

City Council Contract Agenda Items Review Checklist

Reviewer: (Contracting and Procurement Specialist signs here) Date Received: 00/00/2015

Date: 03/21/2018 Department PUBLIC WORKS Division: Administration

Dept Head/Contact Person: Ron Brundidge Telephone No: 224-3901

Description: Revenue Contract to receive Fees from US Ecology Michigan, Inc to operate Liquid Industrial By-product and Solid Waste Facility in the City of Detroit

Brief explanation-function of or need for the goods/services

Note:

Contract No.: PO Type: REVENUE CONTRACT Est. Value: N/A

Contract Term(if applicable): N/A

Funding Source: City: State:

Federal: Other: N/A Revenue Contract %

(Documentation must be furnished by the Dept. if anything other than City funding)

Recommended Supplier: N/A Required Date:

1. The business being awarded is N/A If a renewal, provide justification for renewal:

2. Was the product or service competitively bid? Yes No

Attach Copy of Bid Tabulation/Evaluation score sheets as needed

If the answer to #2 is "NO" explain why there was no competition: N/A, REVENUE

CONTRACT

3. Was a Co-Operative Agreement Considered? Yes No Co-Operative Name:

If answer to #3 is "No" explain why a Co-Op was not considered: N/A, Revenue Contract

4. Were savings achieved?

Yes Amount

\$N/A Revenue Contract

No

5. Does this agreement represent an increase?

Variance in unit price only (Current unit price \$0.00 Proposed Unit Price \$0.00)

Change in amount/volume of the good or service to be used. _____

6. Does the supplier currently provide other goods and services to the City? Yes No

If yes please list: Revenue Contract _____

7. Is this good/service used by other departments? Yes No

If "yes" can this REQ/PAR be combined other department requirements? Yes No

8. Is this a service that can be performed by City employees? Yes No **N/A, Revenue Contract**

Is this a service that City employees can be trained to do? Yes No **N/A, Revenue Contract**

NOTES: Buyer:

a. Excluded Parties List / Supplier Award Management Website Reviewed? Yes _____ No _____

PLACE ON FINANCIAL REVIEW COMMISSION AGENDA

PLACE ON CITY COUNCIL AGENDA

REJECT AND NOTIFY DEPARTMENT DIRECTOR:

SIGNED:  for _____ DATE: 3/21/18

(Department)

INFORMATION PROVIDED BY: Ron Brundidge

TITLE: DIRECTOR

PHONE: (313) 224-3901

HOST COMMUNITY AGREEMENT

This Host Community Agreement (“Agreement”) is made this _____ day of February 2018, between the City of Detroit, a Michigan public body corporate, acting by and through its Department of Public Works (hereinafter referred to as the “City”), whose address is 2 Woodward Avenue, Suite 802, Detroit, Michigan 48226, and US Ecology Michigan, Inc. (formerly known as Dynecol, Inc.), a Michigan corporation (hereinafter referred to as the “Operator”), whose address is 6520 Georgia Street, Detroit, Michigan 48211.

WHEREAS, Operator operates the property, the legal description of which is attached as Exhibit, A, commonly known as 6520 Georgia, Detroit, Michigan 48211 (**Ward 15/Item 001708-10**), (the “Property”) as a Solid Waste Facility;

WHEREAS, the City and the Operator have entered into a prior Host Community Agreement for Operator to operate Liquid Industrial By-product and Solid Waste (“Facility”), to be regulated under the Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994 (commonly known as “NREPA”) as amended and the rules promulgated thereunder (Parts 111, 115 and 121) if otherwise applicable; the Wayne County Solid Waste Management Plan; and applicable ordinances of the City at the Property; and

NOW THEREFORE, in consideration of the mutual undertakings and benefits accruing to the parties hereunder and in conformity with applicable law, the parties hereto covenant and agree as follows:

WITNESSETH:

1. Applicability.

Execution of this Agreement shall be required by the City pursuant to the Charter of the City of Detroit. This Agreement is intended by the parties to supersede the terms of the original Host Community Agreement dated November 13, 2007. The terms and conditions of this Agreement are applicable to US Ecology Michigan’s Part 115 operations at its facility located at 6520 Georgia Street, Detroit, Michigan 48211.

