

ORDINANCE NO. 8586-47

AN ORDINANCE
APPROVING AND AUTHORIZING THE EXECUTION OF AN
AGREEMENT FOR DEVELOPMENT OF SOLID WASTE
DISPOSAL FACILITIES AND PROGRAMS

WHEREAS, Champaign and Urbana desire to engage jointly in the acquisition, development and planning of future solid waste disposal facilities and programs by and through the System; and

WHEREAS, Champaign and Urbana are home rule units as provided in the 1970 Illinois Constitution (Art. VII, Sec. 6); and

WHEREAS, the 1970 Illinois Constitution (Art. VII, Sec. 10) and the Illinois Revised Statutes, Ch. 127, Sec. 741-749, as supplemented and amended, provide authority for intergovernmental cooperation as contemplated by this Agreement; and

WHEREAS, the System, a contractual association of Champaign and Urbana under and pursuant to the Champaign-Urbana Solid Waste Disposal System Agreement, as supplemented and amended, has owned or leased, operated and maintained solid waste disposal facilities serving Champaign and Urbana.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Agreement for Development of Solid Waste Disposal Facilities and Programs by and among the City of Champaign, Illinois, the City of Urbana, Illinois, and the Champaign-Urbana Solid Waste Disposal System, a copy of which Agreement is attached hereto and incorporated herein by reference, be and the same is hereby approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement for and on behalf of the City of Urbana, Illinois.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council.

1985.

PASSED by the City Council this 3rd day of December

Ruth S. Brookens
Ruth S. Brookens, City Clerk

1985.

APPROVED by the Mayor this 5th day of December

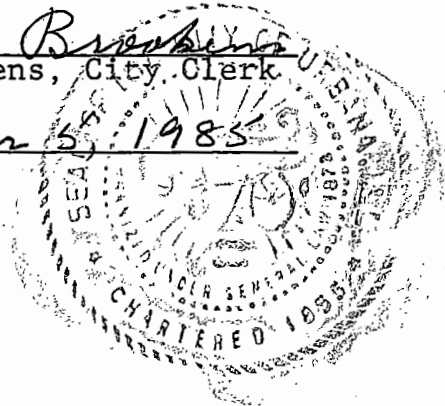
Jeffrey T. Markland
Jeffrey T. Markland, Mayor



THIS IS THE ATTACHMENT WHICH IS REFERRED TO IN
ORDINANCE NO. 8586-47 AND IS INCORPORATED
THEREIN BY REFERENCE.

Ruth S. Brookens
Ruth S. Brookens, City Clerk

December 5, 1983
Date



AGREEMENT FOR DEVELOPMENT OF SOLID WASTE
DISPOSAL FACILITIES AND PROGRAMS

This Agreement for the Development of Solid Waste Disposal Facilities and Programs is made as of the 6th day of December, 1985, by and among the City of Champaign, Illinois ("Champaign"), the City of Urbana, Illinois ("Urbana") and the Champaign-Urbana Solid Waste Disposal System (the "System").

W I T N E S S E T H:

WHEREAS, Champaign and Urbana desire to engage jointly in the acquisition, development and planning of future solid waste disposal facilities and programs by and through the System; and

WHEREAS, Champaign and Urbana are home rule units as provided in the 1970 Illinois Constitution (Art. VII, Sec. 6); and

WHEREAS, the 1970 Illinois Constitution (Art. VII, Sec. 10) and the Illinois Revised Statutes, Ch. 127, Sec. 741-749, as supplemented and amended, provide authority for intergovernmental cooperation as contemplated by this Agreement; and

WHEREAS, the System, a contractual association of Champaign and Urbana under and pursuant to the hereinafter described System Agreement has owned or leased, operated and maintained solid waste disposal facilities serving Champaign and Urbana.

NOW, THEREFORE, in consideration of the representations, promises, covenants, agreements and undertakings set forth in this Agreement, Champaign, Urbana and the System hereby agree as follows:

ARTICLE I

Definitions and Representations

Section 1.1. Definitions. Unless the context hereof clearly indicates otherwise, certain words and terms used herein shall have the meanings given them above and otherwise in this Agreement, and in this Section 1.1, as follows:

"**Agreement**" means this Agreement For Development of Solid Waste Disposal Facilities and Programs, as supplemented and amended from time to time.

