

**ACE SOLID WASTE, INC.
DEVELOPMENT AGREEMENT
CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA**

THIS AGREEMENT, made and entered into by and between the **CITY OF RAMSEY**, a municipal **ACE SOLID WASTE, INC.**, a Minnesota Corporation (Domestic) under the laws of the State of Minnesota, whose address is 6601 McKinley Street NW, Ramsey, MN 55303 (the "**PERMITTEE**").

WITNESSETH:

WHEREAS, the **PERMITTEE** is the fee owner of the property generally known as 6601 McKinley Street NW, Ramsey, MN 55303, and legally described as follows:

Lot 1 and 1A, Block 1, ACE Addition, Anoka County, Minnesota

(the "**Subject Property**"); and

WHEREAS, on May 14, 2019 the **CITY** approved the final site plan and amended conditional use permit for an expansion of the **PERMITTEE'S** existing transfer station on the **Subject Property**; and

WHEREAS, the **PERMITTEE** intends to cause the Required Improvements to the **Subject Property** to be constructed without financial participation by the **CITY**.

NOW, THEREFORE, the **CITY** and **PERMITTEE** agree as follows:

**SECTION I
REQUIRED IMPROVEMENTS AND FINANCIAL RESPONSIBILITIES**

1. **City Code Compliance.** The **CITY** approves the site plan (the "**Site Plan**") conditioned on the **PERMITTEE** developing the **Subject Property** in accordance with the applicable provisions of City Code.
2. **Conformance with Plans.** The **Site Plan** shall be developed pursuant to the plans prepared by Wenck, dated March 7, 2019, revised _____ (the "**Plans**"). That the **Plans** consist of eighteen sheets as follows: G-101 (Cover Sheet), G-102 (Legend), C-101 (Existing Conditions), C-102 (Removals Plan), C-103 (Site Plan), C-201 (Erosion Control Plan), C-202 (Post Construction Erosion Control Plan), C-301 (Grading Plan), C-401 (Utility Plan), C-501 (Storm Sewer Plan), C-801 (Details), C-802 (Details), C-803 (Details), C-804 (Details), C-901 (Photometric Plan), L-100 (Tree Preservation Plan), L-101 (Landscape Plan), and L-102 (Landscape Details).
3. **Incorporation of All City Code Requirements.** That the recitals above and the applicable provisions of the City Charter, Subdivision Code, Zoning Code and Public Improvement Code of the **CITY**, as amended to date hereof, are incorporated herein by reference.
4. **State Building Code Compliance.** The structure(s) shall be constructed in accordance with the requirements of the Building Code.

5. **Fire Lanes.** Fire lanes shall be maintained on the **Subject Property**. The exact locations of these items on the **Subject Property** shall be as directed by the Fire Chief.
6. **Building Façade.** The **PERMITTEE** agrees to construct the building in accordance with the approved **Plans**.
7. **Required Improvements.** The **PERMITTEE** shall construct and install the following site improvements on the **Subject Property** in accordance with the specifications and location as shown on the **Plans**. The Required Improvements are as follows:
 - a. Site grading in accordance with the **Plans**.
 - b. Continuous, B6/12 concrete curbing and gutter around the perimeter of all bituminous/concrete surfaces.
 - c. Storm drainage facilities in accordance with the **Plans**.
 - d. Installation of Landscaping in accordance with the **Plans**.
 - e. Establishment of turf in areas disturbed during construction and in accordance with the **Plans**.
 - f. Boulevard sodding.
 - g. Sanitary sewer connection.
 - h. Temporary and permanent erosion control.

("Required Improvements").

The **PERMITTEE** agrees to construct the Required Improvements according to the terms and conditions of this agreement, in accordance with **PERMITTEE's Plans** submitted to the **CITY**.

8. **Required Improvements Completion Date.** The Required Improvements shall be completed on or before May 14, 2020.
9. **Required Improvements Financial Guarantee.** In order to ensure the installation of the Required Improvements in accordance with **CITY** specifications and in a timely manner, the **PERMITTEE** shall be required to deposit with the **CITY** a cash escrow or letter of credit, approved as to form by the **CITY**, in the amount of Three Hundred Fifty Six Thousand Six Hundred Seventy Dollars and No Cents. (**\$356,670.00**), which is 125% of the **CITY's** estimated cost of the Required Improvements. Prior to the issuance of the building permit, all financial guarantees must be provided as required herein.

