNA shall maintain at all times insurance covering liability, property, and casualty losses as a result of a Landfill fire. Such insurance shall at least be in the amounts specified by Dakota County Ordinance No. 110. Upon request of the City, BFIWSNA shall provide the City with evidence that insurance coverage required by this Agreement is in full force and effect.

5.19 Contingency Action Plan. BFIWSNA shall provide the City and its designees with copies of BFIWSNA's Contingency Action Plan that is required by the MPCA and Dakota County. BFIWSNA shall provide the City with copies of all amendments to the Contingency Action Plan in a timely manner. The Contingency Action Plan shall address and make provisions for controlling air emissions, leachate generation, and water runoff during the course of a Landfill fire.

5.20 Hazard Identification; Planning. BFIWSNA shall identify any potential fire hazards at the Landfill and shall cooperate with the City in developing adequate fire and emergency procedures for fighting fires at the Landfill.

5.21 Off-Site Notice and Evacuation. BFIWSNA must annually review and update, if necessary, an evacuation plan that describes the geographical area to be notified, when and to whom notice will be given, how and under what circumstances persons will be evacuated during a Landfill fire or other emergency, and how the evacuation costs will be handled. The evacuation plan is subject to the approval of the City's Emergency Management Director.

5.22 Facility Features. To the extent not otherwise specified in a NCUC, BFIWSNA shall provide the City with maps and other descriptions of the Landfill's features that might affect firefighting efforts at the Landfill. Such features include, but are not limited to, pipeline and utility locations, landfill gas collection systems, locations of special wastes, known locations of on-site chemicals and hazardous materials (whether landfilled or not), and the location of environmental monitoring points.

5.23 Substantial Compliance. To the extent that county, state, and federal laws or regulations impose upon BFIWSNA substantially the same responsibilities as required by Sections 5.19, 5.20 and 5.21, above, compliance with the applicable county, state, or federal laws and regulations shall constitute compliance with said Sections 5.19, 5.20, and 5.21.

5.24 Indemnification and Release. BFIWSNA and BFI, jointly and severally, shall release, defend, indemnify, and hold harmless the City and its officers, agents, employees, elected and appointed officials, boards, political bodies, and volunteers, and any other political subdivisions that provide mutual assistance to the City in fighting fires at the Landfill (Firefighting Indemnified Parties) from and against any and all causes of action of any nature, claims, costs, execution, expenses (including reasonable attorneys' and witnesses' fees and costs), judgments, liabilities, liens, or losses (collectively, Damages) based upon or arising out of the Firefighting Indemnified Parties' actions or inactions, other than gross negligence, with respect to future fires at the Landfill. This Section 5.24 shall not apply to the City's use of BFIWSNA's water system to fight fires off the Landfill which also did not start on the Landfill, and the City shall release BFIWSNA and BFI from any Damages that arise out of the use of BFIWSNA's water system to fight fires off the Landfill that did not start on the Landfill. This section shall not be deemed to abrogate the sovereign immunity enjoyed by the City or the statutory limits provided by Minn. Stat. Chapter 466, as amended from time to time. The responsibility of BFIWSNA and BFI for indemnification under this section is limited to the City's liability limits set forth in Minn. Stat. Chapter 466, as amended from time to time.

5.25 Relationship to Other Agreements. This Agreement shall supersede that certain agreement relating to reimbursement for firefighting equipment and personnel dated August 23, 1974, by and between the Pine Bend Development Company and the City.

SECTION 6. ASSURANCES.

6.01 Indemnification and Release. BFIWSNA and BFI, jointly and severally, shall release, defend, indemnify, and hold harmless the City, its officers, agents, employees, elected and appointed officials, boards, political bodies, and volunteers (the "Indemnified Parties") from and against any and all causes of action of any nature, claims, costs, executions, expenses (including reasonable attorneys' and witnesses' fees and costs), judgments, liabilities, liens, or

losses (collectively, Damages) based upon or arising out of the following, whether or not BFIWSNA or BFI otherwise has any responsibility therefore and whether occurring in the past, present, or future:

- a. BFIWSNA's conduct of operations of the Landfill;
- b. The past conduct of operations of the Landfill by Pine Bend Sanitary Landfill, Inc.;
- c. Waste or substances, including but not limited to leachate, treated, stored, disposed, or contained in the Landfill;
- d. Waste or substances emanating or released from the Landfill, including but not limited to methane or any other landfill gas;
- e. Failure of BFIWSNA or BFI to satisfy any legal requirements related to the foregoing and/or a failure of BFIWSNA or BFI to satisfy the duties and obligations under this Agreement; and
- f. City permits or other land use approvals for the Landfill.

This section shall not be deemed to abrogate the sovereign immunity enjoyed by the City or the statutory liability limits provided by Minn. Stat. Chap. 466, as amended from time to time. The responsibility of BFIWSNA and BFI for indemnification under this section is limited to the City's liability limits set forth in Minn. Stat. Chap. 466, as amended from time to time. BFIWSNA and BFI shall not be responsible for the Indemnified Parties' gross negligence and shall not release, defend, indemnify, or hold harmless the Indemnified Parties for Damages based on or arising from gross negligence.

6.02 Financial Assurances. BFIWSNA shall maintain in full force and in effect all insurance, bonds, letters of credit, or cash deposits required to be maintained by county, state, and federal law in order to assure completion, closure, and post-closure care and maintenance of the PBSL as required by law. BFIWSNA shall also provide the City with such copies as it may request of all insurance policies, bonds, letters of credit, and any other financial assurance instruments and documents on a timely basis.

SECTION 7. HOST COMMUNITY FEES.

7.01 Host Community Fees. In consideration for the City serving as the host community to the PBSL, in consideration for ongoing direct and indirect costs associated with the presence and operation of PBSL, its related solid waste management units and activities, its response and remediation activities, and its emergency preparedness planning, and in consideration of all other matters as set forth in this Agreement, BFIWSNA or BFI shall pay the City the Host Community Fees (HCF) set forth in Sections 7.03, 7.04, and 7.05. BFIWSNA and BFI are jointly and severally responsible for making such payments.

The Parties agree that the HCF set forth in Sections 7.03, 7.04, and 7.05 shall be the only fees charged by the City for solid waste uses conducted at the Landfill by BFIWSNA and BFI, and their affiliates and subsidiaries, except for customary permit fees (e.g., building permits and zoning application fees), utility use fees (e.g., water and sewer bills), fees incident to platting and subdivision (e.g., park dedication fees), real estate taxes, and special assessments for public improvements and except for the firefighting reimbursement fees that arise prior to and after closure of the Landfill pursuant to Section 8.05.

The parties further agree that the fees detailed herein shall be effective as of January 1, 2025, notwithstanding the fact this Agreement will not be executed until after January 1, 2025.

7.02 Fee is in Lieu of Abatement Fees. The Parties agree that the City has statutory authority to impose abatement fees on the Landfill. That authority may be subject to legal challenge and is subject to legislative scrutiny and alteration. Therefore, the City agrees, for the term of this Agreement, to waive its right to impose such fees and to accept, in lieu thereof, the HCF described in this Agreement.

7.03 Annual Payments. As part of the HCA and in addition to the fees and payments required under Sections 7.04 and 7.05, BFIWSNA or BFI shall pay the City annual payments in two equal installments on January 1 and July 1 of each year, beginning on January 1, 2025, and continuing on January 1 and July 1 of each year thereafter through and including July 1, 2032, in the following amounts (reflecting a 3 percent increase per year):

Year	Annual Payment (paid in two equal installments on January 1st and July 1st of each Year)
2025*	\$250,000
2026	\$257,000
2027	\$265,225
2028	\$273,182
2029	\$281,377
2030	\$289,819
2031	\$298,513
2032	\$307,468

*= The annual payments for 2025 shall be made on February 1st and July 1st of 2025.

7.04 Per Ton Payment. BFIWSNA or BFI shall on a monthly basis pay the City a fee for every ton of waste or fraction thereof that is disposed in the Landfill. The per ton fee shall be as set forth on the attached **Exhibit A**. The monthly fee shall be paid to the City on or before the 15th day of the month following the month that the waste was disposed of at the Landfill.

BFIWSNA shall record the weight of all waste disposed of at the Landfill. BFIWSNA shall file monthly reports with the City in accord with the procedures set forth on the attached **Exhibit B**. The reports shall be filed by the 15th day of the month following the month that the waste was disposed of at the Landfill.

The waste subject to the fee required by this Section 7.04 shall include all forms of waste and waste materials except for the following:

- sand;
- uncontaminated earthen material
- other material or wastes approved by Dakota County that are used for daily intermediate or final cover material or the construction of roads or berms within the Landfill.

The fee required to be paid by this Section 7.04 shall continue to be paid until the Landfill permanently stops accepting waste for disposal at the Landfill and the Landfill is closed to the public.

Notwithstanding anything to the contrary contained in this Section 7.04, the per ton fee required to be paid shall never be less than the amount the City is authorized to impose under Minn. Stat. § 115A.921. For purposes of determining the per ton fee under Minn. Stat. § 115A.921, the conversion factor of one ton equals 3.33 cubic yards shall be used.

Notwithstanding anything to the contrary contained in this Section 7.04, if another city or township in any Metropolitan County (as the term Metropolitan County is defined by Minn. Stat. § 473.121, subd. 4 as amended from time to time) establishes a host community fee based on an amount per ton of waste (or an equivalent fee based on an amount per cubic yard) disposed at a licensed landfill (which accepts mixed municipal solid waste) that is greater than the fee established in this Section 7.04, then the City, at its option, may elect to have BFIWSNA or BFI pay to the City the higher fee and in such case BFIWSNA or BFI shall pay the higher fee to the City.

7.05 Minimum Payment. BFIWSNA or BFI shall pay the City at least \$720,000 in per-ton fees each calendar year or shall make a Minimum Annual Payment that, when combined with the amounts paid based on tonnage per Section 7.04, shall equal at least \$720,000.00, until the Landfill permanently stops accepting waste for disposal at the Landfill and the Landfill is closed to the public. Provided, however, that BFIWSNA or BFI shall only be required to pay the greater of the amount payable under Section 7.04 or Section 7.05. By way of illustration only, if in the year 2025, the total yearly amount payable under Section 7.04 (per ton payment) was \$600,000, BFIWSNA and/or BFI would be required to pay the City \$120,000 as specified by this Section 7.05 for calendar year 2025. By way of further illustration, if the amount payable in 2025 under Section 7.04 was \$800,000, BFIWSNA and/or BFI would not be obligated to pay the City any additional payment under this Section 7.05 for a Minimum Annual Payment.

7.06 Use of Fees. The HCF shall be used by the City for public purposes. Such purposes may include, but are not limited to: general fund purposes; hosting the Landfill; the cost of providing firefighting services; environmental review and monitoring; and meeting and conferring with, among others, BFIWSNA, Dakota County, the MPCA, the United States Environmental Protection Agency, the Metropolitan Council, the Office of Environmental Assistance, and any other body having jurisdiction over the Landfill; the cost of sustainability

projects and programs; the cost of “green initiatives”; the cost of the GreenStep Cities Program, or any other legal public purpose.