"Allocation of Costs Ratio" means a fraction, the numerator of which is the population of each City and the denominator of which is the total population of the two Cities, based upon the most recently available census data at the time such fraction is determined.

"City or Cities". When used in the singular, Champaign or Urbana, each municipal corporations of the State of Illinois, and, when used in the plural, both Champaign and Urbana.

"EPA" means the Environmental Protection Agency of the United States or of the State of Illinois, or any other agency having jurisdiction or authority in connection with environmental and other operational matters, including permits, in respect of landfill sites, and its or their respective successors and assigns from time to time.

"Force Majeure" means acts of God, strikes, lockouts, acts of public enemies, orders of any kind of government of the United States or of the State of Illinois or any of their departments, agencies, or officials, or any civil or military authority, insurrections, riots, epidemics, lightning, earthquakes, fire, storms, floods, washouts, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery or equipment, partial or entire failure of utilities, or any other similar cause or event not reasonably within the control any party.

"Governing Body" means the respective City Councils of Champaign and Urbana and the Management Group of the System.

"Intergovernmental Task Force" means the Intergovernmental Task Force on Solid Waste Management, consisting of three (3) representatives from each of Champaign, Urbana and Champaign County, as established by An Intergovernmental Agreement Between Champaign, Urbana and Champaign County For the Development of a Long-Range Solid Waste Plan (the "Long-Range Plan Development Agreement").

"Landscape Waste" means any organic plant material including but not limited to leaves, grass clippings, trimmings, tree limbs, brush, and other plant material.

"Long-Range Plan" means the selected long-range, county-wide technology plan for the disposal of solid waste prepared by the Intergovernmental Task Force with the assistance of Gershman, Brickner and Bratton, the Consultant, and which is to be approved and forwarded by the Intergovernmental Task Force to Champaign, Urbana and Champaign County in accordance with the Long-Range Plan Development Agreement.

"Proposed Landfill Site" means the landfill site to be acquired, owned, operated and maintained as set forth in Article II of this Agreement.

"Solid Waste Disposal Agreement" means the Solid Waste Disposal Agreement dated as of May 22, 1985, by and among Champaign, Urbana and the System pursuant to which, among other things, the System is to operate and maintain the Ten Acre Landfill Site for the disposal of solid waste having its source or origination in or from or from outside the corporate limits of Champaign and Urbana, subject to such terms and conditions as therein provided.

"System Agreement" means the Champaign-Urbana Solid Waste Disposal System Agreement, as supplemented and amended (including such amendments contemplated by Section 7.1 of this Agreement), by and between Champaign and Urbana, a contractual association between Champaign and Urbana, pursuant to which, among other things, the System was created and established and the Management Group, as therein defined, was created and established as the System's Governing Body.

"Ten Acre Landfill Site" means the landfill site of such approximate size, owned by Urbana, operated and/or maintained by the System under and pursuant to the System Agreement and the Solid Waste Disposal Agreement.

Section 1.2. Certain Words Used Herein. The words "hereof," "herein," "hereunder," and other words of similar import refer to this Agreement as a whole and not solely to the particular portion thereof in which any such word is used. The defined terms used include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

Section 1.3. References to Articles, Etc. References to articles, sections, and other subdivisions of this Agreement are to the designated articles, sections, and other subdivisions of this Agreement as originally executed.

Section 1.4. Headings. The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

Section 1.5. Representations. Champaign, Urbana and the System make the following representations concerning this Agreement:

(a) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any agreement or instrument to which Champaign, Urbana or the System are now respectively a party or by which they are respectively bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien whatsoever upon any of their respective properties under the terms of any such instrument or agreement (other than this Agreement).

(b) The execution of this Agreement, and performance hereunder, has been duly authorized by each of the parties hereto by appropriate and binding action of each of their respective Governing Bodies.

