

ORDINANCE NO. 8687-7

AN ORDINANCE

APPROVING AN AGREEMENT AND GENERAL PLAN FOR DEVELOPMENT OF
SOLID WASTE DISPOSAL FACILITIES AND PROGRAMS AND THE CREATION
OF THE INTERGOVERNMENTAL SOLID WASTE DISPOSAL ASSOCIATION
BY AND AMONG THE CITY OF CHAMPAIGN, THE CITY OF URBANA
AND THE COUNTY OF CHAMPAIGN

WHEREAS, it is desirable and in the best interest of the City of Urbana, Champaign County, Illinois (the "City"), together with the City of Champaign, Illinois ("Champaign") and the County of Champaign, Illinois (the "County") to address jointly the problems of, and opportunities in, solid waste disposal by entering into an appropriate intergovernmental agreement with Champaign and the County.

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

Section 1. That the Agreement and General Plan for Development of Solid Waste Disposal Facilities and Programs and the Creation of the Intergovernmental Solid Waste Disposal Association (the "Agreement") by and among the City, Champaign, and the County, in substantially the form thereof as presented before this meeting, is in all respects approved, and all actions taken and things done by the appropriate officers of the City preliminary to and in connection with the preparation thereof be and are hereby ratified, confirmed and approved.

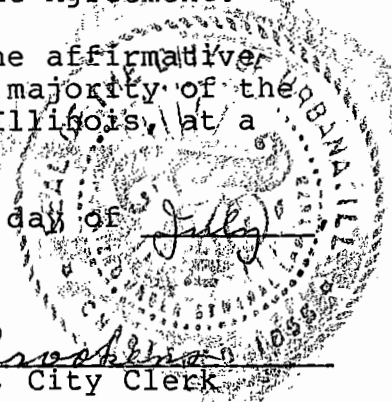
Section 2. That the Mayor and the City Clerk be and they are hereby authorized and directed to execute and deliver the Agreement for and on behalf of the City. The Agreement as executed and delivered shall be in substantially the form thereof now before this meeting and hereby approved, or with such changes therein as shall be approved by the officers of the City executing it, their execution thereof to constitute their conclusive approval and the City's conclusive approval of any and all changes or revisions therein from the form thereof now before this meeting.

Section 3. That as set forth in the Agreement, upon the enactment of S.B. 1930, as approved by the General Assembly and now before the Governor, or with such changes therein as the Governor by amendatory veto may make, not inconsistent with the Agreement, the City by ordinance shall readopt, ratify, confirm and approve the Agreement in such manner and with the effect of recreating and re-establishing the Association under the Agreement as a joint action agency in connection with the subject matter of the Agreement in accordance with and pursuant to Section 3.2 of the Illinois Intergovernmental Cooperation Act.

Section 4. That from and after the execution and delivery of the Agreement the officers, attorneys, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute and deliver all such documents, certificates and instruments as may be desirable or necessary to carry out, effect and comply with the provisions of the Agreement as executed and delivered. The Mayor and City Clerk, for an on behalf of the City, be and they are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Agreement by the other parties thereto, the performance of all obligation of the City under and pursuant to the Agreement and the performance of all acts and things of whatever nature necessary to fully effect and carry out the provisions of the Agreement.

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.

1986. PASSED by the City Council this 21st day of July


Ruth S. Brookens
Ruth S. Brookens, City Clerk

1986. APPROVED by the Mayor this 24th day of July,

Jeffrey T. Markland
Jeffrey T. Markland, Mayor

THIS IS THE ATTACHMENT WHICH IS REFERRED TO IN
ORDINANCE NO. 8687-7 AND IS INCORPORATED
THEREIN BY REFERENCE.

Ruth S. Brookens, City Clerk

Date

CITY OF URBANA, ILLINOIS

Office Memorandum

TO: Members, Urbana City Council
FROM: Jim Darling
DATE: July 21, 1986
RE: INTERGOVERNMENTAL SOLID WASTE AGREEMENT

Please find attached the revised Intergovernmental Solid Waste Agreement. The revisions are underlined, and they are on Pages 14 and 15. As you will recall, these were changes discussed by the Community Recycling Center. Please note that the contract with CRC will come back to you for approval at a later date.

JSD:cls

Attachment

AGREEMENT AND GENERAL PLAN FOR DEVELOPMENT OF SOLID WASTE
DISPOSAL FACILITIES AND PROGRAMS
AND THE CREATION OF THE
INTERGOVERNMENTAL SOLID WASTE DISPOSAL ASSOCIATION

July, 1986

AGREEMENT AND GENERAL PLAN FOR DEVELOPMENT OF SOLID WASTE
DISPOSAL FACILITIES AND PROGRAMS
AND THE CREATION OF THE
INTERGOVERNMENTAL SOLID WASTE DISPOSAL ASSOCIATION

This Agreement and General Plan for the Development of Solid Waste Disposal Facilities and Programs and the Creation of the Intergovernmental Solid Waste Disposal Association, is made as of the _____ day of _____, 1986, by and among the City of Champaign, Illinois ("Champaign"), the City of Urbana, Illinois ("Urbana"), and Champaign County, Illinois ("County").

W I T N E S S E T H:

WHEREAS, Champaign, Urbana and the County desire to engage jointly in the acquisition, development and planning of future solid waste disposal facilities and programs; 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 agreement between Champaign, Urbana, and Champaign County entitled "An Intergovernmental Agreement between the City of Champaign, the City of Urbana, and Champaign County for the Development of a Long Range Solid Waste Plan" has provided a cooperative framework and a Task Force comprised of elected representatives from the three entities for the development of a Long Range Solid Waste Plan ("Plan"); and

WHEREAS, the firm of Gershman, Brickner and Bratton has completed a study entitled, "Report to Intergovernmental Task Force on Solid Waste

Management", which has supplied information to the parties so that they are able to take initiatives in order to begin implementation of the Plan;

WHEREAS, the Task Force has recommended the development of an intergovernmental cooperative landfill to the respective Governing Bodies as the initial step in long range planning for the solid waste disposal needs of the Champaign County area; and

WHEREAS, Champaign, Urbana and the County recognize the need to site a landfill due to the fact that the current landfill, which has served both municipalities and the County, is approaching capacity in the near future; and

WHEREAS, all parties hereto desire to reduce the dependency on landfills as a method of solid waste disposal and to encourage and develop resource recovery programs and other long term planning alternatives in the area of solid waste disposal; and

WHEREAS, the parties have agreed and will continue to adhere to the certain planning principals and goals for solid waste disposal, as follows:

1. That solid waste should be looked upon as a resource for the community to use and not as a "problem".
2. That the volume of solid waste generated be reduced to the maximum feasible extent by promotion of alternative solid waste reduction strategies.
3. That materials and energy (in optimum proportions) be recovered from the solid waste stream to the maximum extent possible.
4. That need for agricultural land for solid waste disposal be minimized (to accommodate only the irreducible remainder of solid waste otherwise disposed of).
5. That the recovery of energy and materials from solid waste and the disposal of the irreducible remainder be accomplished by use of environmentally sound technologies.
6. That the implementation of the long-range plan for the disposal of solid waste be based on obtaining as great a

control of the waste stream as is practically and legally possible; and

WHEREAS, the parties have further agreed that the planning and implementation process for the disposal of solid waste by the parties should be based on the following:

1. That the Association be maintained with effective communication channels to the ultimate policy makers of each participating agency (to assure timely and effective planning decisions).
2. That the planning and implementation process be funded adequately to allow internal staff time as well as to provide consulting assistance.
3. That the planning and implementation process provide for early and consistent public involvement and input.
4. That the plan anticipate and provide for needs until at least the year 2006.
5. That cooperative efforts among the Governing Bodies of the cities of Champaign and Urbana and Champaign County should take precedence over unilateral efforts.
6. That incentives be given preference over regulatory actions in devising implementation strategies.
7. That if multiple technologies are called for in the plan or implementation process, these technologies shall be integrated to the maximum extent possible.