7.07 Late Fee. If the City does not receive the payments within 5 days of the dates set forth in Sections 7.03, 7.04, 7.05, or 8.05, then BFIWSNA or BFI shall pay a late payment administrative charge of 6% of the amount owed and in addition the amount owed shall accrue annual interest at 6% beginning 5 days after the date the payment was due.

SECTION 8. ADDITIONAL AGREEMENTS BETWEEN THE PARTIES.

8.01 City Wastes. During the term of this Agreement, BFIWSNA shall arrange for pick-up, hauling, and disposal of non-hazardous wastes from City at no charge to the City. City sources will include City Hall, public works buildings, fire stations, the Community Center, Aquatic Center and Ice Arena, golf course, park buildings (provided that the City collects wastes and deposits them in a suitable container at a single location in each park that is accessible by BFIWSNA’s trucks), and other similar City-owned structures. The non-hazardous wastes to be picked up, hauled, and disposed from City sources shall include recycling and special wastes. In addition, the City may deposit its street sweepings and similar wastes at the Landfill at no charge. In the case of special wastes, street sweepings, and similar wastes, if testing is required to establish the non-hazardous character of these materials, the City shall pay all the costs of establishing the non-hazardous character of these wastes. Hazardous wastes and wastes generated by “City days” are not subject to this privilege. This Section 8.01 does not apply to residences, businesses, or other sources of solid waste not listed above as City sources.

8.02 City Organics. If, at any time during the term of this Agreement, BFIWSNA offers residential or commercial organics collection to any persons or property within the City of Inver Grove Heights, BFIWSNA shall arrange for the pickup, hauling, and disposal of organics from City sources for the remainder of the term of this Agreement at no charge to the City. City sources will include City Hall, public works buildings, fire stations, the Community Center, Aquatic Center and Ice Arena, golf course, park buildings (provided that the City collects organics and deposits them in a suitable container at a single location in each park that is accessible by BFIWSNA’ trucks), and other similar City-owned structures.

8.03 Donation. BFIWSNA has offered to donate the sum of \$15,000 annually to the City to support the programs and activities of the Veterans Memorial Community Center. The City hereby accepts such donation. BFIWSNA agrees to fulfill the terms of the donation by annually donating \$ 15,000 to the City beginning January 1, 2025, and continuing each year thereafter until the Landfill is permanently closed. The \$15,000 annual donation shall be payable on January 1 in each of the specified years.

8.05 Payment For Firefighting Costs. BFIWSNA and BFI, jointly and severally, agree to pay the City for firefighting costs with respect to the City fighting fires at the Landfill, prior to and after closure of the Landfill, in accordance with the following:

8.05.01 Definition of Routine Fire. For purposes of this Section 8.05, a Routine Fire means any of the following types of fires at the Landfill:

- a.) a grass fire;
- b.) a vehicle fire;
- c.) a building fire;
- d.) any fire at the Landfill where from the time the fire call comes to the City to the time the City firefighting equipment returns to the fire station less than one hour has elapsed.

8.05.2 Definition of Extraordinary Fire. For purposes of this Section 8.05, an Extraordinary Fire means any of the following types of fires at the Landfill:

- a.) a large surface-area fire;
- b.) a debris fire;
- c.) a methane gas fire;
- d.) a subsurface fire;
- e.) any fire at the Landfill where from the time the fire call comes to the City to the time the City firefighting equipment is returned to the fire station one hour or more of time has elapsed; provided, however, a grass fire or a vehicle fire or a building fire at the Landfill of any duration shall not be considered an Extraordinary Fire.

8.05.3 No Payment For Routine Fires. Unless the City otherwise imposes by ordinance an obligation by all landowners in the City to pay the City for fire calls, BFIWSNA shall not be obligated to pay the City for the City's suppression and extinguishment of Routine Fires at the Landfill.

8.05.4 Payment For Extraordinary Fires. With respect to Extraordinary Fires, BFIWSNA or BFI shall pay the City on an hourly basis for all firefighters and equipment from the City as well as from other communities according to the formulas set forth on **Exhibit C**; provided, however, there shall be no firefighter or equipment charge for the first hour spent in suppressing the fire. Payment shall be made to the City within thirty (30) days of receipt an invoice for such costs.

8.05.5 Payment For Damaged Equipment. BFIWSNA or BFI shall pay the City for any firefighting equipment of the City or of other cities that have been damaged during the fighting of a fire at the Landfill. This payment obligation is in addition to the obligation set forth in Section 8.05.4.

8.05.6 Payment For Maintenance of Equipment During Fire. If during any fire at the Landfill the firefighting equipment of the City or of other cities requires more than normal and/or routine maintenance, then BFIWSNA or BFI shall be responsible and shall pay the City and other cities for those maintenance costs. This payment obligation is in addition to the obligation set forth in Section 8.05.4.

8.05.7 Payment For Fuel. During any fire at the Landfill, if the fire equipment and trucks require refueling, then BFIWSNA or BFI shall make available all the fueling trucks and tanks at its disposal to cause the refueling to occur. If such are not available or are not acceptable for the refueling, then BFIWSNA or BFI shall pay the City for any costs that the City or other cities incur in providing refueling to the fire apparatus at the Landfill during the fire suppression. This payment obligation is in addition to the obligation set forth in Section 8.05.4.

8.05.8 Water Supply Payment. BFIWSNA or BFI shall pay the City for any municipal water used in suppressing a fire at the Landfill. The charge for the municipal water shall be at the usual and customary water rates then in effect at the time of the fire. This payment obligation is in addition to the obligation set forth in Section 8.05.4.

8.05.9 Discretionary Act. Nothing contained in this Section 8.11 shall be deemed to limit the discretionary nature of this City's determination whether or not to fight a fire at the Landfill. Nothing contained in this Section 8.05 shall be deemed to modify Sections 5.03, 5.12, 5.13, 5.14 and 5.22.

8.06 Consultant Reimbursement. During the term of this Agreement, BFIWSNA agrees to reimburse the City for all reasonable consultant engineering, environmental consultant, and legal expenses incurred by the City in relation this agreement and the enforcement of any terms of this Agreement and the NCUC and any CUP, up to a maximum of \$20,000 in any given calendar year. The City shall provide an itemized invoice to BFIWSNA for all such reimbursable expenses. BFIWSNA shall pay all such invoices within sixty (60) days.

8.07 No Dispute; Waiver of Claims-SWSEA Agreement. The City and Pine Bend Landfill, Inc., are parties to the Southern Water System Extension Agreement Between Pine Bend Landfill, Inc. and the City of Inver Grove Heights, Minnesota, dated May, 1993 (SWSEA Agreement). The City, BFIWSNA, and BFI all agree that upon execution of this Agreement and payment by BFIWSNA of the accumulated amount of \$197,742.47 to the City, the SWSEA Agreement will be terminated. Such payment shall be made within thirty days from the date of execution of this Agreement and shall constitute full, final, and complete payment to the City of all monies owed to the City under the SWSEA Agreement. All parties hereby waive and agree to forego any legal claims or causes of action related to the SWSEA Agreement, including any claims or causes of action related to payment of fees or any unpaid fees claimed under the terms of the SWSEA Agreement.

8.08 No Dispute; Waiver of Claims-Prior Host Community Agreements. The City, Pine Bend Landfill, Inc., and/or BFIWSNA, and BFI are parties to several prior Host Community Agreements, including the 3rd Restated and Amended Host Community Agreement. The City, BFIWSNA, and BFI all agree that as part of this Agreement, all parties hereby waive and agree to forego any legal claims or causes of action related to any amounts due or payments owed to either party for Host Community Fees, including any claims or causes of action related to payment of fees or any unpaid fees claimed under the terms of any prior Host Community Agreement, including the 3rd Restated and Amended Host Community Agreement related to payments made or received through November 30, 2024.

8.09 BFIWSNA and BFI to Forego Legal Challenges. BFIWSNA and BFI agree that, with respect to the City, they will forego any legal challenges, direct or indirect, to the formation or validity of this Agreement or the City's authority to impose host community fees, expansion fees, abatement fees, or any other financial obligations imposed on BFIWSNA and BFI, past, present, or future, pursuant to and consistent with the terms of this Agreement or any prior or future Host Community Agreement. For purposes of the foregoing sentence, if a payment obligation or other duty of affirmative performance by BFIWSNA or BFI arising from this Agreement is not fully performed, then the assertion, as a defense by one or both entities, of a challenge to the formation or validity of this Agreement, including but not limited to challenging the City's authority to impose on BFIWSNA or BFI any of the financial obligations referenced in the Agreement, will constitute an indirect legal challenge, and therefore is foreclosed by this Agreement. This waiver shall not apply to disputes between the City and BFIWSNA or BFI to enforce any of the terms of this Agreement. BFIWSNA and BFI reserve the right to make such challenges as respects any parties other than the City.

SECTION 9. ADDITIONAL TAX BASE.

9.01 Need to Study Additional Tax Base. The Landfill has been in existence for more than 40 years. The presence of the Landfill over that period has caused, in the City's view, the following:

9.01.1 A non-expanding tax base relating to BFIWSNA properties, namely, the Landfill and the adjoining West 100 Acres owned by BFIWSNA.

9.01.2 A cognizable, broadly-perceived concern by the public and adjoining landowners that BFIWSNA will attempt to use the West 100 Acres in the future for disposal of waste.

9.01.3 An unwillingness of landowners living in proximity to the Landfill to develop their land until the development, character, direction, and pattern of the West 100 Acre parcel is ascertained.

9.01.4 Lack of development on the West 100 Acres.

9.01.5 Lack of development on surrounding parcels.

9.01.6 An unsatisfactory growth in industrial tax base. The City seeks to ameliorate this situation and to counteract the deleterious conditions stated above. The City does not believe that the HCF and other considerations recited in Section 8, above, as a substitute for the City's abatement fee, are adequate unless the potential for waste disposal on the West 100 Acres is removed and replaced with an opportunity for enhanced tax base that is consistent with principles of sound municipal planning and protection of the environment.

9.02 No Disposal on West 100 Acres. BFIWSNA, for itself, its successor and assigns, agrees that it will not use the West 100 Acres for disposal of solid waste. Solid waste as used in this section shall have the meaning set out in Minn. Stat. § 116.06, subd. 22. This prohibition in the form of a negative easement recorded as Document No. 1360508 with the Dakota County

Recorder on July 8, 1996, shall run with the West 100 Acres and shall be binding upon the successors and assigns of BFIWSNA. This negative easement shall not expire unless expressly released by the City. The City shall not release the negative easement unless the City, in its sole legislative authority, rezones all or a part of the West 100 Acres to allow disposal of solid waste.

SECTION 10. ADDITIONAL PARTIES; CONTRACTS COMPELLING COMPLIANCE.