(c) No approval, consent or withholding of objection on the part of any regulatory body, federal, state or local (not previously obtained, other than the permits or approvals described in Section 2.3 hereof) is required in connection with the execution or delivery of or compliance by Champaign, Urbana or the System with the terms and provisions and full and timely performance of this Agreement, and the consummation and full and timely performance of the terms, conditions and transactions set forth herein. Champaign, Urbana and the System will comply with the provisions of any and all applicable state, local or federal laws and any rules and related regulations of any regulatory authority or agency, including the EPA.

(d) There are no actions at law or in equity pending or threatened against Champaign, Urbana or the System, and there are no proceedings of any kind or nature, at law or in equity or before or by any federal, state or local governmental administrative authority or agency which are pending or, to the knowledge of Champaign, Urbana or the System, threatened, other than permit or approval proceedings described in Section 2.3 hereof, which affect or question their respective rights to own and operate their respective properties or conduct their respective businesses in the manner in which the same are now operated and conducted, or to do or perform any of the acts and things contemplated to be done and performed by them respectively under this Agreement.

ARTICLE II

Proposed Landfill Site

Section 2.1. Direction to Obtain Landfill Site Option(s); Costs. The System be and is hereby directed to obtain in its name and in the names of Champaign and Urbana, jointly and severally, one or more options for the purpose of the development, including the related permitting, of a new landfill site for the disposal of solid waste, such site being the Proposed Landfill Site as defined in Section 1.1 hereof. The costs of obtaining such option(s), together with preliminary geological and engineering studies, as hereinafter provided in this Section 4.1, shall be paid by the System. The System (or Champaign or Urbana if the System does not act) shall engage in such preliminary geological and engineering studies as may be reasonably necessary to determine the usefulness of such optioned site or sites for their intended purposes. The foregoing shall not foreclose or limit in any way the right of Champaign or Urbana to seek or obtain options for the same or other purposes, and not subject to this Agreement. Any exercise of any such option or options by the System shall require the prior approval of such optioned site or sites by the Governing Bodies of Champaign and Urbana, which such approval by either

such Governing Body shall be made or not in a timely manner consistent with the terms of any such option or options and shall not be unreasonably withheld.

Section 2.2. Landfill Site Option Terms. The option(s) to be obtained, as described in Section 2.1 above, shall have terms consistent with their objects and purposes under this Agreement, including as follows:

(a) The option terms shall be from the date or dates thereof to a date or dates not earlier than May 31, 1986.

(b) Subject to appropriate provisions to compensate the optionor(s) for damages related to any preliminary work, including appraisals and exploratory and preliminary geological and engineering studies and surveys, such option(s) shall allow the System, Champaign and Urbana, jointly and severally, to perform such preliminary work.

(c) Such option(s) shall be to the System, Champaign and Urbana, jointly and severally.

(d) Such option(s) shall provide for the exercise thereof, if at all, prior to February 21, 1986, only by the System or by Champaign and Urbana jointly; and from and after February 21, 1986, to the termination thereof, by either the System or by Champaign and Urbana jointly if this Agreement remains in effect or, if not, by Champaign or Urbana severally, on the basis of the first to exercise.

Section 2.3. Design and Development; Costs. The System be and is hereby directed to diligently and continuously proceed on a best efforts basis to obtain all applicable permits for use of the Proposed Landfill Site for sanitary landfill purposes consistent with this Agreement. In connection therewith, the System be and is hereby directed to design and develop, or cause to be designed and developed, the Proposed Landfill Site and to pay such design and development fees and costs (including but not limited to engineering fees and related costs in connection with EPA and other site location permits and approvals as may be necessary and sufficient to use the Proposed Landfill Site for sanitary landfill purposes as contemplated by this Agreement).

Section 2.4. Joint Use and Permit. Solid waste of a type that may be disposed of in accordance with the EPA or other operational permit in effect from time to time in connection with the Proposed Landfill Site, having its source or origination in or from or from outside of the corporate limits of Champaign and Urbana, as the System shall determine, may be disposed of in the Proposed Landfill Site.