2. Definitions.

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of a Hazardous Waste, Solid Waste, or Liquid Industrial By-product into or on land or water in a manner that any such wastes or a constituent of any such wastes may enter the environment, be emitted into the air, or be discharged into water, including groundwater.

“Disposal Facility” means any location where Disposal occurs, including but not limited to a Disposal Area, as defined in Part 115 of NREPA, M.C.L. § 324.11503(5).

“Fracking Waste” means any waste generated by an extraction technique for oil and gas wells in which rocks are fractured artificially with the use of pressurized liquid.

“Hazardous Waste” means those wastes that are regulated by Part 111 of NREPA, its Administrative Rules or 40 CFR parts 260 through 273 of the Federal Regulations.

“Liquid Industrial By-Product” is defined as the term is used in Part 121 of Act 451.

“Modification” means any physical change to a solid waste facility or change in the method of operation of a solid waste facility which results in an increase in the facility’s processing or storage of solid waste, or any change in the types of solid wastes approved for storage, disposal, transfer, collection and processing, or any change that would require host community approval under the Wayne County Solid Waste Management Plan.

“Naturally Occurring Radioactive Materials (‘NORM’)” is defined as materials found in nature that contain radionuclides or radioactive elements, or that otherwise emit ionizing radiation, that are undisturbed as a result of human activities.

“Operator” means the individual, corporation, partnership, joint venture or other entity entering into this Agreement with the City.

“Radioactive Waste” means waste subject to regulation under the Atomic Energy Act of 1954, as amended, the Low Level Radioactive Waste Policy Act of 1980, as amended, or Mixed Waste as defined in 40 CFR §266.210.

“Solid Waste” is defined as the term is used in Part 115 of NREPA and the Resource Conservation and Recovery Act, 42 USC § 6903.

“Solid Industrial Waste” is defined as waste that is generated by businesses from an industrial or manufacturing process or waste generated from non-manufacturing activities that are managed as a separate waste stream.

“Solid Waste Facility” means any area where Solid Waste is stored, disposed, transferred, collected, processed, or otherwise handled for a fee.

“Storage Facility” is defined as the term is used in Part 121 of NREPA.

“Technologically Enhanced Naturally Occurring Radioactive Materials (‘TENORM’)” is defined as any naturally occurring material not subject to regulation under the Atomic Energy Act whose radionuclide concentrations or potential for human exposure have been increased above levels encountered in the natural state by human activities that is generated by or related to hydraulic fracturing or waste derived from the drilling of municipal water wells, but does not include smoke detectors and exit signs, and other manufactured products or devices.

“Treatment” is defined as the term is used in Part 121 of NREPA.

“Treatment Facility” is defined as the term is used in Part 121 of NREPA.

3. Permitting and Environmental Regulation Compliance.

Operator shall comply with the provisions outlined in all facility operating permits and licenses. Operator shall comply with the provisions of Sections 324.12112 (facilities accepting liquid industrial by-product; duties of owner or operator) and 324.12113 (treatment, storage, or disposal of liquid industrial by-product; requirements) of the Part 121 rules of NREPA.

Operator shall operate the Facility in compliance with all applicable permits, resolutions, orders; and federal, state, and local environmental laws and regulations.