If the City grants conditional use permits for any waste-related uses on the West 100 Acres, as a condition precedent to the commencement of any waste-related uses on the West 100 Acres, BFIWSNA and BFI shall cause the operator of the use and the owner of the land, when such respective operator and owner are affiliates or subsidiaries of BFIWSNA or BFI or are directly or indirectly controlled by BFIWSNA or BFI to execute and be bound by an Addendum to this Agreement. Said Addendum will state that the operator and owner agree to operate the facility in compliance with all applicable governmental laws and regulations, including the terms and conditions of any conditional use permit granted by the City.

SECTION 11. CLOSING OF LANDFILL.

In exchange for the commitments and benefits provided by the City to BFIWSNA and BFI under this Agreement, for the City's agreement to NCUC, CUP and zoning ordinance amendments needed for The Proposed Pine Bend Landfill Vertical Expansion Project, for the City's non-opposition to the amendments to MPCA Solid Waste Permit SW-45 also needed for that expansion, and for the City's willingness to amend the longstanding December 31, 2030 date for the end of the Landfill's operations, BFIWSNA and BFI agree to permanently stop accepting waste for disposal at the Landfill and to close the Landfill to the public no later than December 31, 2042. No waste shall be disposed of at the Landfill after December 31, 2042, or when the permitted airspace capacity of 42,123,300 cubic yards (not including the final cover) is reached, whichever occurs first. Notwithstanding the foregoing, the Parties agree that this Host Community Agreement expires on December 31, 2032, and that upon expiration of the Agreement, acceptance of waste by the Landfill shall immediately cease, regardless of the existence of any remaining airspace capacity, or the December 31, 2042 closure date noted above, unless or until a subsequent written agreement shall be entered into by the Parties for an amendment to this Agreement or a new Host Community Agreement, as the existence of a valid Host Community Agreement is a term and condition of the Conditional Use Permit issued for the Landfill.

SECTION 12. GENERAL PROVISIONS.

Except as this Agreement may specifically provide to the contrary, the following provisions shall apply to all Parties to this Agreement:

12.01 Agreement Not to Alter or Amend Other BFIWSNA Legal Responsibilities. This Agreement does not shift, alter, amend or lessen BFIWSNA's duties and responsibilities as

set forth in any Conditional Use Permit, NCUC, Dakota County's solid waste license(s), or the MPCA's solid waste permit.

12.02 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota; any legal action involving this Agreement shall be venued in Dakota County District Court or the United States District Court for the District of Minnesota.

12.03 Entire Agreement; Amendments. This Agreement may not be modified except by an instrument in writing duly executed by the Parties.

12.04 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. BFIWSNA and BFI may assign this Agreement only with the express written consent of the City. In the event of any assignment, however, BFIWSNA and BFI shall remain fully responsible to assure that its respective duties and responsibilities as expressed in this Agreement are fully performed.

12.05 Authorization. The City, BFIWSNA and BFI (and each person executing this Agreement) warrant each to the other that each has taken all actions necessary to authorize it to execute, deliver, and carry out this Agreement.

12.06 BFIWSNA's Obligations. The City shall have no obligation to pay any part of BFIWSNA's and BFI's expenses in carrying out its obligations under this Agreement.

12.07 Term. This Agreement shall be effective as of January 1, 2025 and shall continue until December 31, 2032, or until such time as the parties mutually agree in writing to terminate this agreement, whichever occurs first. The HCF under Sections 7.03, 7.04, and 7.05 ceases when the Landfill permanently stops accepting waste for disposal at the Landfill and the Landfill is closed to the public, or when superseded by a subsequent written agreement between the Parties.

12.08 Recording. Within thirty (30) days after execution of this Agreement by all Parties, BFIWSNA shall record a summary memorialization of this Agreement with the Dakota County Recorder against the Landfill Property and the West 100 Acres. The form of the memorial shall be first approved by the City Attorney.

SECTION 13. SIGNATURES.

By their signatures below, the undersigned represent that they have authority to bind the Parties that they represent, their agents, subsidiaries, successors, and assigns with respect to the performance of this Agreement. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

SECTION 14. SUPERSEDING EFFECT.

This Fourth (4th) Restated and Amended Host Community Agreement supersedes and replaces in its entirety the Host Community Agreement dated May 30, 1995, by and among the City of Inver Grove Heights, Pine Bend Landfill, Inc., (now consolidated as a part of BFIWSNA), and Browning-Ferris Industries, Inc. This Fourth (4th) Restated and Amended Host Community Agreement supersedes and replaces in its entirety the Restated and Amended Host Community Agreement By and Among BFI Waste Systems of North America, Inc., Browning Ferris Industries, Inc., and The City of Inver Grove Heights, Minnesota, dated March 22, 2004. This Fourth (4th) Restated and Amended Host Community Agreement supersedes and replaces in its entirety the Second Restated and Amended Host Community Agreement By and Among BFI Waste Systems of North America, LLC, Browning-Ferris Industries, Inc., and The City of Inver Grove Heights, Minnesota, dated October 27, 2008. This Fourth (4th) Restated and Amended Host Community Agreement supersedes and replaces in its entirety the Third Restated and Amended Host Community Agreement By and Among BFI Waste Systems of North America, LLC, Browning-Ferris Industries, LLC, and The City of Inver Grove Heights, Minnesota, dated April 9, 2018.

Notwithstanding the foregoing, nothing herein shall invalidate, nullify, or otherwise have any impact on any separately executed agreements between the parties aside from those listed above, including but not limited to the previously executed and recorded Right of First Refusal Agreement between BFI Waste Systems of North America, LLC and City of Inver Grove Heights dated April 9, 2018.

SECTION 15. RELATIONSHIP TO NCUC AND CONDITIONAL USE PERMIT.

A breach of this Agreement by BFIWSNA or BFI, including, but not limited to, any failure to pay the amounts required to be paid under this Agreement is deemed to be a violation of the NCUC, as amended, and the Conditional Use Permits issued by the City for the Property, including but not limited to the Conditional Use Permit issued by the City by Resolution No. 25- _____ dated _____, 2025.

SECTION 16. REMEDIES.

If BFIWSNA or BFI fails to pay the amounts required to be paid under this Agreement, or if BFIWSNA or BFI otherwise breaches this Agreement in any other respect, then the City shall have available to it all remedies at law and in equity and all such remedies shall be cumulative and non-exclusive.

SECTION 17. 117th STREET IMPROVEMENT PROJECT

The City and Dakota County are in the process of finalizing preparations for construction of the 117th Street Project. As part of that project, the City anticipates that an extension of sanitary sewer to the Property will occur, and that the City will specially assess properties benefited by that improvement including, among other lands, certain property owned by BFIWSNA including Lot 1, Block 1 and Lot 1, Block 2, Pine Bend Sanitary Landfill, Dakota County, Minnesota, according to the recorded plat, and Lot 1, Block 1, Pine Bend Recyclery, Dakota County, Minnesota, according to the recorded plat (together the "Benefitted Property"). BFIWSNA has

previously agreed to a special assessment waiver for the 117th Street Project as part of the Third Amended and Restated Host Community Agreement and executed a recordable Memorandum of Waiver of Assessment Appeals (Prior Waiver).

At the time that Prior Waiver was agreed to, the 117th Street Project was contemplated to include the reconstruction of 117th Street from Highway 52 on the east to Rich Valley Boulevard on the west, including street reconstruction, right of way and street expansion, turn lanes, grading, drainage and erosion control, expansion of travel lanes, relocation of existing utilities, signalization, street lights and appurtenances. At this time, the 117th Street Project is contemplated to include all of the foregoing, as well as the extension of sanitary sewer to the Benefitted Property.

BFIWSNA is now willing to waive any assessment appeals for the 117th Street Project up to and including the sum of \$1,000,000 if sanitary sewer is not included within the final scope of the 117th Street Project and \$3,000,000 if sanitary sewer is included within the final scope of the 117th Street Project if the Benefitted property is assessed and BFIWSNA is treated by the City substantially in the same manner with respect to assessment methodology as other similarly situated lands and landowners located along and/or benefited by the above described portion of 117th Street.

BFIWSNA warrants and represents that, as of the date hereof, BFIWSNA is the fee title owner of the Benefitted Property.

The City has generally explained the nature and scope of the 117th Street Project including the sanitary sewer extension component of the project with BFIWSNA.

BFIWSNA, after reviewing all the information about the 117th Street Project and the proposed sanitary sewer extension and the information related to the assessment methodology, has determined to waive its rights to appeal assessments up to and including \$3,000,000 against the Benefitted Property for the 117th Street Project if a sanitary sewer extension is included within the 117th Street Project and up to and including \$1,000,000 if the 117th Street Project does not include a sanitary sewer extension component.

BFIWSNA acknowledges benefit to the Benefitted Property from the 117th Street Project of up to and including \$3,000,000 if the project includes extension of sanitary sewer to the Benefitted Property and of up to and including \$1,000,000 if the project does not include extension of sanitary sewer to the Benefitted Property.

BFIWSNA recognizes, acknowledges, and knowingly and voluntarily agrees that:

1. The Benefitted Property will be specially benefited up to and including \$3,000,000 by the 117th Street Project if the project includes extension of sanitary sewer to the

Benefitted Property and up to and including \$1,000,000 by the 117th Street Project if extension of sanitary sewer is not included in the project.

2. BFIWSNA waives any and all procedural and substantive objections to the special assessment up to and including \$3,000,000 against the Benefitted Property for the 117th Street Project if the project includes extension of sanitary sewer to the Benefitted Property and up to and including \$1,000,000 if sanitary sewer extension is not included in the project. BFIWSNA hereby waives all notice and hearing requirements with respect to imposition of the special assessment. BFIWSNA hereby waives any claim that the special assessment for the 117th Street Project against the Property up to and including the amount of \$3,000,000 against the Benefitted Property for the 117th Street Project if the project includes extension of sanitary sewer to the Benefitted Property and up to and including \$1,000,000 if sanitary sewer extension is not included in the project exceeds the benefit to the Benefitted Property.
3. With respect to special assessments up to and including \$3,000,000 against the Benefitted Property for the 117th Street Project if the project includes extension of sanitary sewer to the Benefitted Property and up to and including \$1,000,000 if sanitary sewer extension is not included in the project, BFIWSNA waives any appeal rights otherwise available pursuant to Minnesota Statutes § 429.081.
4. The waiver contained herein shall be continuing and irrevocable and is made knowingly and voluntarily by BFIWSNA.
5. All terms and conditions of the waiver contained herein shall run with the Benefitted Property herein described, and shall be binding upon the Benefitted Property and its current and future owners, including BFIWSNA and the successors and assigns of BFIWSNA. The waiver contained hereon shall also apply to any after-acquired title of BFIWSNA in the Property.
6. The Parties agree that upon execution of this Agreement the parties will execute a separate memorandum of the waiver contained herein in a form acceptable to the City Attorney and will record the memorandum against the Benefitted Property with the Dakota County Recorder and Registrar of Titles.