Upon completion of the construction of the Required Improvements, the financial guarantee shall be returned to the **PERMITTEE** and the **PERMITTEE** shall be required to provide the landscaping maintenance guarantee described in Item #13 of this Development Permit. The determination of completion of the construction of the Required Improvements shall be made by the **CITY**. In the event the **PERMITTEE** fails to construct and install the Required Improvements as required herein, the City Council may order the completion of the Required Improvements with **CITY** day labor and/or by letting contracts for said completion and draw upon the escrow for payment. Only the City Council shall have the authority to direct completion of the Required Improvements and withdraw from the escrow account. The **PERMITTEE** hereby grants permission and a license to the **CITY** and/or its contractors and assigns to enter upon the Subject Property for the purpose of completing the construction and installation of the Required Improvements in the event of the **PERMITTEE's** default.

10. **Inspection Fees.** The **PERMITTEE** shall be responsible for all inspection costs incurred by the **CITY** related to the installation of Required Improvements. The **PERMITTEE** shall make a cash deposit into the appropriate escrow account at the **CITY** and the **CITY** shall have the authority to draw upon these funds for the purpose of compensating for inspection services. The amount of the deposit shall

be equal to five percent (5%) of the estimated cost of the Required Improvements, which equates to Fourteen Thousand Two Hundred Sixty Seven Dollars and No Cents (**\$14,267.00**) (5% x \$285,336.29). Upon completion of the Required Improvements to the satisfaction of the **CITY**, any surplus balance remaining in the **CITY's** escrow account shall be refunded to the **PERMITTEE**.

11. **Development Fees.** It is assumed that all applicable development fees were satisfied at the time of platting of the **Subject Property**.

SECTION II PERMITS AND OCCUPANCY

12. **Requirements for Building Permits.** No building permit for any lot in the Plat shall be issued until:
(a) a Class 5 driving surface is installed to within 300 feet of the structure; (b) site plan approval is granted by the **CITY** and any expense incurred in giving site plan approval has been reimbursed to the **CITY**; (c) the Building Official has been provided with a copy of the approved site plan, signed by a registered architect or surveyor, showing all dimensions to scale; (d) the Plat has been recorded at Anoka County Property Records, (e) a Lower Rum River Watershed Management Organization Permit has been obtained, The **CITY** reserves the right to suspend all building activities upon the **CITY** being notified by an outside agency that the appropriate permit(s) was not obtained from the applicable agency. Approval of the building foundation requires a certificate of elevation signed by a licensed (State of Minnesota), professional land surveyor, verifying that the elevation is in accordance with the approved grading plan for the Plat. Foundation approvals will require a certificate of elevation verifying that the actual elevation is in compliance with the approved grading and drainage plan. The lowest floor elevation shall be at least two (2) feet above the 100 year elevation.

No occupancy permit for any lot in the Plat shall be issued until: (a) vehicular access to the lot is provided including the installation of at least one layer of bituminous surfacing; (b) all utilities are in place, operational and accepted by the **CITY**; (c) for lots that have a slope of less than 2%, a certificate of grading, prepared by a licensed (State of Minnesota), professional land surveyor, must be provided to the **CITY** documenting that the flattest grade on this lot is 1% or greater will require certificates of grading.

SECTION IV LANDSCAPING

13. **Maintenance Guarantee for Landscaping.** It is herein agreed that the **PERMITTEE** shall provide a maintenance guarantee to ensure the survival of the plantings. Said maintenance guarantee shall consist of cash or a letter of credit, approved as to form by the **CITY**, in the amount of Two Thousand Two Hundred Five Dollars and No Cents (2,205.00) [# plantings (16 trees) x cost/planting (\$300/tree) x 30% average non-survival rate; (34 shrubs) x cost/planting \$75/shrub) x 30% average non-survival rate], which shall be in effect for a two (2) year period commencing on the date of the **CITY's** acceptance of said plantings as part of the Required Improvements.