Section 2.5. System Operation and Maintenance. In accordance with and pursuant to the System Agreement and this Agreement, the System shall operate and maintain the disposal operations at the Proposed Landfill Site by itself and with

employees of any party hereto in accordance with standards that meet or exceed those that are or may be imposed by the EPA, including the application of its usual and regular rate and other operating policies previously used. The foregoing shall not be a limit on the authority of the System under the System Agreement to determine, set or revise any applicable rate structure.

Section 2.6. Landfill Site Long Term Maintenance; Escrow Fund. The Cities and the System mutually recognize and agree that upon the exhaustion of the Proposed Landfill Site, expenses of long term care and maintenance will be incurred and that changing EPA regulation in connection with such long term care and maintenance make preparation for such expenses difficult, but still necessary. The purpose of this Section 2.6 is to create and establish an escrow fund, and to pledge the monies in such fund, to pay the costs of such long term maintenance. There be and is hereby accordingly created and established a Landfill Site Long Term Maintenance Escrow Fund (the "Escrow Fund"), to be funded and maintained by the System in the manner and for the purposes set forth in this Section 2.6. In accordance with EPA regulations and sound engineering principles and practices, but in any event in the System's reasonable discretion, including with a reasonable view to the availability of monies for such purposes and the reasonableness of the rates in effect at the time and from time to time for use of the System's facilities for solid waste disposal, the System shall pay into the Escrow Fund at the times and in the manner as the System shall determine monies sufficient, together with reasonably anticipated investment proceeds thereof, which are also to be paid into the Escrow Fund, to pay such long term maintenance expenses of the Proposed Landfill Site. The monies in the Escrow Fund from time to time be and they are hereby pledged for such purposes. The System may borrow for its authorized purposes monies in the Escrow Fund subject to having prior thereto made reasonable provisions for the repayment thereof. In the event monies in the Escrow Fund are insufficient for such purposes, the System, if existing at the time of disbursement or application of such funds for their intended purposes, shall pay or cause to be paid the deficiencies in that connection, and if the System is not existing or is unable to pay or cause to be paid such deficiencies, then Champaign and Urbana shall pay such deficiencies in an amount equal to the costs thereof times the Allocation of Costs Ratio. In the event there are any excess monies in the Escrow Fund after payment of all costs and expenses for which the Escrow Fund was created and established, such excess monies shall be paid to Champaign and Urbana according to the Allocation of Costs Ratio.

ARTICLE III

Resource Recovery Programs

Section 3.1. Resource Recovery. Champaign, Urbana, and the System mutually agree to use their best efforts to reduce the dependency on sanitary landfills for the disposal of solid waste generated from within the corporate limits of Champaign and Urbana. Toward this end, the System be and is hereby directed to pursue such economically feasible resource recovery methods, facilities or programs, or combinations thereof, to reduce such dependency on the use of sanitary landfills by 67,200 tons per year by December 31, 1991, such 67,200 tons being 70% of the total 96,000 tons estimated to be disposed of at the sanitary landfill in calendar year 1985. This reduction of 67,200 tons shall be considered a goal and the failure to meet such goal shall not, in and of itself, constitute a violation of this Agreement.

Section 3.2. Material Recycling Program. On or before June 1, 1986, Champaign and Urbana mutually agree to institute and commence a home pickup program for the purpose of collecting such materials as are specified in this Section 3.2 within the respective corporate limits of Champaign and Urbana and selling such materials for recycling. Such home pickup program shall include, but not be limited to, the following elements:

(a) the collection of glass, aluminum, tin and bimetal cans and newspapers, provided that there exists, at the time of any such collection, a market for selling any such material for recycling,

(b) weekly collection,

(c) promotional and educational efforts,

(d) the provision of home pickup service to substantially all single family and two to four unit residential housing structures, and

(e) funding for such program from the sale of collected materials and from disposal fees imposed by the System for the purpose of funding each respective home pickup program; such disposal fees, which shall be collected by the System and paid to each City to fund, or partially fund, such home pickup program, shall be determined by the System so as to be an amount equal to the total of the respectively lower unit cost prevailing between the two Cities for such home pickup program.