The City agrees that the Benefitted Property will be assessed and BFIWSNA will be treated by the City substantially in the same manner with respect to assessment methodology as other similarly situated lands and landowners located along and/or benefited by the above described portion of 117th Street. The BFIWSNA waivers contained in this Section 17, including those in paragraphs 2 and 3 above, are expressly conditioned upon the City's compliance with its

obligations under the immediately preceding sentence and nothing herein shall be deemed to prohibit or restrict BFIWSNA's right to assert non-compliance with such obligations.

[The remainder of this page is intentionally left blank.]

GUARANTY

For good and valuable consideration, the undersigned, Allied Waste Industries, LLC, a Delaware limited liability company, hereby irrevocably and unconditionally guarantees the obligations, duties, responsibilities and liabilities of BFI Waste Systems of North America, LLC and Browning-Ferris Industries, LLC, under the foregoing Fourth (4th) Restated and Amended Host Community Agreement.

Dated: _____, 2025

Allied Waste Industries, LLC

By: _____

Its: _____

EXHIBIT A

HOST COMMUNITY FEE PURSUANT TO SECTION 7.04

With respect to the years 2025 through and including 2032, for waste disposed in the Landfill, the per ton fee for waste per calendar year shall be the rate set forth in the following chart.

Year	Section 7.04 Fee Amount	
2025	\$8.00	per ton
2026	\$8.24	per ton
2027	\$8.49	per ton
2028	\$8.74	per ton
2029	\$9.00	per ton
2030	\$9.27	per ton
2031	\$9.55	per ton
2032	\$9.84	per ton

The above per ton fee shall apply to all waste types, but daily cover material shall be exempt from this fee. All waste tons to be charged uniformly.

EXHIBIT B

RETURNS FEE PAYMENT EXTENSIONS AND REPORTING REQUIREMENTS

- A. **Filing of Returns and Payment of Fees.** BFIWSNA shall file a monthly fee return on a form prescribed by the City. The return must be signed by BFIWSNA or by a person authorized by BFIWSNA to do so. The return shall be filed with the City on or before the 15th day of the month immediately following the month in which the waste was received at the facility, and must be accompanied by payment of the fees described in Section 8.
- B. **Extensions.** The City may extend for reasonable cause the time for filing returns and remittance of fees for not more than sixty (60) days. The City may require the filing of an estimated return at the time fixed for filing the regularly required return and may require the payment of the estimated fees on the basis of such estimated return.
- C. **Calculation of Fee.** Although all waste must be weighed, the fee shall be calculated based on measurements made at the scale located at the Landfill as follows:
1. Waste shall be measured in pounds or tons.
 2. The measurement of waste in pounds or tons shall be based on the difference between the tare weight of the vehicle and/or conveyance and the scale weight of the loaded vehicle and/or conveyance.
- D. **Monthly Return.** The fee monthly return shall include:
1. The amount of all waste accepted and disposed at the Landfill;
 2. The fee due, computed by multiplying the total tons times the per ton fee as set by Section 7; and
 3. Such other information as may be required by the City in order to administer Section 7.
- E. **Failure to File Return.** If BFIWSNA is required to file any return and shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false or fraudulent return, BFIWSNA, upon written notice and demand, shall immediately file such return or corrected return and at the time pay any fees due on the basis thereof. If BFIWSNA shall fail to file such return or corrected return, the City may make for BFIWSNA a return, or corrected return, from its knowledge and from such information as the City can obtain through testimony or otherwise and assess a fee on the basis thereof, which fee (less any partial payments for the fee covered by such return) shall be immediately paid upon written notice and demand. Any such return or assessment made by the City shall be prima facie correct and valid and BFIWSNA shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. Nothing in this paragraph shall preclude the City from enforcing Section 7 by pursuing any other remedy authorized by law or ordinance.

F. **Records**

1. BFIWSNA shall keep adequate and complete records showing:
 - a. The total weight of waste accepted and disposed based solely on the difference between the tare weight of the vehicle and/or conveyance and the gross weight of the vehicle and/or conveyance by measurements made by the scale located at the Landfill.
 - b. General type or types of waste accepted and disposed;
 - c. Origin(s) of waste accepted and disposed;
 - d. The dates and times of deliveries; and
 - e. The Hauler(s) that delivered waste accepted and disposed at the Landfill.
2. Daily records shall be kept in the form prescribed by the Minnesota Commissioner of Revenue under rule promulgated pursuant to the Metropolitan Landfill Abatement Act (Minn. Stat. §§ 473.842 - 473.847) and the County of Dakota.

G. **Examination of Records.** The City or its designated agent shall have the right to examine and copy records required by Section 7 or by Exhibit B.

EXHIBIT C

PAYMENT FORMULAS PURSUANT TO SECTION 8.11.4

<u>TYPE OF EQUIPMENT</u>	<u>CHARGE PER HOUR</u>
1.) Rescue — Ambulance	\$310.60 *
2.) Grass Fire Truck	\$219.56*
3.) Pumper	\$369.51 *
4.) Tanker	\$289.18 *
5.) Aerial	\$744.38 *
6.) All other	\$192.79 *

* Note: The hourly equipment charges set forth above shall be annually adjusted beginning April 1, 2009, to reflect the amount of the change in the Consumer Price Index. The "Consumer Price Index" is hereby defined to be the Consumer Price Index For All Items For All Urban Consumers for Minneapolis-St. Paul, Minnesota, with the standard base period of 1982-84 equals 100. If such index shall be discontinued, then any successor consumer price index of the United States Bureau of Labor Statistics or successor agency thereto, for Minneapolis shall be used, with such reconciliation of the different indices as may be required for accurate comparison.

Such adjustment shall be accomplished by multiplying the per hour charges set forth above by a fraction, the numerator of which shall be the average annual Consumer Price Index for the most recently ended year prior to the date of such adjustment and the denominator of which shall be the average annual Consumer Price Index for the year 2007.

In no event shall the adjustment reduce the hourly charges below the amounts set forth above.

FIRE FIGHTER PAYMENT:

The hourly payment for firefighters shall be at the highest hourly rate for a full-time firefighter with the Inver Grove Heights Fire Department. The hourly rate shall not include any fringe benefits that the firefighters may have or may show as part of their hourly rate; the rate shall be strictly for the firefighter wage.

Hours shall be computed to the nearest quarter of an hour.

MEMORANDUM OF AGREEMENT FOR WAIVER OF ASSESSMENT APPEALS

THIS MEMORANDUM OF AGREEMENT FOR WAIVER OF ASSESSMENT APPEALS (Memorandum of Agreement) is made, entered into and effective this ____ day of January, 2025, by and among the **City of Inver Grove Heights** (hereinafter referred to as the “City:), a Minnesota municipal corporation, and **BFI Waste Systems of North America, LLC** (hereinafter referred to as “BFIWSNA” or “Owner”), a Delaware limited liability company. Subject to the terms and conditions hereafter stated and based on the representations, warranties, covenants, agreements and recitals of the parties herein contained, the parties do hereby agree as follows:

ARTICLE 1 **DEFINITIONS**

1.1 Terms. The following terms, unless elsewhere specifically defined herein, shall have the following meanings as set forth below.

- a.) **City.** “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.
- b.) **Fourth Restated and Amended Host Community Agreement.** “Fourth Restated and Amended Host Community Agreement” means that certain Fourth (4th) Restated and Amended Host Community Agreement By and Among BFI Waste Systems of North America, LLC, Browning-Ferris Industries, LLC, and the City of Inver Grove Heights, Minnesota, dated _____, 2025.
- c.) **Property.** “Property” means that certain real property located in the City of Inver Grove Heights, Dakota County, Minnesota, which is located on 117th Street. The Property is that property legally described on the attached **Exhibit A**. The attached Exhibit A is incorporated hereby and made a part hereof.

ARTICLE 2 **RECITALS**

Recital No. 1. Owner owns the Property.

Recital No. 2. Owner and the City entered into that Fourth Restated and Amended Host Community Agreement.

Recital No. 3. Section 17 of the Fourth Restated and Amended Host Community Agreement provides that Owner waives any special assessment appeals up to and including \$3,000,000

relating to special assessments against the Property for the 117th Street Project, if the Project includes extension of Sanitary Sewer to the Benefited Property and up to and including \$1,000,000 if the Project to does include extension of sanitary sewer to the Benefited property, subject to and pursuant to the terms and conditions stated in Section 17 of the Fourth Restated and Amended Host Community Agreement.

Recital No. 4. The parties wish to memorialize the existence of the special assessment waiver contained in Section 17 of the Fourth Restated and Amended Host Community Agreement.

Recital No. 5. Section 17 of the Fourth Restated and Amended Host Community Agreement provides that the parties will execute and record a memorandum of the special assessment waiver.

ARTICLE 3 **AGREEMENTS**

3.1 Waiver of Special Assessment Appeals. As set forth in the Fourth Restated and Amended Host Community Agreement, Owner has waived all special assessment appeals up to and including \$3,000,000 relating to special assessments to be made by the City against the Property for the 117th Street Project, if the project includes extension of sanitary sewer to the Benefited Property, and up to and including \$1,000,000, if the project does not include extension of sanitary sewer to the Benefited Property, subject to and pursuant to the terms and conditions stated in Section 17 of the Fourth Restated and Amended Host Community Agreement.

3.2 Obligation to Comply With Fourth Restated Amended Host Community Agreement. City and Owner have agreed to, and agreed to comply with, the terms and conditions of Section 17 of the Fourth Restated Amended Host Community Agreement.

3.3 Property Subject to Section 17 of the Fourth Restated and Amended Host Community Agreement. This Memorandum of Agreement is executed and recorded for the purpose of giving notice of Section 17 of the Fourth Restated and Amended Host Community Agreement; this Memorandum of Agreement is not intended to supersede or vary the terms and conditions of Section 17 of the Fourth Restated and Amended Host Community Agreement. Nothing contained in this Memorandum of Agreement shall be construed to amend, modify, change, alter, amplify, interpret or supersede any of the terms and provisions of Section 17 of the Fourth Restated and Amended Host Community Agreement, which shall in all things control.

ARTICLE 4 **MISCELLANEOUS**

4.1 Counterparts. This Memorandum Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement the day

and year first set forth above.

**CITY:
CITY OF INVER GROVE HEIGHTS**

By: _____
Brenda Dietrich
Its: Mayor

ATTEST:

Rebecca Kiernan, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2025, before me a Notary Public within and for said County, personally appeared Brenda Dietrich and Rebecca Kiernan to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Real property located in Dakota County, Minnesota described as follows:

Lot 1, Block 1 and Lot 1, Block 2, Pine Bend Sanitary Landfill, Dakota County, Minnesota;
and Lot 1, Block 1, Pine Bend Recyclery, Dakota County, Minnesota.

November 8, 2024

Ms. Ally Sutherland
Environmental Specialist
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077-3412

Re: Pine Bend Landfill (PBL) Phase 7 Expansion – City Application Review

Dear Ms. Sutherland:

This letter presents Barr Engineering Co.'s (Barr's) review of the Pine Bend Landfill (PBL) "Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill – Phase 7 Development," prepared by Stantec Consulting Services Inc., dated Revised July 2024 (Revised July 2024 City Application).