NOW, THEREFORE, in consideration of the representations, promises, covenants, agreements and undertakings set forth in this Agreement, Champaign, Urbana, and the County 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 and General Plan For Development of Solid Waste Disposal Facilities and Programs and the Creation of the Intergovernmental Solid Waste Disposal Association, as supplemented and amended from time to time.

"Association" means the Intergovernmental Solid Waste Disposal Association constituted, created and established under and pursuant to this Agreement.

"Board" means the board of directors of the Association, the governing and directing body of the Association.

"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 in connection with such functions.

"Facilities" or "facilities" means the solid waste disposal or processing facilities, which include, but are not limited to, land, buildings and equipment, utilized in connection with landfills, solid waste reduction, resource recycling, resource recovery, solid waste transfer, and energy

conversion and production.

"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 of any party.

"Future Landfill Site" means the landfill site sufficient to meet the solid waste disposal needs of all of the Members for a minimum twenty (20) year period, to be acquired, owned, operated and maintained as set forth in Article V of this Agreement. The twenty (20) year period is based on an anticipated fifty percent (50%) reduction in landfilled solid waste volume over such time period. Such Future Landfill Site shall be a "regional pollution control facility" as defined by the Illinois Environmental Protection Act and initially classified as a Class II Landfill (non-hazardous waste, general municipal waste and special waste) or designation of like meaning by the Illinois EPA. Anticipating such fifty percent (50%) reduction in solid waste volume within five (5) years after the Future Landfill is opened, such permitted landfill shall be sized to accommodate the area-wide landfill needs of all the Members as well as auxiliary facilities including, but not limited to, facilities for composting, wood reclamation, other waste recycling and waste reduction needs.

"Governing Body" means the governing bodies and/or corporate authorities of the Members and initially includes the respective City Councils of Champaign and Urbana and the County Board of the County.

"Intergovernmental Task Force" means the Intergovernmental Task Force on Solid Waste Management, consisting of three (3) representatives from each of Champaign, Urbana and the 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" or "Plan" means the county-wide plan for the disposal and reduction of solid waste and which is embodied in this Agreement and which will be the subject of further discussion and development by the Association for recommended adoption by the respective governing bodies.

"Manager" means the person appointed by the Board to give effect to the operational, administrative and executive duties and functions of the Association as set forth in this Agreement and as otherwise directed by the Board of the Association consistent with this Agreement.

"Member" means each unit of local government from time to time subscribed to and bound by this Agreement; "Initial Members" means Champaign, Urbana, and the County. Unless otherwise specifically indicated "Member" shall mean voting member. "All the Members" or "any Member" means both voting and nonvoting Members unless the context otherwise requires.

"Parties" means Champaign, Urbana, and the County.

"Resource Recovery" means the processing of post-consumer solid wastes for the purpose of significantly reducing the amount of solid waste to be disposed of in a sanitary landfill while simultaneously producing energy and/or materials for reuse.

"Solid Waste" or "solid waste" means any and all solid waste material which by action of the Board, not inconsistent with or in violation of applicable laws, ordinances, codes, rules or regulations of the United States, the State of Illinois or any unit of local government, having jurisdiction in connection therewith, or any board, authority, commission, committee or agency thereof having jurisdiction in connection therewith, may be subject to disposition in, by or through the Association's Facilities.

"Ten Acre Landfill Site" means the landfill site of such approximate size, owned by Urbana and currently permitted and being used as an active landfill site.

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. Reference 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 County 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 County 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.

(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 Articles IV and V hereof, is required in connection with the execution or delivery of or compliance by Champaign, Urbana, or the County 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 County 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 County, 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 County threatened, other than permit or approval proceedings described in Articles IV and V 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.

(e) Each Member recognizes and acknowledges that the exercise of power and the performance of certain functions by the Association in connection with the disposition of solid waste under and pursuant to this Agreement may require that each Member by due and proper authorization of its Governing Body through the enactment of ordinances, resolutions or other official action adopt and effect such enactments as the Association finds desirable or necessary to reasonably assure that a sufficient volume of solid waste is effectively, efficiently and economically available for disposition by way of the Association's Facilities, notwithstanding the effects on competition of such enactments. Subject to the provisions of Article III hereof, each Member hereby represents, warrants and covenants to adopt and effect such enactments.

ARTICLE II

General Obligations With Respect to Future Landfill Site

Section 2.1. Securing of Future Landfill Site Option(s).

Champaign, Urbana, or the Association, as the case may be, shall obtain in their respective names 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 and for other solid waste disposal activities, such site being the Future Landfill Site as defined in Section 1.1 hereof.

Champaign, Urbana or the Association as the case may be shall engage in such preliminary geological and engineering studies as may be reasonably necessary to determine the suitability of such optioned site or sites for their intended purposes.

Section 2.2. Assignment of Options. Champaign and Urbana shall assign any Future Landfill Site Options as have been or may be obtained to the Association within thirty-five (35) days after execution of this Agreement, or, in the event the options are not assignable, Champaign or Urbana shall exercise the options at the request of the Association and hereby irrevocably appoint the Association as their agent for the purpose of securing EPA permits for the Future Landfill.

Section 2.3. Staff Recommendation and Assistance.

(a) On or before August 15, 1986, the Public Works Directors of the Cities and the Executive Director of the Champaign County Regional Planning Commission ("RPC Director") are directed to present recommendations for future landfill sites to the Association.

(b) For purposes hereof, "administrative staff" shall mean, for the County, the administrative staff of RPC. The administrative staffs of Champaign, Urbana, and the County are hereby directed to work cooperatively and to consider fully all policy positions expressed by their respective Governing Bodies. The administrative staffs of the Parties shall and are hereby directed to share all information with respect to any of the sites under consideration for selection by the Association as the Future Landfill Site. Each initial Member shall dedicate a staff member to provide staff assistance to the Association in the siting and development of the Future Landfill Site. Such staff assistance shall be at a minimum of one thousand forty (1,040) staff hours per annum (one-half full time equivalent) from each of the Parties, beginning with the effective date of this Agreement. The composition of such staff assistance shall be as the respective Directors of Public Works of the Cities and the RPC Director may agree. The time dedicated by the Directors of Public Works or the RPC Director or other RPC professional staff shall not be included in such staff assistance time.