At the end of the two (2) year period, the **PERMITTEE** shall contact the **CITY** to schedule a final inspection of the landscaping. The determination that all plantings that have been planted in accordance with the **Plans** have either survived or have been replaced shall be made by the Community Development Department. Upon approval of the final landscape inspection by the **CITY**, the maintenance guarantee shall be returned to the **PERMITTEE**. In the event the **PERMITTEE** fails to maintain the required plantings for a two (2) year period, the City Council may order the replacement of plantings with **CITY** day labor and/or by letting contracts and draw upon the escrow for payment.

Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the escrow account. The **PERMITTEE** hereby grants permission and a license to the **CITY** and/or its contractors and assigns to enter upon the **Subject Property** for the purpose of replacing plantings in the event of the **PERMITTEE** default.

SECTION V GENERAL

14. **Boulevard and Area Restoration.** The **PERMITTEE** shall be responsible for restoring all areas disturbed by the development grading operation in accordance with the approved **Plans**. The **PERMITTEE** shall also be responsible for the cost of cleaning any soil, earth or debris from the wetlands within and adjacent to the **Subject Property** resulting from grading performed in the development of the land.
15. **Construction Site Maintenance.** The **PERMITTEE** shall adhere to all **CITY** ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc.
16. **Estimated Cost.** It is understood and agreed that cost amounts set forth in this Agreement as Required Improvements, unless specified as fixed amounts, are estimated. The **PERMITTEE** agrees to pay the entire cost of said improvements including interest, engineering and legal charges.
17. **Site Plan Approval Expenses.** The **PERMITTEE** agrees that it will pay to the **CITY** all **CITY** expenses incurred in the approval of the **Site Plan**, including, but not limited to administration expenses, engineering and legal fees. Said expenses shall be paid within fifteen (15) days of billing by the **CITY** and outstanding billings shall be paid prior to issuance of the building permit. Any expenses incurred after the release of the building permit shall also be paid within said fifteen (15) day billing period. Failure to pay the **CITY's** expenses within the fifteen (15) day billing period will permit the **CITY** to draw upon any of the escrows required by this contract for payment.
18. **Reimbursement to the City.** The **PERMITTEE** agrees to reimburse the **CITY** for all costs incurred by the **CITY** in defense or enforcement of this Agreement, or any portion thereof, including court costs and reasonable engineering and attorney's fees.
19. **Invalidity of Any Section.** If any portion, section, subsection, sentence, clause, paragraph or phase of this Agreement is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not effect or void any of the other provisions of this Agreement.
20. **Proof of Authority.** When the **PERMITTEE** is a corporation, the **CITY** requires proof of authority by the corporation to execute this Agreement. This proof of authority may be satisfied by providing the **CITY** with a certified copy of minutes of the corporate Board of Directors granting such authority.
21. **Violation of This Permit.** If the **PERMITTEE** fails to perform any of the terms of this Agreement in the manner required by the **CITY**, the **CITY** shall be entitled to recover, from the **PERMITTEE** or the issuer of **PERMITTEE's** financial guarantee, the full amount of any and all financial guarantees. Breach of any of the terms of this Agreement by the **PERMITTEE** shall also be grounds for denial of Building Permit or issuance of Certificate of Occupancy.
22. **Agreement Binding On Successors and Assigns.** The **PERMITTEE** agrees that this Agreement shall be binding upon its successors and assigns.

ACE Solid Waste, Inc.

By: _____

Its: Division Vice President

STATE OF MINNESOTA)
) ss.
COUNTY OF)

The foregoing was acknowledged before me this ____ day of _____, 2019, by David Wiggins, the Division Vice President of ACE Solid Waste, Inc., a Minnesota Corporation (Domestic) under the laws of the State of Minnesota, on behalf of the corporation.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

REVIEWED BY:

Ratwik, Roszak & Maloney, P.A.
730 Second Ave. S., Suite 300
Minneapolis, MN 55402