4. Waste Service Area.

- A. The allowable Service Area that the facility may serve shall be as provided for by Part 115 of NREPA if applicable, and the Wayne County Solid Waste Management Plan.
- B. Volume Limits. Under no circumstances shall the volume caps established in accordance with Paragraph 6 below be exceeded.
- C. Liquidated Damages. Operator agrees to pay to the City, as liquidated damages, Five Thousand Dollars (\$5,000.00) for each load or part of a load of waste processed at the Facility, which waste is in excess of the maximum daily limits set forth in Paragraph 6. Operator also agrees to pay the City, as liquidated damages, Five Thousand Dollars (\$5,000.00) for each load or part of a load of waste processed at the Facility not permitted to be processed pursuant to this Agreement, exclusive of the prohibited waste governed by Paragraphs 7, 8 and 9, exclusive of de minimis quantities. "De minimis quantities" shall be defined as that portion of a waste hauling load, not to exceed ten percent (10%) by volume of the individual truck load, which may, through inadvertence and on a non-recurring basis enter the waste stream of the Facility. Liquidated damages are not a penalty or a forfeiture, but are intended to compensate the City for its actual damages, which shall be difficult to accurately calculate, incurred as a result of the types of breaches described in this Agreement.
- D. Volume Increases. At any time, Operator may request the City to increase volumes, above and beyond those set forth in this Agreement. The City has sole, final, and absolute authority to permit such a request. The City shall not be permitted to reduce the volumes below the limits set forth in this Agreement. The language in this paragraph shall not be construed to provide Operator with a waiver of any necessary site plan, zoning or other review necessitated by a request to increase the volume of waste.
- E. Documentation. Operator shall obtain written confirmation from the generator and/or waste hauler, on which Operator may rely, as to the origin of waste being processed at the Facility. Upon request, Operator shall provide the City with such confirmations and any and all other records which identify the location from which waste processed at the Facility has been generated. Operator shall maintain the records for a period of three (3) years, or as long a time as is required pursuant to federal or state law, whichever period is longer.

5. Type of Waste and Volume Limits.

Operator is only allowed to process Liquid Industrial By-product and Solid Industrial Wastes as defined in Paragraph 2. The Operator shall specify on the updated site plan for the facility the following daily limitations on the gate quantities of wastes to be received at its Part 115 operations. The updated site plan shall be reviewed and approved by the City of Detroit's Industrial Review Committee.

- A. Liquid Industrial By-product - The Facility shall not accept for processing Liquid Industrial By-product in excess of ninety thousand (90,000) gallons per day from any source whatsoever. Such volumes shall be based upon the rated capacity of the incoming vehicles and/or rated capacity of incoming containers. Such amount shall be determined by the shipping documents, manifests or bill of lading.
- B. Solid Industrial Wastes - The Facility shall not accept for processing Solid Industrial Wastes in excess of four hundred fifty (450) tons per day from any source whatsoever. Such amount shall be determined by the shipping documents, manifests or bill of lading.

6. No Hazardous Waste.

Operator agrees that no waste classified as a hazardous waste under applicable state, local and federal laws or regulations may be disposed of at the Facility. Operator agrees to pay to the City, as liquidated damages, Twenty Thousand Dollars (\$20,000.00) per occurrence for any violation of the provisions of this Paragraph. An "occurrence" for purposes of this paragraph shall be defined as each individual truckload or any part of a truckload that contains hazardous waste.

7. No Radioactive Waste (including TENORM and Fracking Waste).

Operator agrees that no waste defined as Radioactive Waste (including TENORM, Fracking Waste or any other waste byproduct associated with hydraulic fracturing, also known as "fracking") under the terms of this Agreement may be processed, stored, or disposed at the Facility, nor will Operator apply for authority to process, store, or dispose Radioactive Waste (including TENORM, Fracking Waste or any other waste byproduct associated with hydraulic fracturing, also known as "fracking") at the Facility. In accordance with the letter received by MDEQ on June 12, 2017, Operator requested that the Radioactive Material Registration (2161-1) for the Facility be terminated and in a response letter dated June 14, 2017, MDEQ terminated the Facility's Radioactive Material Registration, which is incorporated in full by reference. Operator agrees to pay to the City, as liquidated damages, Twenty Thousand Dollars (\$20,000.00) per occurrence for any violation of the provisions of this Paragraph. An "occurrence" for purposes of this paragraph shall be defined as each individual truckload or any part of a truckload that contains Radioactive Waste (including TENORM, Fracking Waste or any other waste byproduct associated with hydraulic fracturing, also known as "fracking").