This letter includes:

- an executive summary
- brief summaries of the Revised July 2024 City Application and the City's regulatory history of PBL,
- a history of recent requests and approval regarding PBL
- City technical review of PBL's permit application to the MPCA including key technical issues and associated recommended modifications for the amended Non-Conforming Use Certificate (NCUC), new Conditional Use Permit (CUP), and amended Zoning Ordinance
- a discussion of environmental-related considerations from the proposed Phase 7 expansion, and
- summary and conclusions

Executive Summary

PBL is seeking approval for a proposed vertical expansion (Phase 7) that would increase the landfill's approved height by approximately 87 feet and increase its airspace capacity (waste and cover material) by approximately 8.2 million cubic yards. The Phase 7 expansion would fill waste over a liner and leachate collection system that was approved as part of the 2018 Phase 6 expansion.

Phase 7 would not change the landfill's the aerial footprint.

The City, with Barr's assistance, performed a detailed technical reviewed PBL's Phase 7 MPCA solid waste permit application. PBL addressed all items identified by the City/Barr review and satisfactorily modified its MPCA permit application.

Key environmental-related considerations related to the Phase 7 expansion are:

- Potential negative impacts would be increased visibility from nearby properties, and potential increase in litter and odor due to the proposed increased landfill height.

- Landfill gas is currently collected, cleaned, and conveyed into a nearby natural gas pipeline. Additional landfill gas generated by the increased waste disposal in Phase 7 would increase the quantity of gas supplied to the natural gas pipeline and therefore would be an environmental benefit, assuming the existing operation has the capacity to process additional gas.
- It is not expected that offsite subsurface migration of landfill gas would increase with the proposed Phase 7 expansion because it is believed that the source of the subsurface gas is waste in the old unlined area, however the issue of how to reduce or mitigate the existing subsurface gas migration remains.
- Potential negative impacts to surface water are mitigated with the final cover system and surface water design and management system.

If the City is in agreement with the Phase 7 expansion, it will need to amend the NCUC, issue a new CUP, and amend its ordinance. Barr's recommendations for these three documents are below:

NCUC Amendment:

- Add reference to the 2018 NCUC Amendment to the "Whereas" section
- Add the Appendix C Plan Sheets and Appendix E Stormwater Management Model and Calculations from the Revised July 2024 City Application to NCUC Exhibit D
- Add the Revised July 2024 City Application, Appendix E Stormwater Management Model and Calculations to the list of approved documents

New CUP:

- Use the 2018 CUP and edit it as indicted below to create the 2024 CUP:
 - Add the landfill's increased maximum elevation to 1105.8 feet
 - Add the increased 7,888,250 cubic yards of airspace capacity for a new total airspace capacity of 40,018,250 cubic yards excluding final cover volume
 - Edit 2018 CUP item 14 regarding subsurface gas migration to allow the City Council to waive or modify PBL's requirements if the City Council determines that adequate progress is being made to mitigate subsurface gas migration
 - In the new CUP, add a requirement for PBL to perform a subsurface gas concentration trend analysis and include in future annual reports
 - In the new CUP, add a requirement for PBL to identify the horizontal and vertical extent of the subsurface gas plum beyond the waste boundaries including on adjacent properties
 - Add the 2018 CUP to the "Whereas" section
 - Add the Revised July 2024 City Application to item number 3
 - Add the Revised July 2024 City Application to item number 4
 - Complete the reference to the 2018 NCUC Amendment to item number 5.k
 - Add new NCUC Amendment to item number 5

- Add the Phase 7 expansion to item number 6
- Update item number 10 to show hours of waste received to be Monday through Saturday 6:00 AM to 4:00 PM and Sunday 7:00 AM to 3:00 PM
- Update item number 11 to reference the May 31, 2019 MPCA Permit Modification
- Remove the reference to February 1 annual report due date in items 12.a and 12.b
- Add requirement to install pumps in the pumping stations in item 12.b.vii
- Update item number 13 to reference the May 31, 2019 MPCA Permit Modification
- Delete item number 15

Ordinance Amendment to City Code Section 10-13E-6:

- Delete item H regarding allowing a percentage increase of cubic yards (including the final cover system) from the original 1995 NCUC
- Delete item J related to the limit of surface area limitation of the landfill final cover

Summary of Revised July 2024 City Application

The Revised July 2024 City Application contains information regarding the proposed Phase 7 expansion at PBL including general project description, facility and design information, operational information, a discussion of potential environmental and land use impacts, and additional information regarding the host community fee, compliance history, and status of non-City permits and approvals.

The Revised July 2024 City Application also includes a solid waste management plan, permit-level plan sheets, a geotechnical analysis, stormwater management model and calculations, financial assurance cost estimates for closure, postclosure, and contingency action, and 3D view modeling.

City Regulatory History of PBL

In general City Resolution No. 6465 (1995 NCUC) established, among other things, limits to the waste capacity and maximum elevation of PBL. City Resolution No. 04-48 (2004 CUP) and City Resolution No. 18-69 (2018 CUP) allowed an increase to the capacity of PBL. Below is a brief summary of the City's past regulation of PBL.

NCUC History

- City Resolution No. 6465 (1995 NCUC) – “A Resolution Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and a Sanitary Landfill,” dated November 27, 1995. The 1995 NCUC was granted to PBL subject to terms, conditions, and qualifications contained in the 1995 NCUC. The 1995 NCUC granted a total airspace capacity (not including final cover) of 23.3 million cubic yards and a maximum elevation of 1020 feet above mean sea level.
- City Resolution No. 02-32 (2002 NCUC Amendment) – “Resolution Amending Resolution No. 6465, Granting a Non-Conforming Use Certificate for Pine Bend Landfill by Modifying the Phasing Plan, Maximum Elevation, and Final Grading and Stormwater Plans”, dated March 11, 2002. The

2002 NCUC Amendment reduced the maximum elevation of Pine Bend Landfill to 1010 feet above mean sea level.

- City Resolution No. 04-49 (2004 NCUC Amendment)– “A Resolution Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill”, dated March 22, 2004. The 2004 NCUC Amendment established that the remaining airspace capacity as of October 1994 was 5.65 million cubic yards and limited the maximum elevation of PBL to an elevation of 1,019 feet above mean sea level.
- City Resolution No. 18-70 (2018 NCUC Amendment) – “A Resolution Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill”, dated April 9, 2018. The 2018 NCUC Amendment:
 - Amended Exhibit D of the 1995 NCUC to add Appendix C (28 permit design plan sheets) and Appendix D (Stormwater Management Model and Calibrations) from the “Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill – Phase 6 Development” prepared by Wenck Associates dated revised February 2018.
 - Did not change the airspace capacity or maximum elevation.

CUP History

- City Resolution No. 6330 – “Approving a Conditional Use Permit for an Energy Recovery Facility for the Generation of Electricity in the General Industry (I-2) Zoning District,” dated May 30, 1995.
- City Resolution No. 04-48 (2004 CUP) - “Resolution Approving a Conditional Use Permit to Allow an Airspace Capacity Expansion of the Pine Bend Sanitary Landfill,” dated March 22, 2004. The 2004 CUP granted an airspace expansion which brought the total airspace (not including final cover) to 28.6 million cubic yards but did not change the maximum elevation.
- City Resolution No. 18-69 (2018 CUP) – “Resolution Approving a Conditional Use Permit to Allow a Side Slope Capacity Expansion of Pine Bend Landfill”, dated April 9, 2018. The 2018 CUP:
 - Granted an airspace expansion which brought the total airspace (not including final cover) to 32.13 million cubic yards but did not change the maximum elevation
 - Adopted the terms and conditions in the 2004 CUP and then indicated that the 2004 CUP terms and conditions are superseded by the 2018 CUP
 - Required that the 2004 capacity expansion and the 2018 side slope capacity expansion conform to the 2003 Application to the City, 2002 and 2003 plan sheets, November 2003 response to comments, and the 2018 Application to the City
 - Limited the areas of the 2004 capacity expansion and the 2018 side slope capacity expansion
 - Required compliance with numerous historical CUPs and amendments, the NCUC and amendments
 - Made 1995 NCUC, section 5 through 10 applicable to the 2018 CUP

- Restricted the types of waste to be disposed of in the 2004 capacity expansion and the 2018 side slope capacity expansion
- Prohibited vehicles coming to PBL to not queue on 117th street
- Required that, if the sanitary sewer is extended to PBL, PBL pay its share and connect the leachate collection system to the sanitary sewer as soon as the City accepts the sanitary sewer for use
- Identified the hours of operation for PBL
- Required compliance with the 2015 MPCA Solid Waste Permit and in addition, allowed alternative groundwater trend analysis, conduct additional investigations when hydrogeologic conditions change or continued release of contaminants to groundwater warrant as determined by the City Council, and allows the City Administer to waive water sampling in the case of extenuating circumstances
- Identified numerous requirements for the dual gas/leachate management system
- Required compliance with the 2015 MPCA Solid Waste Permit for liner leak detection and leachate collection, conveyance, storage, and treatment
- Required achieving compliance with Minnesota Rule 7035.2815, subpart 11 regarding landfill gas migration for six consecutive months prior to, filling beyond 30 million cubic yard or January 1, 2025, whichever occurs first. Maintain an MPCA air emission permit for rental of an enclosed flare to serve as contingency for managing landfill gas
- Required both PBL's owner and operator to be responsible for complying with the CUP
- Stipulated that breach of the Host Community Agreement is deemed a violation of the CUP
- Indicated that the CUP becomes effective upon execution of the Third Restated and Amended Host Community Agreement

Ordinance History

- City Ordinance No. 721. On April 22, 1991 the City adopted Ordinance No. 721, which amended the City Zoning Code, Section 515.43, "I-2" General Industry District, and made mixed municipal solid waste disposal facilities (among others) prohibited uses. Ordinance No. 721 permitted prohibited uses that existed prior to April 22, 1991.
- City Ordinance No. 850. On November 27, 1995 the City adopted Ordinance 850 - "An Ordinance Establishing a Procedure for the Consideration of Nonconforming Use Certificates", amended the City Zoning Code to permit owners of a prohibited use to apply for a NCUC.
- City Ordinances No. 851 and 852. On November 27, 1995 the City adopted Ordinance 851 - "An Ordinance Establishing City Code Section 550 Integrated Resource Management Overlay Zoning District" and Ordinance 852 - "An Ordinance Rezoning Property to "IRM", Integrated Resource Management Overlay District", amended the City Zoning Code to create an Integrated Resource Management Overlay District which included PBL.

- City Ordinance No. 1084 (2004 Ordinance Amendment) – “An Ordinance Amending Inver Grove Heights City Code Section 515.80. Subd. 33 (E) by Adding a Conditional Use Permit for the Expansion of the Airspace of an Existing Sanitary Landfill”, dated March 22, 2004.
- City Ordinance No. 1351 (2018 Ordinance Amendment) – “An Ordinance Amending Inver Grove Heights City Code Section 10-13E-6 Relating to Expansion of the Air Space of an Existing Sanitary Landfill”, dated April 9, 2018 increased the percentage capacity allowed and increased area of final cover.