Section 2.4. Cooperation In Selection and Siting of Site. The Cities and the County shall work cooperatively with the Association in the selection of a site from among the site options recommended for the Future Landfill Site. The County hereby waives any fee it may require by ordinance or resolution as part of the processing of any application by the Association for siting approval of the Future Landfill Site.

ARTICLE III

Resource Recovery Programs

Section 3.1. Resource Recovery. In addition to the commitments hereto contained in Sections 3.2, 3.3, and 3.4, and consistent with Section 5.5.2 hereof, Champaign, Urbana, and the County mutually agree to use their best efforts to reduce the dependency on landfills for the disposal of solid waste generated from within the corporate limits of Champaign, Urbana and the County. Toward this end, the Parties shall individually and through the Association pursue such economically feasible resource recovery methods, facilities or programs, or combinations thereof consistent with this Agreement, to reduce dependency on the use of landfills based upon the recommendations of the Association.

Section 3.2. Material Recycling Program. On or before April 1, 1987, Champaign, Urbana and the County agree to commence operation of their respective programs for the purpose of collecting and selling such materials for recycling as are specified in this Section 3.2 within the respective corporate limits of Champaign and Urbana, and the areas of the County described in (a) below outside the corporate limits of the Cities. Such programs shall at minimum include:

- (a) the curbside collection of glass, aluminum, tin and bimetal cans and newspapers in the Cities, and at minimum, the drop-off collection of such materials at a minimum of six (6) sites in the unincorporated areas of the County or any municipalities under 3,000 in population in the County, provided that there exists, at the time of any such collection, an economically viable market for selling any such material for recycling,
- (b) regular collection, and
- (c) promotional and educational programs,

Any such material recycling program shall be evaluated annually on or before July 1 of each year by the Association to determine the effectiveness of such program in reducing the dependency on the use of a landfill as a solid waste disposal method and the costs of any such material recycling program in comparison with other solid waste disposal methods of reducing the dependency on the use of a sanitary landfill, and a report thereon shall be made to each City and the County.

Section 3.3. Landscape Waste. Until provided by the Association, Urbana shall provide the use of certain land for the disposal and reclamation of Landscape Waste.

The Parties shall share in the cost of operation of the Landscape Waste Reclamation Site on an equal basis. Urbana shall initially operate the Landscape Waste Reclamation Site and shall account to the parties for the revenues and expenses quarterly. Upon such accounting, the Parties shall reimburse Urbana for their portions of the expenses on a calendar quarterly basis. The "cost" of operation shall, for the purpose of this section, be the gross cost of equipment, materials, and personnel directly related to the program less revenues generated by the fees charged for disposal or sale of materials collected. The Parties shall fund such cost for a five (5) year period, or until the Association funds the cost. The equipment and materials shall be deemed to be owned in common according to the respective shares first stated. Upon assumption of operation of the Landscape Waste Reclamation Site by the Association, the equipment shall become the property of the Association unless the Parties otherwise agree.

Section 3.4. Recycling Center Assistance. The Parties each agree to enter into an independent contractual relationship with the Community Recycling Center, its successors or assigns, or some other entity which performs functions similar to the Community Recycling Center ("Center"), mutually agreed to by the Cities and the County, to financially assist the Center in providing recycling services, community education on recycling and a market for the purchase of recycled materials collected by the Parties pursuant to Section 3.2 of this Agreement. Such contracts between the parties and the Center shall be substantially similar in terms and include, but not be limited to, the following terms and conditions:

(a) An annual maximum payment of \$60,000 by each Party to the Center as an "Operating and Promotion Fee" which shall be used by the Center to fund educational and promotional activities for the recycling efforts of the Parties, described in Section 3.2, as well as provide funds for the operation of the Center's material processing plant, provided that such payments may be conditional upon the attainment of operational and organizational standards agreed to by the Parties. Such payments shall be made quarterly, beginning September 1, 1986.

(b) An annual maximum payment of \$15,000.00 by each Party to the Center as a "Capitalization Fee" which shall be used by the Center to purchase equipment and fund improvements to the Center's facility to accommodate the processing of recycled materials collected by each of the Parties pursuant to Section 3.2. Such payments shall be made quarterly, beginning September 1, 1986.

(c) Sale of recycled material collected pursuant to Section 3.2 to the Center and payment by the Center to the Parties of a "Material Purchase Payment" for each such said material generally based on the following formula:

tons of materials delivered to the Center
multiplied by the market price received
by the Center for resale less the cost
of processing the material per ton

(d) Continuation of operation of a material buy-back program and material drop-off centers independent of the recycling programs described in Section 3.2 by the Center.

(e) Equipment purchased with the funds provided for in 3.4(b) shall become the property of the Association upon the termination of any such agreement with the Center as the Center and the Parties may agree.

(f) An initial term not extending past December 31, 1989.

3.4.1. The Association shall assume the rights and obligations of the Parties described in Section 3.4(a) and (b) of this Agreement upon commencement of the operation of the Future Landfill Site.

Section 3.5. Reimbursement of Costs. Within twenty-four (24) months after the beginning of operation of the Future Landfill Site, the Association shall reimburse the Cities and the County for payments made pursuant to Section 3.4 hereof.

ARTICLE IV

Ten Acre Site

Section 4.1. Expansion. Urbana and the Champaign-Urbana Solid Waste Disposal System ("the System") hereby agree to take such steps as may be necessary to process EPA permit applications or amendments to the present permits for the vertical expansion and operation of the Ten Acre Landfill Site in order to allow that site to accept solid waste generated from the parties hereto until the Future Landfill Site is permitted and operational, or the date the Ten Acre Landfill Site reaches maximum capacity, whichever date is earlier. The System shall, and is hereby directed, to immediately take such steps as are necessary to accomplish the aforementioned permit amendments. Urbana hereby irrevocably designates the System as Urbana's agent for that purpose.

Section 4.2. Expenses of Siting. Champaign shall advance all costs in connection with such permitting of the Ten Acre Landfill Site vertical expansion provided all such costs shall be reimbursed to Champaign by the Association along with interest from the date of disbursement by Champaign at the rate of three-quarters of one percent ($3/4$ of 1%) per thirty (30) day period compounded annually. The Association may request and Champaign shall provide sufficient documentation to support such reimbursement. Such reimbursement shall be made by the Association from its operating revenues and/or the proceeds of debt instruments as defined in Section 5.6.7 hereof within twenty-four (24) months of the beginning of operation of the Future Landfill Site. In any event Urbana and the County shall each pay one-third ($1/3$) of such costs if such reimbursement is not made by the Association to Champaign on or before November 1, 1989.

Section 4.3. Operation. Upon issuance of a supplemental permit or permit modification which allows the aforementioned vertical expansion, Urbana shall allow solid waste originating in Champaign and the County to be disposed of at the Ten Acre Site, on the same operational and cost basis as solid waste originating in Urbana.

Section 4.4. Gate Fee; Flow Control. Upon issuance of a supplemental permit or permit modification, Urbana shall set and maintain for the useful life of the Ten Acre Site the gate or tipping fee surcharge for waste reduction activities over and above administrative and operational costs for the Ten Acre Site so as to generate a minimum of \$1.15 per cubic yard disposed. Urbana shall pay to Champaign one-half (1/2) of such surcharge on a monthly basis. If Urbana implements mandatory flow control while the Ten Acre Landfill Site is being utilized by Champaign and Urbana, Champaign shall, upon the request of Urbana, adopt flow control similar to measures adopted by Urbana.