8. No Municipal Incinerator Ash.

Operator agrees that no municipal incinerator ash, including but not limited to bottom ash and fly ash generated from a municipal incinerator, may be processed at the Facility even if such ash is not classified as hazardous waste under applicable laws and regulations. Operator agrees to pay to the City, as liquidated damages, Twenty Thousand Dollars (\$20,000.00) per occurrence for any violation of the provisions of this Paragraph. An "occurrence" for purposes of this paragraph shall be defined as each individual truckload or any part of a truckload that contains ash.

9. Host Fees.

- A. Execution Fee. An Execution Fee of Three Thousand Five Hundred Dollars (\$3,500.00) shall be paid to the City upon execution of this Agreement.
- B. Host Fee. Operator shall pay an annual fee to the City for the waste accepted at the Facility. The annual fee shall be One Thousand Five Hundred Dollars (\$1,500.00). Each year, Operator shall provide the fee to the City at the time of reporting to the City the first quarter volumes of waste material accepted.
- C. Non-Reporting of Volumes. The Operator agrees to report to the City the quarterly volumes of waste material handled as part of its Part 115 operations by the 15th day after the close of the calendar quarter. Operator agrees to pay to the City, as liquidated damages, Two Hundred Dollars (\$200.00) per occurrence for any violation of the provisions of this Paragraph. An "occurrence" for purposes of this paragraph shall be defined as each month of non-reporting. The assessment shall be invoiced to the Operator on a quarterly basis.
- D. Overdue and Outstanding Fees. Prior to commencement of this Agreement, Operator shall pay any and all overdue and unpaid fees, taxes, penalties, charges or other obligations owed to the City.

10. City Reservation of Rights Regarding Other Facilities.

The City reserves the right to develop and/or operate, or participate in the development and/or operation, of a City owned or operated waste handling or disposal facility, or a waste handling or disposal facility owned or operated by the City jointly with other cities and/or other persons or corporations, for the disposal or handling of waste, which disposal facility may directly compete with the Facility.

11. City Inspector.

Operator agrees that a City of Detroit inspector shall be permitted access to the facility, with or without notice at any time during normal business hours. Operator further agrees that a City of Detroit inspector shall be permitted access to the facility outside of normal business hours, with twenty-four (24) hour notice. The inspector shall be permitted to monitor the source and volume of the Liquid Industrial By-Product being processed at the Facility, including but not limited to testing and sampling of the waste. The inspector shall be an employee or authorized representative of the City of Detroit Department of Public Works. During normal business hours, the inspector shall have complete access to books and records of Operator dealing with source, volumes and type of waste handled by the Facility's Part 115 operations. Operator shall provide suitable office accommodations to the inspector for the review of all books and records.

Operator agrees to pay to the City, as liquidated damages, Five Thousand Dollars (\$5,000.00) per occurrence for any violation of the provisions of this Paragraph. An "occurrence" for purposes of this paragraph shall be defined as each individual instance when the City of Detroit inspector is denied the access to inspect the facility, facility operations, or facility records.

12. Facility Operation.

- A. Hours of Operations. Operator agrees that, except as provided in Subsection J below, and unless agreed upon in writing by the parties, that the facility may receive shipments during all operating hours. It is understood the facility plans to operate twenty-four (24) hours per day and seven (7) days per week. This limitation does not invalidate or void a more restrictive limitation of the hours of operation imposed by the City in a land use grant or otherwise or imposed by Wayne County or the State of Michigan. In said instance the more restrictive limitation shall control and be binding on the Operator as though set forth above.
- B. Environmental Employment Partnership of City of Detroit Residents. Operator agrees to work with and contribute to Detroit Environmental Employment Program (DEEP) administered by BSEED to help prepare City of Detroit residents for employment in the environmental sector. DEEP provides training (including, but not limited to, Hazardous Waste Operations and Emergency Response Standard (HAZWOPER 40hr.), asbestos abatement supervisor, lead abatement supervisor, CPR, and Blight Removal (OSHA 30, skid steer operator, excavator operator, and aerial lift operator)) to unemployed and under-employed, predominantly low-income, displaced and minority residents within the City of Detroit for environmental sector jobs. Operator agrees that qualified candidates who successfully complete the city's training program and pass industry-standard pre-employment screening will be the focus of hiring for the Operator's facilities within the City of Detroit. The goal of this partnership will be the development of effective job readiness programs focused on the environment, as well as the hiring of City of Detroit residence. To further demonstrate its commitment to the success of the city's training program, Operator agrees to make an annual contribution of Twenty Thousand Dollars (\$20,000.00) to help fund DEEP, with the contribution requirement eliminated if the Operator hires fifty-one percent (51%) or more City of Detroit residents that applied for open positions, to be determined on an annual basis for the prior year.