The Governing Bodies of the Cities hereby further agree to adopt such antiscavenging, mandatory participation or flow control ordinances as may be required and deemed necessary by such City to facilitate or insure the success of such home pickup program. Any such home pickup program shall be evaluated annually by each City to determine the effectiveness of such program in reducing

the dependency on the use of a sanitary landfill as a disposal method and the costs of the recycling program in comparison with other methods of reducing the dependency on the use of a sanitary landfill, and a report thereon shall be made by such City to the other City. Such home pickup program shall be operational for a period of five (5) years and shall be further evaluated by both Cities during the fifth annual evaluation to determine its overall effectiveness in reducing the dependency on the use of a sanitary landfill as a disposal method.

Section 3.3. Landscape Waste. The System be and is hereby directed to forthwith acquire or obtain the use of land to provide for the disposal of Landscape Waste and the reclamation thereof. The System be and is further hereby directed, on or before February 1, 1986, to adopt any and all necessary operating policies to prohibit the disposal of Landscape Waste at any sanitary landfill owned by or under the control of the System.

Section 3.4. Further Resource Recovery. Within a period of sixty (60) days of the date of the approval of the Long-Range Plan by Champaign and Urbana, the System be and is hereby directed to undertake the technical and economic analysis and investigation of any resource recovery facility so approved. This technical and economic analysis and investigation phase shall ascertain the technical feasibility and market potential of any such resource recovery facility by specifically identifying a system and a market entity and by entering into negotiations with a developer of any such system and the identified market entity. Such resource recovery facility shall be approved by the Governing Bodies of Champaign and Urbana.

ARTICLE IV

Hazardous Waste Disposal

Section 4.1. Small Quantity Hazardous Waste Sanitary Diversion Program. On or before April 1, 1986, the System be and is hereby directed to undertake a study, the cost of which shall not exceed \$10,000, to investigate alternatives for diverting household, agricultural, and other federally or state exempted hazardous waste from any sanitary landfill owned by or under the control of the System.

ARTICLE V

Authority and Direction

Section 5.1. Management Group. The Management Group, for and on behalf of the System, be and hereby is authorized and directed to timely do any and all things necessary to effect the performance of all obligations of the System under and pursuant to this Agreement, including, without limitation, the preparation of budgets and amendments thereto for submission to the Governing Body of each City in accordance with the System Agreement, and the performance of all acts of

whatever nature necessary to effect and carry out the authority conferred by this Agreement. The Management Group be, and is hereby, further authorized and directed for and on behalf of the System to execute and deliver all papers, documents and other instruments that may be required for the carrying out of the authority conferred and directed by this Agreement or to evidence such authority and direction and to exercise and otherwise take all necessary action to the full realization of the rights, accomplishments and purposes of the System under this Agreement and to discharge all of the obligations of the System hereunder.

Section 5.2. Governing Body of Each City. The Governing Bodies of each City hereby agree to timely do and take any and all actions necessary to effect the performance of the System and each respective City under and pursuant to this Agreement, including, without limitation, the approval of any budget and amendments thereto recommended by the Management Group of the System in accordance with the System Agreement and, to the extent that the System does not have sufficient funds from fees and other means of payment to the System to effect the performance of all obligations of the System under and pursuant to this Agreement, to authorize, provide or otherwise make funds available for such purposes in accordance with the Allocation of Costs Ratio, and the performance of all other acts of whatever nature necessary to effect and carry out the obligations of the System and each respective City conferred by this Agreement. To give full effect to the foregoing provisions of this Section 5.2, the Governing Bodies of each City agree to hereby approve, and hereby agree to authorize and direct the respective Mayors and Clerks of the Cities, and all other appropriate officers thereof, to execute and deliver all papers, documents and other instruments that may be required for the carrying out of the obligations of the System and the Cities by this Agreement or to evidence such obligations and to exercise and otherwise take all necessary action to the full realization of the rights, accomplishments and purposes of the System and the Cities under this Agreement and to discharge all of the obligations of the System and the Cities hereunder.