Section 4.5. Shared Expenses. Notwithstanding any prior agreement, and specifically amending Section 3.2 of the May 22, 1985 agreement among Champaign and Urbana and System entitled "Solid Waste Disposal Agreement", Champaign and Urbana shall equally share expenses and liabilities related to long term maintenance of the landfills mentioned in said Section 3.2.

ARTICLE V

ASSOCIATION

Division 1
Creation and Members

Section 5.1.1. Association of Members. The Association is hereby constituted, created and established as an intergovernmental contractual association of its Members under and pursuant to the Constitution and laws of the State of Illinois and this Agreement. The Association may exercise such powers and perform such functions as may be desirable or necessary in connection with the effective, efficient and economical disposition of solid waste through Facilities owned, operated, maintained or otherwise available to the Association for such purposes. No such exercise of any such power shall be inconsistent with the terms of this Agreement.

Section 5.1.2. New Members.

(a) The Association may admit new nonvoting and advisory Members from among incorporated municipalities whose population is below 3,000. In such case, the new nonvoting and advisory Members shall execute this Agreement and, except in municipalities where the County has already instituted a Material Recycling Program under Section 3.2, commence operation of a Material Recycling Program. The Association shall determine the scope of such program by resolution admitting such new, nonvoting Member. Each nonvoting and advisory Member shall be entitled to one (1) nonvoting member of the Board.

(b) The Association may admit new voting Members upon amendment to this Agreement. In such case, the Board shall recommend to the Governing

Bodies of the then voting Members a proposed amendment. Such amendment shall specify and provide for at minimum the following:

- (1) The number of voting Board Members the new Member is entitled to place upon the Board;
- (2) Monetary payments for past capital expenditures by the Association;
- (3) Personnel contributions or payments in lieu thereof;
- (4) Long-term care contributions under Section 5.4.7;
- (5) The nature and type of recycling activities required to be implemented; and
- (6) Other conditions related to the Association's activities as the Board shall recommend.

Division 2
Board of Directors

Section 5.2.1. Governing Body; Board Members; Alternates.

(a) The Board shall be the governing body of the Association.

(b) The Board shall initially be composed of three (3) members from each of the initial Member units of local government constituting the Association.

(c) No person shall be a member of the Board unless such person is an elected or duly appointed member of the Governing Body of the Member. Each Member shall contemporaneously with the approval of this Agreement by its Governing Body appoint its members of the Board by ordinance, resolution or other official action duly adopted by its Governing Body.

(d) Each Member may provide for the designation of two (2) alternates who also shall be elected or duly appointed members of the Member's Governing Body to serve on the Board in the event one or more of the members of the Board appointed by such Member for any reason fail to attend meetings of or to be present at a vote of the Board or fail to vote because of a conflict of interest. Such alternate representatives shall have full right to vote and otherwise act with the full rights of the Board member in whose place such alternate is acting.

(e) The respective Governing Bodies of the Members shall expeditiously appoint new members to the Board to fill vacancies in their authorized Board Member positions or alternate positions resulting from resignation or any other cause.

Section 5.2.2. Voting.

(a) The general policies of the Association and the authorization of the exercise of any power of and the performance of any function by the Association shall be pursuant to resolutions or motions of the Board. No resolution or motion shall be approved and become effective unless such resolution or motion shall have been adopted by not less than the affirmative vote of the majority of all authorized voting members of the Board, unless otherwise provided for herein.

(b) Unless a member of the Board shall have a conflict of interest, the basis of such conflict being disclosed of record, each member of the Board shall affirmatively vote for or against any resolution, motion or other proposition or matter before the Board.

Section 5.2.3. Board of Directors.

(a) The members of the Board shall select a chairperson and a vice-chairperson from among the members of the Board. The chairperson shall preside over the meetings of the Board. In the absence of the chairperson, the vice-chairperson shall preside over the meetings of the Board. The Manager shall be ex-officio secretary and treasurer of the Association. The Manager shall prepare the minutes of the meetings of the Board and shall have charge of all of the official books, records and accounts of the Association. The chairperson, vice-chairperson or the secretary-treasurer shall have the power to execute and deliver certificates with respect to the adoption and enactment of resolutions or the taking of other action by the Board.

(b) The Board shall select its officers as soon as conveniently practical after the formation of the Board, but in any event within fifteen (15) days after execution of this Agreement by all initial Members. The

initial terms of the officers shall be until the first regular meeting of the Board after May 1, 1988. Thereafter, unless the Board shall otherwise by resolution provide, the term of office of the chairperson and vice-chairperson shall commence as of the first regular meeting of the Board following May 1 of each year and shall end upon the selection and qualification of their respective successors each year. If for any reason there is a vacancy in the office of chairperson or vice-chairperson, the Board by resolution shall appoint a successor to complete the term of such officer.

Section 5.2.4. Meetings. The Board shall establish a regular schedule for its meetings. The chairperson or the vice-chairperson or any three (3) voting members of the Board with not less than twenty-four (24) hours notice in writing to the other members of the Board may call a special meeting of the Board. Notice of a special meeting of the Board shall specify the purposes of such special meeting, and the Board may not consider any other matter before it. All meetings of the Board shall be subject to and shall comply with applicable open meetings laws.

Section 5.2.5. Meetings; New Members. As provided in Section 5.1.2. of this Agreement, Members of the Board in connection with new Members may be voting or non-voting and advisory members of the Board. Non-voting and advisory members of the Board shall be entitled to receive notice of and attend and address all Board meetings, but such members shall not be entitled to vote on matters before the Board or to call special meetings of the Board as provided above in Section 5.2.4 hereof.

Section 5.2.6. Procedural By-Laws. The Board may adopt by-laws and practices and procedures, not inconsistent with the terms of this

agreement, including those in connection with its meetings, the power and duties of the chairperson, vice-chairperson, secretary-treasurer, Manager, and other personnel and matters reserved to the Board.

Section 5.2.7. Quorum. A quorum for the purposes of conducting business shall be no less than a majority of all authorized voting members of the Board.

Division 3
General Powers, Responsibilities and Functions
of the Board

Section 5.3.1. General Powers; Responsibilities and Functions.