For the purposes of this paragraph, a City of Detroit resident is defined as a person registered to vote within the City of Detroit or possessing a Michigan Driver License or similar government issued photo identification, which indicates a current Detroit address.

- C. Signs for Complaints. Operator agrees to install signs and/or notices, in accordance with the City Code, that inform citizens as to how to register complaints regarding the Facility by phone to the MDEQ Pollution Emergency Alerting System (PEAS) Hotline at 800-292-4706 or by mail.
- D. Site Plan. Operator shall, fifteen (15) days prior to the execution of this Agreement, submit an updated site plan to the City detailing, among other things, a landscaping plan designed to maintain the appearance of the Facility; a fully dimensioned site plan showing traffic routes and curb cuts; construction plans and construction materials; operational and safety features, including but not limited to daily, weekly, and monthly storage capacity, maintenance of aisle ways and other areas of equipment handling; and shall generally demonstrate compliance with the City's building and zoning code requirements.
- E. Prevention of Litter. Operator agrees to implement a plan to remove solid waste from the ten (10) foot perimeter around the Facility and maintain this area on a daily basis.
- F. Waste and Other Residue. Operator shall prevent vehicles leaving the Facility from tracking mud or dirt onto the local roads that such vehicles will use for ingress to and egress from the Facility. Operator will require every open vehicle using the Facility to be tarped when entering the Facility. Tarping shall also be required on vehicles leaving the Facility, if any waste or waste residue remains on or in the vehicle. Residue which is incidentally tracked onto the local roads shall be cleaned up as soon as practicable, but not less frequently than nightly, and disposed in compliance with all applicable local, state and federal laws and regulations. This Paragraph shall be enforceable by police report or City inspection. The Operator shall be responsible for the drivers associated with the Operator. Operator agrees to pay to the City, as liquidated damages, Two Hundred Dollars (\$200.00) per occurrence for any violation of the provisions of this Paragraph.
- G. Emergency Plan. Within thirty (30) days of the effective date of this Agreement, Operator agrees to provide the City with an updated emergency plan for on-site personnel in emergency situations.
- H. Expansion and Change of Process. Operator shall provide written notice and meet with the City to inform the City forty-five (45) days prior to submitting any plans to expand the Facility, change the process at the Facility, accept other materials not already permitted in this Agreement or alter the operation of the Facility, including any permit applications and site plans submitted under federal or state law. Each day that a violation continues shall constitute a separate violation. Operator agrees to pay to the City, as liquidated damages, One Hundred Dollars (\$100.00) per day for any violation of the provisions of this Paragraph.
- I. Community Relations. Operator shall hold community meetings on a quarterly basis,

with a fifteen (15) day notice prior to the date scheduled for the meeting being provided to the surrounding neighborhood community and City. In addition to the quarterly meeting, Operator shall prepare and distribute a facility newsletter every six months (semiannual) to the surrounding neighborhood community and City that details company activities, news, facility operations, incidents/accidents, employment opportunities, and relevant personnel changes. The surrounding neighborhood community is defined as occupants of all structures within fifteen hundred (1500) feet of the Property boundary. Operator agrees to pay to the City, as liquidated damages, One Hundred Dollars (\$100.00) per day for any violation of the provisions of this Paragraph.

- J. Additional Conditions of Operation. Operator agrees to comply with the additional conditions set forth in Exhibit B attached hereto prior to continuing operation of the facility.