Brief History of Recent Requests and Approvals

PBL was first issued a solid waste permit by the MPCA in 1971. Since then, the MPCA solid waste permit has been reissued numerous times and most recently on July 30, 2015 and modified on May 31, 2019. The July 30, 2015 permit (with 2019 modification) authorized the Phase 6 sideslope expansion of the landfill by 4.1 million cubic yards to bring the total permitted capacity to 33.9 million cubic yards (including final cover). Below is a brief history of recent MPCA- and City-related requests and actions related to PBL.

City Review of PBL Permit Application to the MPCA

PBL submitted a “Request for Major Modification of Permit #SW-45,” prepared by Stantec Consulting Services Inc., dated June 2, 2022, including the addendum dated September 15, 2022 (June 2022 Application and September 2022 Addendum) to the MPCA.

The June 2022 Application and September 2022 Addendum proposes an airspace capacity expansion of 8.2 million cubic yards over the existing landfill footprint which would bring the total permitted capacity to 42.1 million cubic yards including cover soils and an elevation increase of 86.8 feet to a maximum elevation of 1105.8 by extending the existing 3:1 (horizontal:vertical) sideslopes around the existing landfill footprint including filling over the liner and leachate collection system previously installed over old unlined waste. This proposed expansion is referred to as the Phase 7 expansion.

The City, with Barr’s assistance, performed four rounds of technical review of the June 2022 Application and September 2022 Addendum that focused on these twelve topics:

- I. Waste Acceptance
- II. Groundwater Monitoring System
- III. Leachate Recirculation
- IV. Solid Waste Composting
- V. Groundwater Quality
- VI. Surface Water Management
- VII. Waste Capacity
- VIII. Liner and Leachate Collection System Design
- IX. Gas Monitoring and Gas Extraction/Treatment Systems
- X. Final Cover Design
- XI. Closure, Post Closure, Contingency Action, and Operations and Maintenance Plans

XII. Financial Assurance Cost Estimates

Following the City/Barr review, PBL subsequently modified the June 2022 Application and September 2022 Addendum via three memoranda prepared by Stantec Consulting Services Inc. as shown below. All City/Barr review recommendations have been adequately addressed by PBL via these three memoranda.

- February 12, 2024 Response Memo with attachments,
- April 12, 2024 Response memorandum with attachments, and
- April 29, 2024 Response memorandum with attachment

The June 2022 Application and September 2022 Addendum and the three memoranda listed above comprise the 2022-2024 MPCA Permit Application.

More detailed information regarding the review of these topics is contained in the four rounds of City/Barr review letters and three PBL response memoranda noted above and can be provided if requested.

The MPCA is waiting for the City and County to complete their review and approval processes prior to reissuing the MPCA solid waste permit.

MPCA EAW

The MPCA prepared a draft Environmental Assessment Worksheet (EAW) for public review on October 31, 2023 that evaluated the current proposed Phase 7 expansion. The City, with Barr's assistance, provided extensive review and numerous comments on the draft EAW in a letter dated November 28, 2023. Numerous other parties also submitted comments on the draft EAW. Subsequently, the MPCA issued a final EAW and response to comments dated March 1, 2024. The final EAW concluded that proposed Phase 7 expansion project does not have the potential for significant environmental effects and that there is not a need for an Environmental Impact Statement.

City NCUC, CUP, and Zoning Ordinance Amendment Request

PBL is requesting that the City amend its NCUC, CUP, and zoning ordinance to allow the proposed Phase 7 expansion. The request is included in the Revised July 2024 City Application discussed above.

Key Technical Issues and Recommended NCUC/CUP/Ordinance Modifications

From the above twelve technical topics included in the City/Barr review of PBL's permit application to the MPCA, there were four topics that were of particular importance as they relate to the City's NCUC, CUP, and Ordinance. The remaining eight technical topics did not directly relate to the City's NCUC, CUP, and Ordinance but are summarized briefly at the end of this section.

These four topics that are of particular importance are:

- waste capacity,
- groundwater quality and trends,
- surface water, and

- gas migration and trends and are discussed in detail below.

Recommendations for changes to the NCUC, CUP, and Ordinance and a discussion regarding environmental impacts (if any) are provided at the end of each topic.

Waste Capacity

PBL is permitted by the MPCA for a capacity of 33.94 million cubic yards which includes waste and cover material. The remaining capacity (including final cover) of PBL was approximately 1.05 million cubic yards at the end of 2023 based on PBL's 2023 Annual Report.

The June 2022 Application and September 2022 Addendum proposes an airspace capacity expansion 8,185,800 cubic yards over the existing landfill footprint by extending the existing 3:1 (horizontal:vertical) sideslopes around the existing landfill footprint including filling over the liner and leachate collection system previously installed over old unlined waste. This quantity includes the bottom liner drainage layer, waste, and final cover. The proposed expansion would increase the capacity of PBL to 42,123,200 cubic yards of waste and cover material.

The City-approved capacity of 32.13 million cubic yards is slightly less than the MPCA's because it excludes the final cover material.

The maximum height of PBL would increase approximately 87 feet from elevation 1,019 feet as approved in City Resolution 04-09, dated March 22, 2004 to an elevation of 1105.8 feet.

The estimated final closure date of the PBL is proposed to be extended approximately 13.6 years from approximately 2027 without the Phase 7 expansion to approximate 2040 with the Phase 7 expansion. This final closure date is based on an assumed fill rate for all waste types and final cover of 600,000 cubic yards per year.

A review of the design drawings was completed to verify the accuracy of the capacity information for the proposed expansion. Based on review of the design drawings in AutoCAD Civil3D software, it appears that the volumes shown in the Revised July 2024 City Application are accurate.

Recommended NCUC/CUP/Ordinance modifications:

- New NCUC Amendment:
 - None
- New CUP:
 - Add the landfill's increased maximum elevation to 1105.8 feet
 - Add the increased 7,888,250 cubic yards of airspace capacity for a new total airspace capacity of 40,018,250 cubic yards excluding final cover volume
- New Ordinance Amendment:

- Delete item H regarding allowing a percentage increase of cubic yards (including the final cover system) from the original 1995 NCUC

Environmental Impacts:

- Because more waste will be disposed of at PBL with the proposed Phase 7 expansion, there would be associated potential negative environmental impacts related to groundwater and air emissions. These potential impacts would be mitigated by the approved 2018 sideslope expansion (Phase 6) liner and leachate collection system and the proposed final cover and gas collection systems.

Groundwater Quality and Trends

Based on our review, there are no changes being proposed to the groundwater monitoring system in the June 2022 Application and September 2022 Addendum or the revised Revised July 2024 City Application.

Groundwater samples are collected from 22 monitoring wells located upgradient and downgradient from the landfill and 2 downgradient springs (Pipeline and Ravine Springs). Groundwater monitoring of flow direction and quality has been ongoing since the landfill began operating in 1971. Routine monitoring is conducted on a quarterly basis to facilitate the detection of releases to groundwater from the landfill in accordance with a sampling and analysis plan (SAP). The SAP establishes sampling methodologies, analytes, and quality assurance/quality control procedures. The SAP also provides for contingencies to increase monitoring intervals if certain water-quality levels are exceeded. Based on the contingency monitoring results, corrective action may be required.

Groundwater flows approximately southwest to northeast underneath the landfill, becoming primarily easterly along the northeast edge of the Crosby-American demolition landfill area located immediately north of PBL. The depth to the groundwater is considerable (over 100 feet in some locations). The water table is in glacial drift. Monitoring wells are completed both shallow and deep in the glacial drift and in the Prairie du Chien Group (limestone). Groundwater underneath the site eventually discharges into the Mississippi River, east of PBL.

Groundwater samples are analyzed for volatile organic compounds (VOCs), metals, polyfluoroalkyl substances (PFAS), and general geochemical parameters, such as temperature, specific conductance, and pH. As has been the case for many years, groundwater intervention limits (ILs) concentrations are occasionally exceeded for some VOC chlorinated organic compounds that are common in municipal waste (e.g., trichloroethylene, tetrachlorethylene, and biogenic breakdown products of these chlorinated compounds). Microbial reduction of the chlorinated compounds takes place in the groundwater and the geochemical indicators of this process are part of the monitoring program. The final reductive (low oxygen) breakdown product is vinyl chloride, which is oxidized to carbon dioxide and water in the more oxidizing conditions that likely exists a further distance downgradient of the landfill. Total concentrations of VOCs have generally shown a downward trend over the past several years. Some temporal (sequential) increases are observed for individual parameters as breakdown occurs, which are expected.

Manganese concentrations have exceeded the IL at many groundwater wells and in the Pipeline Spring for many years. These elevated manganese concentrations may be due, in part, to low oxygen concentrations in the groundwater (i.e. reduced conditions) that could cause the manganese to be converted to its soluble form and become mobile in groundwater. However, the manganese concentrations appear to be stable (i.e. neither an increasing nor decreasing trend). No further action is recommended at this time but the trends in concentrations of manganese and other metals should continue to be monitored to determine if remedial efforts downgradient from PBL should be performed.

PFAS compounds (i.e. perfluorocarbon compounds associated with Teflon, Scotchguard, etc.) have been monitored in the groundwater on a regular basis at PBL starting in 2011. The IL concentrations for four PFAS compounds (PFBA, PFOS, PFOA, and PFHxS) are 1,750 parts per trillion (ppt), 3.75 ppt, 8.75 ppt, and 11.75 ppt respectively, and have routinely been exceeded at numerous monitoring wells and at the two springs.

Temporal trends in PFAS compounds are very hard to quantify for a variety of reasons but the overall pattern is one of continuing presence of these constituents in groundwater and in the springs. It should be noted that remediation of PFAS compounds in groundwater is difficult because they do not biodegrade or otherwise react with the soil—they are very persistent. The need for the landfill to respond to the PFAS occurrences will largely be dependent on whether or not there are potential environmental and human health exposures.

Current NCUC/CUP: Section 5.6.1 of the 1995 NCUC requires approval by the City Council if certain percentages of the number of groundwater monitoring wells, monitoring frequency, or sampling parameters are proposed to be reduced. The baseline for determining these percentages is the June 1995 Permit Reissuance Application.

However, Item 10 of the 2004 CUP also describes the requirements for the groundwater monitoring system and sampling parameters based on the EnecoTech Report dated October 2003. Because the 2004 CUP was developed subsequent to the 1995 NCUC, it appears that the intent of the 2004 CUP monitoring system requirements was to supersede the 1995 NCUC requirements.