The Association may exercise any power and perform any function in connection with the effective, efficient and economical disposal of solid waste, not inconsistent with the Constitution and laws of the State of Illinois and the United States and the terms of this Agreement, including but not limited to:

- (a) To sue and be sued in its own name;
- (b) To apply for and accept gifts or grants or loans of funds or property or financial or other aid from any public agency or private entity;
- (c) To acquire, hold, sell, lease as lessor or lessee, transfer or dispose of real property, or interests therein, as it deems appropriate, and to provide for the use thereof by any Member, provided that any disposition, purchase, sale, or lease of real property shall require the affirmative vote of at least three-fourths (3/4) of all voting Board members unless such real property has been selected for permitting pursuant to 5.4.1 hereof;
- (d) To make and execute all contracts, agreements and other instruments necessary or convenient, including contracts and agreements with Members and other units of local government, school districts and other public agencies, provided, however, that if the contract or agreement requires the payment of money, such money shall be available within the Association's approved budget;
- (e) To employ agents and employees and to delegate by resolution to one or more members of the Board or its officers, including the Manager, such powers as it may deem proper;

(f) To incur debt, or to authorize a Member to incur debt, which unless otherwise expressly agreed, shall be non-recourse to the Members and payable solely out of revenues from its operations; provided, however, that the purpose of the debt shall be for the planning, design, development, permitting, operation, and closure of a landfill or for the planning of other Facilities, unless the Board recommends and the Governing Bodies of the voting Members approve such debt;

(g) To apply for and secure EPA permits for the operation of Facilities including but not limited to regional pollution control facilities;

(h) To plan for such future solid waste disposal and reduction activities and facilities as may be desirable and necessary, and to recommend and advise the Governing Bodies of the voting Members with respect to such plans, and to implement such activities and plans to the extent approved by the Governing Bodies of the voting Members;

(i) To promote, encourage, evaluate, and pay for, consistent with Section 5.6.5, Resource Recovery programs under Article III hereof and to assume the financial responsibilities of the Parties under Sections 3.2, 3.3 and 3.4 hereof, and upon agreement of the Governing Bodies to effect and operate such Resource Recovery Programs. After termination of any of the Agreements referred to in section 3.4. the Association may contract with an entity which processes for resale recyclable materials collected by the Members; and

(j) To undertake a technical and economic analysis and investigation of resource recovery facilities, which shall ascertain the

technical feasibility and market potential of any such resource recovery or reduction facility by specifically identifying a technology and a market entity and by entering into negotiations with a developer of any such technology and an identified market entity. Any such resource recovery facilities shall be approved by the Governing Bodies of the Members prior to entry into any contractual arrangement for development of such facilities.

Section 5.3.2. Joint Action. Action taken under and pursuant to this Agreement in the exercise of the powers, responsibilities and functions of the Association shall be the joint exercise of powers, responsibilities and functions of and by the Members under any applicable authorizing provision of law the Constitution and laws of the State of Illinois as now exist or as hereafter amended. In connection with the foregoing, the Members recognize and acknowledge that there has been passed by both the Houses of the Illinois Legislature Senate Bill 1930, amending Section 3.2 of the Intergovernmental Cooperation Act. It is the intent of the Members that the provisions of Senate Bill 1930 apply to this Agreement and that this Agreement be supplemented to and implementing of such Section 3.2 as amended by S.B. 1930.

Division 4
Association's Duties with Respect to
Future Landfill Site and Costs Thereof

Section 5.4.1. Permitting, Design and Development. The

Association shall select the Future Landfill Site for permitting on or before October 1, 1986. Such selection shall be made by the affirmative vote of not less than three-fourths (3/4) of all authorized members of the Board. The Association shall diligently and continuously proceed on a best efforts basis to obtain all applicable permits for use of the Future Landfill Site for landfill purposes consistent with this Agreement. The Future Landfill Site shall be designed and developed in such a manner that meets or exceeds EPA development standards. Such design shall generally recognize and where economically practical implement the best available technology for design elements including leachate monitoring, collection and treatment and set backs and shall incorporate plans for succeeding use and care after closure.

If the Association has failed to select a site for permitting on or before November 1, 1986, a Member who has withdrawn pursuant to Section 7.4 hereof may request and the Association shall convey back to such withdrawing Member the option or options assigned to the Association by such withdrawing Member pursuant to Section 2.2 hereof; provided however, the Association shall not be obligated to convey back such option or options if ^{all three of} the Board Members of such withdrawing Member have voted against an individual possible site or absented themselves from meetings of the Association where any such vote was taken where the remaining Board Members have voted in favor of such a site.

Section 5.4.2. Joint Use. The Association shall permit disposal at the Future Landfill Site of 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 Future Landfill Site, having its source or origination in or from the corporate limits of Champaign and Urbana or the unincorporated areas of Champaign County as well as any municipalities under three thousand (3,000) in population within the County which have executed this Agreement. New voting Members shall be permitted to dispose of solid waste originating within such jurisdiction of such new voting Members as the Board shall determine.

Section 5.4.3. Operation and Maintenance of Future Landfill Site. The Association shall operate and maintain the Future Landfill Site or cause that site to be operated and maintained and shall determine policies and rates for solid waste disposal at the Future Landfill Site.

Section 5.4.4. Landfill Operation and Maintenance: Standards, Policies and Procedures.

(a) The Future Landfill Site shall be operated and maintained in accordance with standards which meet or exceed those that are imposed by the EPA.

(b) The Association shall determine policies and set rates in such a manner so as to:

(1) benefit the citizens of Champaign, Urbana and the County in the funding of Resource Recovery Programs;

(2) be applicable to all users of the Future Landfill Site without regard to the fact that the waste originates in Champaign, Urbana or areas of the County as limited by Section 5.4.2 hereof.

(3) to fund financial commitments under this Agreement.

Section 5.4.5. Landscape Waste. Subject to Section 3.3, the Association shall, if it is determined that this is in its best interest, provide the use of a portion of the Future Landfill Site for the disposal and reclamation of Landscape Waste. The Association may, after commencement of the operation of the Future Landfill Site, operate a Landscape Waste Reclamation Program. If such Program is operated by the Association upon property of any Member, the Association shall negotiate a lease for the use of such property.

Section 5.4.6. Hazardous Waste. On or before January 1, 1987, the Association shall undertake a study, the cost of which shall not exceed \$12,000.00, to investigate alternatives for diverting, storing, processing, and final disposal of household, industrial, commercial, and agricultural and other federally or state exempted hazardous waste from any sanitary landfill owned by or under control of the Association. The initial Members shall contribute equally to such study, provided, however, that each initial Member shall be reimbursed by the Association within twenty-four (24) months after operations begin at the Future Landfill Site.

Section 5.4.7. Future Landfill Site Long Term Maintenance; Escrow Fund. The Members agree that upon the exhaustion of the Future 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 5.4.7 is to create and establish an escrow fund and to pledge the monies in such fund in order to pay the costs of such long term maintenance. In that connection, there is hereby created

and established a Landfill Site Long Term Maintenance Escrow Fund (the "Escrow Fund"), to be funded and maintained by the Association in the manner and for the purposes set forth in this Section 5.4.7. The Escrow Fund shall be funded from user fees generated from use of the Association's Facilities. In accordance with EPA regulations and sound engineering principles and practices, but in any event in the reasonable discretion of the Association, 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, the Association shall pay into the Escrow Fund at the times and in the manner as the Association 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 care and maintenance expenses of the Future Landfill Site. The monies in the Escrow Fund from time to time be and they are hereby pledged for such purposes. In the event monies in the Escrow Fund are insufficient for such purposes, the Association, if existing at the time of disbursement or application of such funds for their intended purposes, pay or cause to be paid the deficiencies in that connection, and if the Association is not existing or is unable to pay or cause to be paid such deficiencies, then the initial Members shall pay such deficiencies in equal amounts. 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 the initial Members in equal amounts. Any amendment to this Agreement in connection with new voting Members shall allocate an appropriate percentage of the foregoing costs and expenses to such new voting Members.