Section 5.3. Instruments of Further Assurance. Each of the parties hereto covenants and agrees that each will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such agreements, ordinances and resolutions supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, transferring, conveying, pledging, assigning and confirming unto the appropriate parties hereto all and singular the rights and revenues covenanted, agreed and pledged hereby; and covenants and agrees that, except as in this Agreement provided, each has not and will not assign, pledge, encumber or otherwise dispose of any part of the income and revenues herein described or of their respective rights under this Agreement. Without any other direction than provided in this Agreement, Champaign, Urbana and the System hereby agree to duly authorize and direct each of its appropriate officers,

attorneys and employees to timely and fully effect the objects and purposes of this Agreement, according to its tenor and import.

ARTICLE VI

Events of Default and Remedies

Section 6.1. Failure of System to Perform. It is hereby understood and agreed that when any term or provision of this Agreement directs the System to perform or undertake a particular action, the System shall be obligated to timely and fully perform. In the event, however, that the System fails to timely observe and perform any covenant, condition or agreement in this Agreement on the part of the System to be observed and performed, Champaign and Urbana shall jointly assume any such performance or undertaking in connection therewith.

Section 6.2. Events of Default. If any of the following events occur, it is hereby defined and declared to be and to constitute an "event of default" under this Agreement:

(a) Any failure by either City to approve any budget or amendment thereto recommended by the Management Group of the System to effect the performance by the System under and pursuant to this Agreement or to authorize, provide or otherwise make funds available for such purposes in accordance with the Allocation of Costs Ratio within a period of forty-five (45) days from that date of such recommendation.

(b) Any failure by either City to authorize, provide or otherwise make funds available in accordance with the Allocation of Costs Ratio to effect the performance by the System under and pursuant to this Agreement in the event the Cities have jointly assumed any such performance or undertaking pursuant to Section 6.1 of this Agreement within forty-five (45) days of the date of such assumption of duties.

(c) Any failure by either City to observe and perform any covenant, condition or agreement in this Agreement on the part of such City to be observed or performed, either jointly or severally (other than as referred to in subsections (a) and (b) of this Section 6.2), for a period of thirty (30) days after the passage of a Resolution by the Governing Body of such other City specifying such failure and requesting that it be remedied, given to such City by the other City, unless the other City shall agree in writing to an extension of such time prior to its expiration; or in the case of any such default which cannot be cured within such thirty-day period, it shall not constitute an event of default if corrective action is instituted by such City within such thirty-day period and diligently pursued until the default is corrected. The foregoing provisions of this subsection (c) of this Section 6.2 are subject to the limitation that if by a reason of Force Majeure the defaulting City is unable in whole or in part to carry out the agreements of such City on its part herein contained, such City shall not be deemed

in default during the continuance of such inability. If either City is thus rendered unable wholly or in part by Force Majeure to carry out its obligations under this Agreement, that City shall give to the other City prompt written notice of the Force Majeure with reasonably full particulars concerning it. Thereupon, all dates specified in this Agreement, so far as they are affected by the Force Majeure, shall be extended for a period equal to the period of the Force Majeure and the obligations of the Cities, so far as they are affected by the Force Majeure, shall be suspended during, but no longer than, the continuance of the Force Majeure. The affected City shall use all possible diligence to remove the Force Majeure as quickly as possible.

Section 6.3. Remedies. During the occurrence and continuation of any event of default hereunder, the non-defaulting City shall have the following right and remedy, in addition to any other remedies herein or by law or equity provided: Such nondefaulting City may, by the passage of a Resolution of its Governing Body, a copy of which shall be given to such defaulting City, declare that such defaulting City shall no longer be a member of the System; in which such event such defaulting City shall have no claim to the assets or property of the System, but shall continue to remain liable for any and all monetary obligations, payments or contributions otherwise required to be paid by either the System or such defaulting City pursuant to this Agreement, together with any and all other contributions so assessed pursuant to the System Agreement, prior to such event of default.