13. Closure Clean-Up and Guarantee.

Operator agrees that, prior to discontinuing its operations at the Facility, it shall remove all debris, refuse and fuel from the Property, restore the property to the condition that existed prior to any debris being deposited on the Property, and remediate the Facility's soil and groundwater, if necessary, to non-residential criteria levels pursuant to Part 201 of NREPA, as amended, and any applicable operational memorandum issued by the Michigan Department of Environmental Quality. Once cleaned to the above criteria level, the facility will not need post-closure care. In addition, Operator shall obtain and maintain either a performance bond, a standby letter of credit, or closure insurance policy to guarantee satisfaction of its obligations under this paragraph with an institution approved by the City, in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00), and subject to such terms and conditions as are acceptable to the City. The performance bond, standby letter of credit, or closure insurance policy that guarantees satisfaction of the obligations under this paragraph shall be renewed by the Operator on an annual basis and submitted to the City. Operator will have three (3) months following the execution of this Agreement to submit to the City documentation establishing that it has increased its current One Hundred Twenty Thousand Dollar (\$120,000.00) guarantee to the required One Hundred Fifty Thousand Dollar (\$150,000.00) amount.

Operator agrees to pay to the City, as liquidated damages, Five Thousand Dollars (\$5,000.00) per violation with each day of not maintaining a valid performance bond, a standby letter of credit, or closure insurance policy constituting a separate violation.

14. Compliance With All Laws.

Operator shall comply with all applicable state, local and federal laws, regulations and requirements regarding the construction and operation of the Facility, including but not limited to all environmental requirements.

15. Wastewater Discharge Permit.

Operator shall comply with all rules, regulations and requirements required under its Wastewater Discharge Permit No. 923-27310-IU (to expire September 1, 2019), which was issued on August 31, 2017 by the Great Lakes Water Authority. Operator's continuation of discharging industrial wastewater after the September 1, 2019 expiration date of its permit shall be subject to all the

rules, regulations and requirements required by the permit and entity having jurisdiction over the issued wastewater discharge permit.

16. Liquidated Damages.

Liquidated damages are not a penalty or a forfeiture, but are intended to compensate the City for its actual damages, which shall be difficult to accurately calculate, incurred as a result of the types of breaches described in this Agreement.

17. Transportation.

Operator shall direct waste hauling vehicles that utilize the Facility to remain on a route from I-94 to Mt. Elliott Street to Georgia Street and back to I-94. To assist this effort, Operator shall install visible signage, in accordance with the City Code, to direct the waste hauling vehicles to the designated transportation route and avoid residential areas. Operator shall schedule waste deliveries to avoid clustering of waste vehicles at the Facility. Designated transportation routes and/or deliveries shall not include residential areas. Operator shall not use convoys of waste vehicles to deliver waste to the Facility. In the event transportation problems arise, Operator shall, at the request of the City, meet with City representatives within forty-eight (48) hours of notice of such problems, and shall adopt the procedures required by the City to resolve said problems. This Paragraph shall be enforceable by police report or City inspection. The Operator shall be responsible for the drivers associated with the Operator.

Operator agrees to pay to the City, as liquidated damages, Two Hundred Dollars (\$200.00) per each documented violation of the provisions of this Paragraph for the calendar year.

18. Term.

This Agreement shall take effect on the date executed by the parties, and shall continue in effect for a period of ten (10) years. The parties agree to review the host fee payment provisions of this Agreement from time-to-time, but in no event later than the annual anniversary of this Agreement, in order to account for and cover the increase of the City's costs. The parties agree to meet no later than twelve (12) months prior to the expiration of this Agreement to discuss its renewal. The Agreement shall be extended on a quarterly basis (three month periods) as long as there are good faith negotiations and the parties agree in writing prior to the stated expiration date.