Division 5
Flow Control and Non-Competition

Section 5.5. Further Assurances.

Section 5.5.1. Flow Control. The voting and nonvoting Members agree to adopt, within ninety (90) days of a request by the Association, flow control ordinances which direct the deposit of solid waste at the Future Landfill Site or other Facilities. Such ordinance shall be enacted in such form as the Association may reasonably request. Such Members shall actively enforce the enacted flow control ordinances.

Section 5.5.2. Competition Among Members. The voting and nonvoting Members shall not, during the term of this Agreement, take any actions, including but not limited to the financing or development of a landfill, resource recovery facility or any other Facility which would compete with or interfere with the operation of the Future Landfill Site or other Association Facilities without the consent of all voting Members or as otherwise provided in this Agreement, provided that such obligation shall not be construed to compel or obligate any party hereto to violate any law, including but not limited to federal civil rights or antitrust laws.

Division 6
Finances and Risk

Section 5.6.1. Finance Limitations. Unless the Members otherwise in writing expressly agree, all obligations of the Association shall be payable solely out of the revenues derived from the operations of the Association, and unless specifically provided herein there shall be no recourse against any Member therefor.

Section 5.6.2. Initial Financial Contributions. Within thirty-five (35) days after execution of this Agreement, each of the initial Members shall pay Thirty-Nine Thousand Dollars (\$39,000.00) to the Association. Such payments shall be used by the Association for Future Landfill Site costs (as defined in Section 5.6.3.1) and reimbursed to the parties as set forth in Section 5.6.3.3.

Section 5.6.3. Costs of Development, Siting and Land Acquisition.

Section 5.6.3.1. Generally. This Agreement contemplates that the initial Members will incur substantial development, siting and Land Acquisition Costs in connection with the Future Landfill Site. These costs are hereinafter called "Future Landfill Site Costs" and include, but are not limited to:

- (1) the costs of obtaining one or more land options and professional fees related thereto;
- (2) engineering and geological studies;
- (3) permitting expenses, including but not limited to expert and attorneys' fees related to the siting hearing and subsequent appeal thereof;
- (4) staff costs related to the acquisition of options, the siting hearing and exercise of the option;

(5) land acquisition costs for the Future Landfill Site and professional fees relating thereto, other than option costs ("Land Acquisition Costs"); and

(6) construction activities on the Future Landfill Site.

Section 5.6.3.2. Sharing of Costs. The Future Landfill Site Costs shall be shared equally by the initial Members. Any amendment to this Agreement in connection with new Members shall allocate an appropriate percentage of the foregoing costs and expenses to such new Members.

Section 5.6.3.3. Reimbursement of Certain Costs. The Association shall reimburse the Parties for all Future Landfill Site Costs other than Land Acquisition Costs set forth in 5.6.3.1(5). Such costs shall be reimbursed by the Association to the parties along with interest at the rate of three-fourths of one percent ($3/4$ of 1%) per thirty (30) day period compounded annually. The Association may request and the parties shall provide sufficient documentation of such costs. Such reimbursement shall be made within twenty-four (24) months the opening of the Future Landfill Site for operation. If the Future Landfill Site fails to open prior to December 31, 1988, or this Agreement is terminated, or the Association otherwise lacks the resources to pay the amounts owing in connection with Future Landfill Site costs on or before October 1, 1990, the Parties shall, at the request of any other party, reimburse such requesting party for such amount as may exceed such requesting party's one-third ($1/3$) share of such Future Landfill Site Costs, less an appropriate adjustment for any previous reimbursement to the requesting party for Future Landfill Site Costs, within twenty-eight (28) days of the submission of the written request to the City Manager of

Champaign, the Mayor of Urbana, or the Chairperson of the County Board, as the case may be.

Section 5.6.4. Land Acquisition Costs.

(a) To the extent each has the lawful power and authority, and notwithstanding the lack of power and authority by one or more of the other members, if the Association finances the Future Landfill Site Costs through the issuance of debt instruments, as defined in Section 5.6.7, and if necessary to secure such debt instruments, upon request of the Association, Champaign, Urbana and the County jointly and severally in connection with such debt instruments shall do one or more of the following:

(i) assume the payment of and other obligations under such debt instruments;

(ii) pledge their full faith and credit to the performance and payment of their respective obligations under such debt instruments; or

(iii) guaranty or provide a letter of credit, bond insurance or other credit facility in respect of the performance and payment obligations under such debt instruments.

The Governing Bodies shall act in connection with the foregoing debt instruments within thirty-five (35) days of receipt by their respective clerks of a written request of the Association in connection with such debt instruments. If for any reason Champaign, Urbana or the County does not have the lawful power and authority in connection with the foregoing, each of the Parties hereby covenants and agrees in each year to budget and/or to appropriate as the case may be, from available funds and revenues, an amount necessary and sufficient to pay or cause the performance of the obligations herein described in respect of such debt instruments. Notwithstanding the

provisions of Section 8.6 of this Agreement, a default or other failure to perform in connection with the foregoing provision of this Section 5.6.4 shall constitute an event of default under Article VII. For purposes hereof, "available funds and revenues," shall mean those funds and revenues, including but not limited to receipts from real estate and excise taxes, available and not otherwise directly pledged to the payment of other than contingent liabilities in any fiscal year.

Section 5.6.5 User Fees for Recycling Programs.

(a) After the Future Landfill Site is operational, the Association shall set user fees at such site in such amount so as to generate funds and actually pay to any Member sixty percent (60%) of the gross operational costs of the Member's recycling program operated under Section 3.2 hereof. Gross operational costs shall include costs of personnel, commodities, contractual services, and equipment (amortized over its useful life) directly related to the Member's recycling program. The parties shall submit such clear, complete and accurate documentation relative to such operational costs as the Association may request. The Association's determination of qualifying operational costs shall be conclusive. Such payment for operational costs shall be made to the Member on a quarterly basis.

(b) In addition to the funds generated in order to pay the amounts required in (a) above, the Association, after the Future Landfill Site is operational, shall set user fees at such site or its other Facilities so as to generate \$100,000.00 per annum or an equivalent amount based on tonnage, from solid waste deposited in the Future Landfill Site or at its other Facilities. Such funds shall be deposited in a "Resource Recovery

Incentive Fund" ("Fund") which is hereby directed to be established. The Fund shall be used exclusively for payment, as incentives, to any Member which operates a recycling program pursuant to Section 3.2 hereof. The Board may adjust the annual contribution to said Fund in order to increase or decrease such incentives, provided that the Board may not, except by a vote of not less than three fourths (3/4) of all authorized voting members increase the above stated contribution to the Fund for a period of five (5) years after the Future Landfill Site is operational and provided further that the Board shall not decrease the amount paid into the Fund for such five (5) year period without approval of the Governing Bodies of the initial Members.

The Association shall make incentive payments to any Member which operates a recycling program pursuant to Section 3.2 hereof, on a quarterly basis, based on the quantity of recycled material collected by such member according to the following formula:

$$\begin{array}{l} \text{Quarterly Payment} \\ \text{to Each Member} \end{array} = \$25,000.00 \times \frac{\text{Tonnage of Material} \\ \text{Collected by the Member}}{\text{Total Tonnage of Material} \\ \text{Collected by all Members}}$$

The Association may annually, and with forty-five (45) days prior notice to the Members, break down the formula into specific categories of recycled materials.