Recommended NCUC/CUP/Ordinance modification:

- None

Environmental Impacts:

- The 2018 Phase 6 expansion installed a liner and leachate collection system over existing unlined waste. The proposed Phase 7 expansion is proposed to be located above the Phase 6 expansion liner and leachate collection system. The proposed Phase 7 would also include a final cover and a gas collection system. Because the liner and final cover will minimize the amount of precipitation that could migrate into the unlined waste and produce leachate that could migrate to groundwater and because the gas collection system will extract gas for beneficial use, the proposed

Phase 7 expansion is not expected to have any significant negative environmental groundwater impact.

Surface Water

Barr reviewed the surface water management plan and modeling contained in the June 2022 Application and September 2022 Addendum. The proposed design uses benches placed generally at 40-foot (vertical) intervals along the 3:1 sideslopes to direct runoff from the build-out expansion area to cable-concrete-lined trapezoidal channels, which discharge through existing and proposed junction vaults, pipes, and culverts to existing stormwater ponds. HydroCAD version 10.10 was used to simulate rainfall-runoff from the site. According to the proposed plan, the existing ponds would not overflow from the site during the 100-year, 24-hour runoff event.

The 2018 NCUC Amendment added the 2018 stormwater model and calibrations as an amendment to NCUC Exhibit D.

Recommended NCUC/CUP/Ordinance modification:

- Add the 2024 City Application, Appendix E Stormwater Management Model and Calculations to the list of approved documents

Environmental Impacts:

- There is a potential negative environmental impact to surface water because the proposed Phase 7 expansion includes an increase in the amount of 3:1 (horizontal:vertical) sideslopes that will increase the rate of surface water runoff and potentially increase the amount of erosion on the sideslopes. However, these potential negative environmental impacts are mitigated with the proposed final cover and stormwater management systems that are designed to accommodate the steeper sideslopes.

Gas Migration and Trends

Landfill gas (primarily methane and carbon dioxide) is produced by the decomposition of solid waste under the anaerobic conditions that exist in landfills such as PBL. Methane can be a major concern at landfills due to its potential to migrate in the soil subsurface and accumulate in structures at explosive concentrations.

Minnesota Rule 7035.2815 Subp. [sic] 11 requires that the concentration of any explosive gas not exceed the Lower Explosive Limit (LEL) at the property boundary or 25 percent of the LEL in or around facility structures.

The existing gas management system at PBL consists of:

- Gas collection wells and piping
- The gas-to-natural gas processing plant
- The gas monitoring system

Based on the review of the Operations and Maintenance Plan in the August 2015 Application, the gas extraction system currently includes 190 gas extraction wells at the site and additional gas extraction wells are planned for Phases 5 and 6. These gas extraction wells are included in the proposed Phase 7 expansion design. The construction and installation of the additional gas extraction wells will be in accordance with the MPCA-approved design and PBL design standards. Extracted gas is currently piped through laterals, sub-headers, and header piping to a landfill gas-to-natural gas plant and/or a flare. F

The gas monitoring system is comprised of the three continuous electronic monitoring devices located in occupied buildings at PBL and 39 methane (gas) monitoring probes completed at varying depths around the perimeter of the landfill. The Gas Management and Monitoring Plan indicates the probes are monitored quarterly unless a positive gas reading is recorded, in which case, monitoring is increased to monthly. In recent years, the gas probes have been monitored on a monthly or weekly basis, as a result of methane detections at multiple probes around the facility.

Historically, elevated concentrations of methane have been detected in several of the subsurface gas monitoring probes located along the eastern, southern, and western boundaries of PBL. Methane concentrations in the gas monitoring probes around the facility exceeded the LEL on numerous occasions over the years. Based on these monitoring results, it does not appear that the existing controls at the PBL meet the requirements of Minnesota Rule 7035.2815 Subp. 11. PBL has been working with the MPCA and City to address gas migration concerns and annually provides a status update on this work to the City Environmental Advisory Commission.

Based on review of the Revised July 2024 City Application, proposed augmentations to the gas extraction systems includes:

- Vertical extension of existing gas extraction wells in the Phase 7 footprint
- Installation of new vertical gas extraction wells in the Phase 7 footprint
- Installation of a horizontal gas collection system beneath the final cover system in the Phase 6 and Phase 7 build outs where the proposed waste thickness is too thin for additional vertical gas wells

A dual gas and leachate extraction system has been operating in unlined Phases 1 and 2 of PBL since 2002. Twenty-six of the forty-six wells originally configured for dual extraction operations, plus two new recently installed pump stations (PS-1 and PS-2), were operated as dual extraction wells in 2013. Pumps were added to PS-1 and PS-2 in 2013 in order to make them operational. Nine additional pump stations (PS-3 through PS-11) are proposed to be installed in the unlined area as part of the Phase 6 and Phase 7 expansions.

Current NCUC/CUP: Section 2.3.9 of the 1995 NCUC allows PBL to control subsurface gas generated at the landfill by construction of probes, gas extraction wells, etc.

The 2018 CUP, item 12 included requirements for the dual gas/leachate extraction system that appear to be adequate without further modification.

Recommended NCUC/CUP/Ordinance modifications:

- Edit 2018 CUP item 14 regarding subsurface gas migration to allow the City Council to waive or modify PBL's requirements if the City Council determines that adequate progress is being made to mitigate subsurface gas migration.
- In the new CUP, add a requirement for PBL to perform a subsurface gas concentration trend analysis and include in future annual reports.
- In the new CUP, add a requirement for PBL to identify the horizontal and vertical extent of the subsurface gas plum beyond the waste boundaries including on adjacent properties.

Environmental Impacts:

- The Phase 6 expansion included the addition of new pumping stations that could be used to increase the extraction of gas from the unlined area which is believed to be the source of the subsurface gas migration to the PBL property boundary. The proposed Phase 7 expansion does not appear to add any means to increase gas extraction from the unlined area but neither does it decrease gas extraction from this area. Therefore, the proposed Phase 7 expansion is not expected to have negative environmental impacts related to subsurface gas migration.

Summary of Eight Remaining Technical Topics

The remaining eight technical topics (waste acceptance, groundwater monitoring system, leachate recirculation, solid waste composting, liner and leachate collection system design, final over design, closure, post closure contingency action, and operations and maintenance plans, and financial assurance cost estimates) are summarized below.

These eight technical topics were included in the four rounds of City/Barr review of PBL's MPCA permit application and three PBL response memoranda noted above. PBL's three response memoranda will be included in the pending MPCA solid waste permit and therefore do not need to be addressed directly in the NCUC, CUP, and Ordinance.

Waste Acceptance

There are no changes to PBL's waste acceptance.

The 2014 Solid Waste Management Plan describes the procedures that PBL uses to manage its mixed municipal and non-hazardous industrial solid waste. More specifically, the 2014 Solid Waste Management Plan describes:

- A customer notification procedure for review and acceptance of waste,

- A list of acceptable and unacceptable wastes plus a list of wastes that PBL does not accept,
- Waste categorization,
- Waste evaluation procedures,
- Use of waste as daily cover,
- Waste inspection and rejection procedures, and
- Numerous appendices including Dakota County Ordinance 110 and a Household Hazardous Waste Management Plan.

Groundwater Monitoring System

There are no changes to PBL's groundwater monitoring system.

Groundwater samples are collected from 22 monitoring wells located upgradient and downgradient from the landfill and two springs located downgradient from the landfill. Groundwater monitoring of flow direction and quality has been ongoing since the landfill began operating in 1971. Routine monitoring is conducted on a quarterly basis to facilitate the detection of releases to groundwater from the landfill in accordance with a sampling and analysis plan (SAP). The SAP establishes sampling methodologies, analytes, and quality assurance/quality control procedures. The SAP also provides for contingencies to increase monitoring intervals if certain water-quality levels are exceeded. Based on the contingency monitoring results, corrective action may be required.

Groundwater flows approximately southwest to northeast underneath the landfill, becoming primarily easterly along the northeast edge of the Crosby-American demolition landfill area located immediately north of PBL. The depth to the groundwater is considerable (over 100 feet in some locations). The water table is in glacial drift. Monitoring wells are completed both shallow and deep in the glacial drift and in the Prairie du Chien Group (limestone).

Groundwater underneath the site eventually discharges into the Mississippi River, east of PBL.

Leachate Recirculation

PBL is not proposing changes regarding potential future leachate recirculation.

If implemented, leachate would be performed over lined areas of PBL as described in the November 2013 Application. The leachate would be sprayed onto the waste working surface via tanker truck.

Solid Waste Composting

Solid waste composting was previously proposed as a January 2014 addendum to PBL's November 2013 Application.

City recommendations to model the potential odor and other air emissions from the proposed composting operation were not performed by PBL during the 2013 MPCA permitting process. However, based on discussions between the City and PBL and Republic Services' July 31, 2014, letter to the City, the City agreed that air quality modeling can be delayed until such time as PBL is ready to begin implementing plans to construct the organic waste compost facility. City approval is needed prior to SSOM composting implementation.

PBL has indicated that they intend to evaluate solid waste composting in the future and that it would be regulated by the MPCA and local governments including the City.

Liner and Leachate Collection System Design

The liner and leachate collection system for Phase 6 has been installed and only the liner and leachate system for one cell in Phase 5 (Cell 5F-2 at the location of existing landfill office and other infrastructure) remains to be installed. Phase 7 waste would be placed over Phase 6 which partially lies on top of the old unlined waste deposit.

Barr's review of the Liner and Leachate Collection System Design had an emphasis on consideration of construction of the system on top of the old unlined waste deposit. Barr's review was concentrated on differential settlement regarding the liner system, leachate collection system, slope stability, and liner penetrations for gas recovery and leachate collection and piping.

PBL adequately responded to Barr's review recommendations and revised the MPCA permit application via the three memoranda prepare by Stantec.

Final Cover Design

Barr's review of the final cover design was concentrated on differential settlement regarding the cover system and surface water drainage system, slope stability, and liner penetrations for the gas and leachate system components.

PBL adequately responded to Barr's review recommendations and revised the MPCA permit application via the three memoranda prepare by Stantec.

Closure, Post Closure, Contingency Action, and Operations and Maintenance Plans

These plans do not have any significant changes from the August 2015 MPCA permit application.

Barr developed review recommendations related to closure phasing and closure acreages and the closure cost estimate used for financial assurance.

PBL adequately responded to Barr's review recommendations and revised the MPCA permit application via the three memoranda prepare by Stantec.

Financial Assurance Cost Estimates

The MPCA requires financial assurance for all mixed municipal solid waste landfills in Minnesota, including PBL. Financial assurance is intended to provide funds for closure, post-closure, and contingency action activities if the landfill owner goes out of business.

In response to Barr review recommendations, PBL adequately adjusted the financial assurance cost estimates and revised the MPCA permit application via the three memoranda prepared by Stantec.

In addition to the \$643,631 bond that PBL has with Dakota County, the 2024 MPCA financial assurance estimates are:

Closure	\$15,375,408
Postclosure	\$9,175,254
Contingency Action	<u>\$1,163,414</u>
total	\$25,714,076

Additional Recommended NCUC/CUP/Ordinance Modifications

In addition to the recommended NCUC/CUP/Ordinance modifications discussed above, additional modifications are recommended as discussed below.