19. Default

Should issues arise concerning public health and safety, the City has the authority to immediately shut down this Facility under the City's police powers. The City reserves the right to terminate this Agreement for cause. Cause is an event of default. An event of default shall occur if there is a breach of this Agreement. For purposes of this Agreement, a breach shall be defined as a breach of a contractual obligation that impacts public health and safety or a repeated violation of a provision of this Agreement or any conduct that causes blight in violation of the City of Detroit Building Code or City of Detroit Property Maintenance Code, including but not limited to Sec. 9-1-41, 9-1-113 or Section 12-11-28.2, or state law. If the City finds an event of default has occurred, the City may issue a Notice of Termination for Cause to the Operator setting forth the grounds for terminating the Agreement, in accordance with Paragraph 23(E). Upon issuing a Notice of Termination for Cause, the Operator shall have thirty (30) calendar days within which to cure such default, provided, however,

that if the nature of the default is such that more than the cure period provided is reasonably required for its cure, then the Operator shall not be deemed to be in default if the Operator, with the City's acknowledgement and consent, commences such cure within said period and thereafter diligently pursues such cure to completion. If the default is cured within said thirty (30) day period, the right of termination for such default shall cease. If the default is not cured to the satisfaction of the City, this Agreement shall terminate on the thirtieth business day after the Operator's receipt of the Notice of Termination for Cause. In the Conditional Land Use Decision Letter issued by the City on July 3, 2007 (B&SE Case No. 54-07, 6520 Georgia), the City approved Operator's use of the Property as a treatment facility to treat regulated and non-regulated non-hazardous industrial waste on the condition that Operator enter into a Host Community Agreement with the City of Detroit. Upon termination or expiration of this Agreement, without authorized extension, modification or replacement, the City may seek any and all remedies available to it under applicable law, including but not limited to requesting a declaratory judgment that Operator is not lawfully operating its Part 115 operations, or requesting injunctive relief to enjoin Operator from operating its Part 115 operations, and Operator may assert any defenses available to it under applicable law to any remedies sought by the City..

20. Assignment.

Operator agrees that it will provide thirty (30) days prior notice to the City of its intention to assign its rights and delegate its duties under this Agreement. As part of the required prior notice, Operator agrees to provide the City with a written certification that it has delivered to its assignee a copy of this Agreement and notice that it will be subject to its terms and covenants, with an acknowledgment by the assignee.

21. Indemnification.

Operator shall indemnify, hold harmless and defend the City from and against any liability in respect of claims arising out of the use and operation of the Facility, including but not limited to any liability in respect of claims arising out of the violation of any environmental laws and regulations, except to the extent caused by or arising out of the breach by the City of this Agreement, or the negligence or willful misconduct of the City, its officers, employees, or agents. As a condition precedent to its obligations under this Section, the City will promptly notify Operator of any third party claims and Operator shall be subrogated to any rights of the City against such third party. The City agrees to reasonably cooperate with Operator in the defense of such third party claims.

22. Execution of Documents.

Each of the parties hereto agrees to execute and deliver to the other party any and all documents and/or instruments, in addition to those otherwise provided for herein, that may be necessary and/or appropriate to put into effect the terms of this Agreement.

23. Miscellaneous Provisions.

- A. Specific Performance. It is expressly agreed by and between the parties to this Agreement that the subject matter of this Agreement is unique and that the failure of any party hereto to comply with the obligations and/or covenants contained herein constitutes irreparable injury if not fully and completely performed. Accordingly, any party seeking to enforce the terms and covenants contained herein shall be entitled to the equitable relief of specific performance and/or such other equitable relief as decreed and/or ordered by a court of competent jurisdiction. Neither the remedies outlined in this paragraph nor the remedies provided for in this Agreement for liquidated damages, are intended to be exclusive of any other remedy at law or in equity.
- B. Governing Law. This Agreement and the performance hereof shall be construed and interpreted in accordance with the laws of the State of Michigan.
- C. Entire Agreement. This Agreement supersedes any and all agreements that may have existed prior to the execution of this Agreement. This Agreement constitutes the entire agreement between the parties hereto in connection with the subject matter hereof. Neither of the parties to this Agreement has made any statements, representations or warranties in connection herewith, except as expressly set forth herein. This Agreement cannot be modified, altered, or otherwise amended unless done so in a writing duly executed by Operator and the City, with specific reference to the changes to be made to this Agreement.
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- D. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.
- E. Notices. All notices, acceptances, requests and other communications permitted or required hereunder shall be made, in writing, and shall be deemed to have been given (upon receipt) if delivered by U.S. postal certified or express mail to the address which is recognized as the place of business for the Operator. The Operator's place of business address shall be provided to the City by the Operator:

Notice to City
City of Detroit
Department of Public Works
Attention: Director
2 Woodward Avenue, Suite 611
Detroit, Michigan 48226

Notice to Operator
Mr. Simon Bell
US Ecology Michigan, Inc.
6520 Georgia Street
Detroit, Michigan 48211

Either party may change the address to which notice is to be sent to it by notice in writing to the other party as above provided.

- F. Waivers. Waiver by either party of any breach, or failure to enforce any of the terms and conditions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance with every term and condition hereof.
- G. Severability. If any provision of this Agreement or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.
- H. Authorization to Execute this Agreement. The parties hereto each represent to the other that the individual executing this Agreement on behalf of Operator and the City, is duly authorized and empowered to bind Operator and the City (as may be the case).
- I. Limitation of Liability. In no event shall the parties hereto be liable to the others for any special, indirect, incidental or consequential damages of any kind or nature, except for the liquidated damages provided for in this Agreement.
- J. No Third Party Beneficiaries. This Agreement is for the exclusive benefit of Operator and the City and shall not be deemed to give any legal or equitable right, remedy or claim whatsoever to any other person.
- K. Miscellaneous. This Agreement may be executed in counterparts, and each such counterpart shall constitute an original and all such counterparts shall constitute one and the same instrument.

{SIGNATURES ARE SET FORTH ON FOLLOWING PAGE}

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

WITNESSES:

US ECOLOGY MICHIGAN, INC.,
a Michigan corporation

Melanie Brandy
Signature
H Seidel
Signature

By: [Signature]
Print: Scott Brider
Its: Vice President

STATE OF MICHIGAN)
)ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me on MARCH 15, 2018
by ~~Simon Bell~~ SCOTT BRIDER, the Vice President of Operations for US Ecology Michigan, Inc., on behalf of said corporation.

Amanda Marek
Print Name: AMANDA MAREK, Notary Public
Wayne County, Michigan
My commission expires: DECEMBER 22, 2018
Acting in the County of: WAYNE

WITNESSES:

CITY OF DETROIT,
a Michigan public body corporate

Signature

Signature

By: [Signature]
Name: Ron Brundidge
Its: Director, Department of Public Works

STATE OF MICHIGAN)
)ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me on _____, 2018
by Ron Brundidge the Director of the City of Detroit Department of Public Works.

Print Name: _____, Notary Public
Wayne County, Michigan
My commission expires: _____
Acting in the County of: _____

EXHIBIT A



EXHIBIT B

1. All waste materials accepted by the facility shall be inspected or tested for compatibility with the stabilization process. Loads that fail the compatibility inspection shall be rejected and returned to the original generator.
 2. All tipping, loading, and storage of waste materials shall be contained within a building or enclosure.
 3. Parking, vehicle storage, vehicle maintenance, vehicle staging, material processing, material loading and unloading, and material storage is not permitted on any public right-of-way, or within fifteen (15) feet of a public right-of-way.
 4. Existing landscaping shall be maintained in a neat and orderly manner. Operator shall clean and maintain the perimeter of the facility, both the fence and the grounds.
 5. All lighting for the facility shall be subdued, shaded, and focused away from all adjacent private property. Full cut-off fixtures meeting Illumination Engineering Society of North American (IESNA) standards shall be used for all new fixtures.
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6. There shall be no stock piling of waste materials on site.
 7. Operator shall implement dust control measures as necessary to reduce fugitive dust to the minimum possible. A Fugitive Dust Control Plan shall be approved and submitted to the Michigan Department of Environmental Quality, Air Quality Management Division and the City of Detroit Buildings, Safety Engineering and Environmental Department.
 8. The entire site shall be hard surfaced with gravel or other suitable pavement material (not slag) and properly drained in accordance with the City of Detroit Plumbing Code.