Section 5.6.6. Budget. On or before October 1, 1986, and on or before May 1 of each year thereafter, the Board shall prepare or cause an annual budget to be prepared and approved. The Board may from time to time amend its budget. The approved budget and any amendments thereto shall be submitted to the clerks of the voting Members. Within forty-five (45) days after submission to the clerks, the Governing Bodies of the voting Members

shall approve or disapprove the budget or budget amendment. Upon the disapproval of the Budget or amendment by the Governing Body of a voting Member, the Board shall reconsider the disapproved budget or budget amendment, and thereafter shall approve the budget or budget amendment if at all, by an affirmative vote of not less than three-fourths (3/4) of all the Board members authorized to vote. If a Governing Body fails to approve or disapprove the budget or budget amendment within such forty-five (45) day period, the budget or amendment shall be deemed approved by such Governing Body. If the Association fails to approve its budget on or before May 1 of any year, it shall be deemed to have adopted the prior year's budget.

Section 5.6.7. Debt. Subject to Section 5.3.1(f), to pay the costs of its operations and of its Facilities, the Association is hereby authorized to issue and sell its revenue bonds, notes or warrants or other debt instruments (collectively, the "debt instruments") payable solely from the revenues derived from the operations of the Association. The foregoing costs of its operations include financial, legal, administrative, refunding, interest and other related costs. This 5.6.7 shall be construed and applied in a manner not inconsistent with any applicable law or provision, and shall be supplemental thereto.

Any debt instruments issued pursuant to this Section 5.6.7 by the Association shall be authorized by a resolution of the Board. The authorizing resolution may be effective immediately upon its adoption. The authorizing resolution shall describe in a general way any project contemplated to be financed by the debt instruments, shall set forth the estimated cost of any project and shall determine its period of usefulness.

The authorizing resolution shall determine the maturity or maturities of the debt instruments, the rate or rates at which such debt instruments are to bear interest and all the other terms and details of such debt instruments. All such debt instruments shall mature within the period of estimated usefulness of any project with respect to which such debt instruments are issued, as determined by the Board, but in any event not more than forty (40) years from their date of issue. The debt instruments may bear interest, payable at such times, at rate or rates not exceeding the maximum rate established in "An Act to Authorize Public Corporations to Issue Bonds, other evidences or indebtedness and tax anticipation warrants subject to interest rate limitations set forth therein", approved May 26, 1970 (Ill.Rev.Stat. 1985, Ch. 17, para. 6602) as from time to time in effect. Debt instruments shall be sold in such manner as the Board shall determine, either at par or a premium or discount, but such that the effective interest costs (excluding any redemption premium) to the Association of the debt instruments shall not exceed a rate equal to the rate of interest specified in the Act referred to in the preceding sentence.

The resolution authorizing the issuance of any debt instruments pursuant to this Section 5.6.7 shall constitute a contract with the holders of such debt instruments. The resolution authorizing such debt instruments may contain such covenants and restrictions with respect to the purchase or sale of the Association's services and the contract for such purchases or sales, the operations of the Association, the issuance of additional debt instruments by the Association, the security for the debt instruments, and

any other matters which may be deemed necessary or advisable by the Board to assure the payment of the debt instruments of the Association.

The resolution authorizing the issuance of such debt instruments by the Association shall pledge and provide for the application of revenues derived from the the Association's operations and investment earnings thereon to the payment of the cost of operation and maintenance of the Association, to provision of adequate depreciation, reserve or replacement funds with respect to projects or Facilities or the debt instruments and to the payment of principal, premium, if any, and interest on such debt instruments (including amounts for the purchase of such debt instruments). Such resolution shall provide that revenues of the Association so derived from the operations of the Association, sufficient (together with other receipts of the Association which may be applied to such purposes) to provide for such purposes, shall be set aside as collected in a separate fund or funds and used for such purposes. Such resolution may provide that revenues not required for such purposes may be used for any proper purpose of the Association or may be returned to Members according to the terms hereof.

Any debt instruments issued in anticipation of the issuance of bonds or other debt instruments by it may, in addition, be secured by a pledge of proceeds of bonds or other debt instruments to be issued by the Association, as specified in the resolution authorizing the issuance of such bonds or other debt instruments.

Unless otherwise provided, not inconsistent with applicable law, all debt instruments issued pursuant to this Section 5.6.7 shall be revenue debt instruments. The holders of revenue debt instruments shall have no claim for payment other than from revenues of the Association derived from operation of its Facilities, and investment earnings thereon, or from such other receipts of the Association as may be authorized to be pledged to

the payment of such debt instruments, all as and to the extent as provided in the resolution of the Board authorizing the issuance of such debt instruments. Such debt instruments shall not constitute an indebtedness of the Association or of any Member within the meaning of any constitutional or statutory limitation. It shall be plainly stated on each such debt instrument that it does not constitute an indebtedness of the Association or of any Member within the meaning of any constitutional or statutory limitation.

To the extent that Section 3.2 of the Intergovernmental Cooperation Act as now or hereafter amended is controlling, the foregoing provisions of this Section 5.6.7 shall be supplemental thereto and be applied and construed consistently therewith.

Section 5.6.8. Auditing and Reporting.

(a) The Association shall provide for an independently certified audit at least annually. The results of such audit shall be filed with the clerks of the Members.

(b) The Association shall file with the clerks of the Members a monthly financial report which includes at a minimum a statement of expenses incurred and revenues received.

Division 7
Manager and Personnel

Section 5.7.1. Selection of Manager. The Board shall select and employ or contract for the services of a Manager who shall perform administrative, executive and managerial duties in connection with the effective, efficient and economical day to day implementation of, the exercise of power by and the performance of the functions of the Association. The Board may establish the terms and conditions of such employment, in any and all cases subject to service at the will of the Board. The Board shall select and employ or authorize the Manager to select and employ such other personnel as the Board shall determine necessary or desirable.

Section 5.7.2. Powers and Duties. The powers and duties of the Manager shall be as follows:

- (a) To implement and effect the resolutions and other directives and actions of the Board;
- (b) To prepare budget and other financial information;
- (c) To attend all meetings of the Board, unless the Board shall otherwise direct;
- (d) To recommend such actions and measures to the Board as shall appear desirable or necessary;
- (e) To advise the Board in connection with the Board's powers and functions;
- (f) To provide staff services to the Board;
- (g) To assist and coordinate Members in the effectuation of solid waste disposal reduction and recycling activities;

(h) To act as ex-officio secretary and treasurer to the Board;

(i) To prepare a monthly report to the respective governmental bodies as required by Section 5.6.8 and

(j) To operate and maintain the Association's Facilities.

Section 5.7.3. Vacancy in Position. While a vacancy exists in the position of Manager, the Board shall designate and appoint an Acting Manager.

ARTICLE VI

Authority and Direction

Section 6.1. Association Board. The Board, for and on behalf of the Association, is hereby authorized and directed to timely do any and all things necessary to effect the performance or observance of all obligations of the Association 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 and of the County in accordance with this Agreement, and the performance or observance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Agreement. The Board and the members thereof are hereby further authorized and directed for and on behalf of the Association 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 Association and the Members under this Agreement and to discharge all of the obligations of the Association and the Members hereunder.