The 2018 NCUC Amendment amended the 1995 NCUC, Exhibit D to include the 28 permit design plan sheets included with the 2018 City Application.

Recommended NCUC/CUP/Ordinance modifications:

- New NCUC Amendment:
 - Add reference to the 2018 NCUC Amendment to the “Whereas” section.
 - Add the Appendix B Plan Sheets and Appendix D Stormwater Management Model and Calculations from the Revised July 2024 City Application to NCUC Exhibit D.
- New CUP:
 - Add the 2018 CUP (whereas section).
 - Add the Revised July 2024 City Application to item number 3.
 - Add the Revised July 2024 City Application to item number 4.
 - Complete the reference to the 2018 NCUC Amendment to item number 5.k.
 - Add new NCUC Amendment to item number 5.
 - Add the Phase 7 expansion to item number 6.
 - Update item number 10 to show hours of waste received to be Monday through Saturday 6:00 AM to 4:00 PM and Sunday 7:00 AM to 3:00 PM.

- Update item number 11 to reference the May 31, 2019 MPCA Permit Modification.
- Remove the reference to February 1 annual report due date in items 12.a and 12.b.
- Add requirement to install pumps in the pumping stations in item 12.b.vii.
- Update item number 13 to reference the May 31, 2019 MPCA Permit Modification
- Delete item number 15
- Ordinance Amendment to City Code Section 10-13E-6:
 - Delete item J related to the limit of surface area limitation of the landfill final cover

Key Environmental-Related Considerations

Key environmental-related considerations related to the Phase 7 expansion are:

- Potential negative impacts would be increased visibility from nearby properties, and potential increase in litter and odor due to the proposed increased landfill height.
- Landfill gas is currently collected, cleaned, and conveyed into a nearby natural gas pipeline. Additional landfill gas generated by the increase waste disposal would increase the quantity of gas supplied to the natural gas pipeline and therefore would be an environmental benefit, assuming the existing operation has the capacity to process additional gas.
- It is not expected that offsite subsurface migration of landfill gas would increase with the proposed Phase 7 expansion because it is believed that the source of the subsurface gas is waste in the old unlined area, however the issue of how to reduce or mitigate the existing subsurface gas migration remains.
- There is a potential negative environmental impact to surface water because the proposed Phase 7 expansion includes an increase in the amount of 3:1 (horizontal:vertical) sideslopes that will increase the rate of surface water runoff and potentially increase the amount of erosion on the sideslopes. However, these potential negative environmental impacts are mitigated with the proposed final cover and stormwater management systems that are designed to accommodate the steeper sideslopes.

Summary and Conclusions

The City, with Barr's assistance, performed an extensive technical review of the June 2022 Application and September 2022 Addendum. PBL responded to the City/Barr review with application modifications which were deemed to be adequate.

The four major technical topics (waste capacity, groundwater quality and trends, surface water, and gas migration) are discussed above and require some modifications to the NCUC, CUP, and Ordinance. Additional NCUC, CUP, and Ordinance recommendations not related to the four major topics are also provided above.

Environmental considerations related to the proposed Phase 7 expansion (additional natural gas generation), increased visibility and potential for increased litter and odor are identified and discussed above.

Given PBL's adequate application modifications in response to the City/Barr technical review and the potential environmental benefit from the Phase 7 expansion, Barr believes the proposed Phase 7 expansion is reasonable and appropriate because:

- The type of waste being accepted does not change,
- The benefit of increased natural gas production
- The potential increase in odor and litter due to increased height and can be minimized by keeping the open working waste area as small as practicable and diligent litter prevention and cleanup
- Increased visibility is a concern for residential properties located north/northwest from PBL. Property owners in other directions are mostly non-residential and therefore the increased visibility would not be expected to negatively impact those property owners. The landfill height increase would occur gradually and thereby negative visual impact to nearby residents would hopefully be acceptable.
- Potential negative impacts to surface water are mitigated with the final cover system and surface water management design and management.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Ubl". The signature is fluid and cursive, with the first name "Jeff" being more prominent than the last name "Ubl".

Jeff Ubl, P.E

List of References

Sequencing Ordinance for Dakota County Ordinance 119, amended March 25, 1997 relating to need for city or township approval prior to County processing the license

Request for Major Modification of Permit #SW-45", prepared by Stantec Consulting Services Inc. (Stantec), dated June 2, 2022, including the addendum dated September 15, 2022 (June 2022 Application and September 2022 Addendum).

City of Inver Grove Heights review recommendations letter dated November 28, 2023

City of Inver Grove Heights comment letter on draft Environmental Assessment Worksheet (EAW) for Request for Major Modification of MPCA Permit #SW-45 dated November 28, 2023

Stantec Consulting Services Inc. recommendations response memorandum dated February 12, 2024

MPCA Findings of Fact, Conclusions of Law, and Order for a Negative Declaration on the need for an Environmental Impact Statement on the Pine Bend Landfill Vertical Expansion Project including response to comments on the Environmental Assessment Worksheet dated March 1, 2024

City of Inver Grove Heights review recommendations letter dated April 5, 2024

Stantec Consulting Services Inc. recommendations response memorandum dated April 12, 2024

City of Inver Grove Heights review recommendations letter dated April 23, 2024

Stantec Consulting Services Inc. recommendations response memorandum dated April 29, 2024

City of Inver Grove Heights review recommendations letter dated May 22, 2024

Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill – Phase 7 Development," prepared by Stantec Consulting Services Inc., dated Revised July 2024 (Revised July 2024 City Application)

Minnesota Statute 116.07, Subd. 4j relating to need for local government approval prior to MPCA permit issuance



Request for Council Action

SUBJECT: **Resolution Tolling Deadline for Compliance with CUP Condition #14 to February 28, 2025**

MEETING DATE: January 13, 2025

ITEM TYPE: Regular Business

CONTACT: Kris Wilson, City Administrator, 651.450.2511

ACTION REQUESTED

The Council is asked to adopt the attached Resolution, tolling (or extending) the deadline for Pine Bend Landfill's compliance with Condition #14 of its 2018 Conditional Use Permit, until February 28, 2025.

BACKGROUND

The existing Conditional Use Permit (CUP) granted to Pine Bend Landfill by the City in 2018 includes the following as Condition #14:

Pine Bend Sanitary Landfill must achieve compliance with Minnesota Rule 7035.2815, Subpart 11 regarding landfill gas management, including future similarly applicable Minnesota Rule revisions, for six consecutive months as certified by a professional engineer prior to the following, whichever occurs first:

- a. Filling of waste beyond 30.00 million cubic yards (excluding final cover) of the Pine Bend Sanitary Landfill capacity of 32.13 million cubic yards (excluding final cover); or*
- b. January 1 , 2025.*

If compliance with this condition is not achieved, Pine Bend Sanitary Landfill and BFI Waste Systems of North America, LLC must temporarily cease accepting waste for disposal at the Pine Bend Sanitary Landfill until this condition is met; when the condition is met, waste may once again be accepted for disposal at the Pine Bend Sanitary Landfill.

While efforts to control the migration of landfill gas have reduced the magnitude and frequency of issues, Pine Bend Landfill did not achieve full compliance with the referenced Minnesota Rule by January 1, 2025. Anticipating this - and knowing that the issue was intended to be further addressed by the Landfill's currently pending application for a new CUP - at its December 9, 2024 meeting, the Council adopted a Resolution "tolling" or extending this deadline for compliance to January 31, 2025. At that time, it was anticipated that the new CUP would be acted upon in early January.

As it now appears the new CUP will not be acted upon until later, Pine Bend Landfill has requested an additional one-month extension of the deadline for compliance - to February 28, 2025. The attached Resolution would accomplish this.

FISCAL IMPACT

None.

RECOMMENDATION

I recommend adoption of the attached Resolution.

ATTACHMENTS

1. Resolution Tolling Deadline for Compliance with CUP Condition 14 to February 28, 2025

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION TOLLING DEADLINE FOR COMPLIANCE WITH CONDITIONAL
USE PERMIT CONDITION RELATED TO COMPLIANCE WITH MINNESOTA RULE
7035.2815, SUBPART 11 FOR PINE BEND LANDFILL**

The City Council of the City of Inver Grove Heights does hereby resolve as follows:

WHEREAS, BFI Waste Systems of North America, LLC (BFI) owns and operates the Pine Bend Sanitary Landfill (Landfill) located at 2495 East 117th Street, Inver Grove Heights, Minnesota, which is operated pursuant to a number of prior City approvals, including that Conditional Use Permit dated April 9, 2018 and approved by Resolution No. 18-69 (the “Existing Conditional Use Permit”); and

WHEREAS, the Existing Conditional Use Permit includes a number of conditions, including Condition # 14, which requires Pine Bend Sanitary Landfill to achieve compliance with Minnesota Rule 7035.2815, subpart 11 regarding landfill gas management for six consecutive months prior to the filling of waste beyond 30.00 million cubic yards or January 1, 2025; failure to achieve compliance with this condition requires Pine Bend Sanitary landfill and BFI Waste Systems of North America, LLC to temporarily cease accepting waste for disposal at the Pine Bend Sanitary landfill until this condition is met; and

WHEREAS, for several years, BFI has been working with the MPCA to address their landfill gas management requirements, but did not achieve compliance with Condition # 14 by January 1, 2025; and

WHEREAS, several months ago, BFI applied to the City for the necessary approvals for a vertical expansion of the Landfill, including applying for a New Conditional Use Permit for a vertical expansion of the Landfill, the terms of which would supplant Condition # 14 in the existing CUP; and

WHEREAS, the current draft of the New Conditional Use Permit would supersede the existing requirements of Condition # 14, and would provide additional time for BFI to come into compliance with Minnesota Rule 7035.2815, subpart 11; and

WHEREAS, it was expected that these applications would be brought to the City Council for consideration at the January 6, 2025 City Council meeting, and as a result, the City Council approved Resolution No. 2024-291 on December 9, 2024, which tolled the

compliance deadline established by Condition # 14 of the existing Cup to January 31, 2025; and

WHEREAS, the Council considered but did not take final action on the applications at its January 6, 2025 meeting, and is now anticipated to take final action on the application on or before January 28, 2025; and

WHEREAS, and to avoid the significant metro-wide service disruption that would be caused by the cessation of acceptance for waste for disposal at the Landfill on January 31, 2025, the City Council desires to toll the deadline for compliance with Condition # 14 until after the Council has formally considered and taken action on BFI's application for a vertical expansion of the Landfill, including the application for a New Conditional Use Permit.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS AS FOLLOWS:

1. The City hereby agrees to toll the compliance deadline established by Condition # 14 of the Existing Conditional Use Permit to February 28, 2025.
2. Nothing herein shall be construed as waiving the requirements of Condition # 14 or the right of the City to take action against Condition # 14, if the same is not otherwise amended by formal action of the City Council on or before February 28, 2025.

Passed this ____ day of _____, 2025.

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich, Mayor

ATTEST:

Rebecca Kiernan, City Clerk