Section 6.4. Remedies Cumulative. No remedy herein conferred upon or reserved to either City is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 6.5. Delay or Omission Not a Waiver. No delay or omission of either City to exercise any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Agreement to either City may be exercised from time to time and as often as may be deemed expedient by either City.

ARTICLE VII

Miscellaneous Terms and Provisions

Section 7.1. Term. If, as and when duly executed by Champaign, Urbana and the System, this Agreement shall be effective from and after December 6, 1985, to and including February 21, 1986. Provided, however, this Agreement shall be automatically extended from February 21, 1986, until exhaustion of the Proposed Landfill Site if, and only if, Champaign and Urbana, on or before February 21, 1986, have executed appro-

priate amendments to the System Agreement, it being mutually acknowledged and agreed by Champaign and Urbana that such amendments to the System Agreement are required in order to give and provide full effect to the terms and provisions of this Agreement and so enable Champaign and Urbana to engage jointly in the acquisition, development and planning of future solid waste disposal facilities and programs by and through the System. Such amendments to the System Agreement, among other things, shall provide for a policy making body to consist of a total of six (6) representatives, with three (3) from each City, including either the Mayor or a designee of the Mayor of each City and two (2) members of the Governing Body from each City, such members to be chosen by the respective Governing Bodies of the two Cities and a majority vote of such policy making body shall be required for the approval of all policy matters.

Section 7.2. Agreements and Binding Effect. This Agreement shall be binding upon Champaign, Urbana and the System, and their respective successors and assigns, according to its tenor and import. When any term or provision of this Agreement directs that any party hereto perform or undertake a particular action, such party hereby covenants and agrees to timely and fully perform.

Section 7.3. Further Effect of Agreement. For and during the term of this Agreement as provided in Section 7.1, this Agreement shall constitute the development agreement to finance and develop future solid waste disposal facilities to be executed by Champaign and Urbana on or before December 6, 1985, pursuant to Section 6.1 of the Solid Waste Disposal Agreement, provided, however, that in the event that Champaign and Urbana have not executed appropriate amendments to the System Agreement on or before February 21, 1986, then this Agreement shall be null and void as of such date and the provisions of the said Section 6.1 of the Solid Waste Disposal Agreement with respect to the term thereof and the Ten Acre Landfill Site shall thereafter be and remain in full force and effect as if this Agreement had never become effective.

Section 7.4. Precedence of Agreement. Except as otherwise herein provided, the provisions of this Agreement shall be read and interpreted consistently with the terms and provisions of both the System Agreement and the Solid Waste Disposal Agreement but in the event of a conflict between the terms and provisions of this Agreement and the System Agreement (unless and until the System Agreement is amended pursuant to Sections 7.1 and 7.3) and the Solid Waste Disposal Agreement, the terms and conditions of this Agreement shall supercede and control anything to the contrary in the System Agreement and the Solid Waste Disposal Agreement.

Section 7.5. Amendments. This Agreement may be amended from time to time, but only in writing duly approved by the Governing Bodies of Champaign and Urbana and by the System's Management Group.

Section 7.6. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Agreement is intended or shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement, any terms, agreements, covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties as herein provided and not otherwise.

Section 7.7. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case or in all cases because it conflicts with any other provision or provisions hereof or any Constitution or statute or rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections in this Agreement contained shall not affect the remaining portions of this Agreement, or any other part hereof.

Section 7.8. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.9. Laws Governing Agreement. The effect and meanings of this Agreement and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State of Illinois.

IN WITNESS WHEREOF, the City of Champaign, Illinois and the City of Urbana, Illinois have caused this Agreement to be duly executed by their respective Mayors in their respective municipal names and their respective seals to be impressed hereon and attested by their respective City Clerks, and the Champaign-Urbana Solid Waste Disposal System has caused this Agreement to be executed by its Chairman and attested by its Vice-Chairman, all as of the date first above written.

CITY OF CHAMPAIGN, ILLINOIS

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

CITY OF URBANA, ILLINOIS

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Clerk

CHAMPAIGN-URBANA SOLID WASTE
DISPOSAL SYSTEM

By: _____
Chairman

ATTEST:

By: _____
Vice-Chairman