Section 6.2. Governing Body of Each City and the County. The Governing Bodies of each City and of the County hereby agree to timely do and take any and all actions necessary to effect the timely and full performance or observance of the Association and each City and the County under and pursuant to this Agreement. To the extent that the Association does not have sufficient funds from fees and other resources available to the Association to effect the performance or observance of all obligations of the Association

under and pursuant to this Agreement, such Governing Bodies shall authorize, provide or otherwise make funds available for such purposes on an equal basis, and shall perform and observe all other acts of whatever nature necessary to effect and carry out their obligations and those of the Association under this Agreement. To give full effect to the foregoing provisions of this Section 6.2, the Governing Bodies of the Cities and of the County hereby authorize and direct the respective Mayors and Clerks of the Cities and the Chairman of the County Board and the Clerk of the County, 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 Association and the Cities and the County under this Agreement or to evidence such obligations and to exercise and otherwise take all necessary action to the full realization of the duties, rights, accomplishments and purposes of the Association, the Cities and the County under this Agreement and to discharge all of the obligations of the Association, the Cities and the County hereunder.

Section 6.3. 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, including through the Association, 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 County 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. With respect to 5.3.2 of this Agreement, the Members covenant and agree that upon request of the Association or upon their own action as the case may be, to readopt this Agreement as may be desirable or necessary to obtain the power and authority available under and pursuant to Section 3.2 of the Intergovernmental Cooperation Act as amended by Senate Bill 1930, in which case, the provisions of this Agreement shall be interpreted, construed and applied in such manner and to the effect that this Agreement shall be supplemental to the power and authority under such Section 3.2 as thereby amended.

Further, the County shall, upon or before the execution of this Agreement, appropriate or budget funds for the performance of the obligations under Articles II, III and Section 5.6.2.

ARTICLE VII

Events of Default and Remedies

Section 7.1. Failure to Perform. Each of the Members hereby covenants and agrees to timely and fully perform or observe every agreement, promise and undertaking on its respective part to be performed or observed at the times, in the manner and with the effect herein set forth. In connection with any obligation of the Association hereunder, the Association shall timely and fully perform or observe each and every agreement, promise and undertaking on its part to be performed or observed at the times, in the manner and with the effect herein set forth. In the event that any Member or the Association shall fail to fully or timely perform or observe the obligations herein described to be performed, another Member or the Association, as the case may be, may (but shall not be obligated to) perform such obligations and seek restitution, damages or other payment or compensation therefor, as appropriate, from the non-performing Member or the Association, as the case may be.

Section 7.2. Events of Default. If any one or more of the following events occur, such is or are hereby defined and declared to be and to constitute an "event of default" under this Agreement:

(a) The failure by any Member through its Governing Body or otherwise to timely or fully budget, appropriate, authorize, provide, pay, make or otherwise effectively make available funds necessary and sufficient to effect their respective performance and the Association's effective performance, including all financial and funding obligations and requirements, of and under this Agreement.

(b) The failure by any Member or the Association to observe or perform any agreement, promise, representation, warranty, covenant or undertaking on its respective part to be observed or performed at the times, in the manner and with the effect herein set forth, other than as described in subsection (a) of this Section 7.2, for a period of forty-five (45) days after delivery to the Association or the Party in default of a resolution by the Governing Body of a voting Member or of the Board, as the case may be, specifying such failure and requesting that it be remedied, (the "Default Resolution"). It shall not constitute an event of default if corrective action is instituted by such Member or Association within such forty-five (45) day period and diligently pursued until the default is corrected. The foregoing provisions of this subsection (b) of this Section 7.2 are subject to the limitation that if by a reason of Force Majeure the defaulting Member or Association is unable in whole or in part to carry out the agreements other than the payment of money on its part herein contained, such Member or Association shall not be deemed in default during the continuance of such inability. If such Member or Association is thus rendered unable wholly or in part by Force Majeure to carry out its obligations under this Agreement, such Members or Association shall give to the others, 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 Members or Association so far as they are affected by the Force Majeure, shall be suspended during, but no longer than, the continuance of the Force Majeure. Then the Association or

party declared in default shall use all possible diligence to remove the Force Majeure as quickly as possible.

Section 7.3. Remedies. If the occurrence and continuation of any event of default occurs or is continuing hereunder on the part of any Member or the Association, the voting member, voting Members, or Association not so in default shall have any or all of the rights and remedies provided herein in addition to other rights or remedies available or in law or in equity, including but not limited to specific performance. Provided further, that except as the Board otherwise may provide, such defaulting Member shall pay to the Association the sum of \$200.00 per day for so long as the default shall continue after receipt of notice from a Governing Body as herein provided.

Section 7.4. Remedies Cumulative. No remedy herein conferred upon or reserved to either the Members or the Association 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 7.5. Delay or Omission Not a Waiver. No delay or omission of any Member or the Association to exercise any right or power accruing upon any event of default shall impair any such right or power except as specifically provided for herein, or shall be construed to be a waiver of any such event of default or an acquiescence therein. Every power and remedy given by this Agreement to any Member or the Association may be exercised from time to time and as often as may be deemed expedient.

Section 7.6. Withdrawal and Deemed Withdrawal. By an ordinance or resolution of withdrawal from the Association duly adopted and approved by its Governing Body, and filed with the Association's Secretary, any Member may withdraw from the Association effective upon the date of withdrawal set forth in such ordinance or resolution. In the event of the withdrawal of any Member before the termination of this Agreement or by reason of an event of default under Section 7.2 (a) of this Agreement, such Member shall no longer be a Member and unless all of the voting Members at the time otherwise agree, such withdrawing Member shall have no claim to any of the assets, rights or property of the Association but such Member shall continue to remain liable for financial obligations incurred or accrued under this Agreement or which other obligations the Member had been obligated to perform pursuant to this Agreement at the date the ordinance or resolution of withdrawal was enacted. The withdrawing Member shall also continue to remain liable for financial obligations imposed or accrued prior to withdrawal or in connection with any event of default described in connection with which an event of default shall have occurred under Section 7.2 (a) hereof. Any Member, in connection with an event of default which shall have occurred under Section 7.2(a) hereof, notwithstanding Section 8.6 hereof, upon the vote of all Governing Bodies of the voting Members, other than any such Member in default if such Member is otherwise eligible to vote, shall be conclusively deemed to have withdrawn from the Association.

Any Member which has withdrawn or which has been deemed to have withdrawn from the Association also shall be deemed to have forfeited all of its right, title, interest or other claims in and to all and the singular

assets, rights or other property (real and personal) of or payments from the Association or from the Members or of any other party or person that has been or is available to or for the use of the Association.

Upon termination of this Agreement on July 1, 2016, or as such date may from time to time be extended consistent with applicable law, or earlier upon the unanimous agreement of all voting Members at the time, as the case may be, any Member which has not withdrawn or which has not been deemed to have withdrawn shall have the right to an appropriate distributive share of the proceeds of liquidation or in kind, as the case may be, in connection with such property deemed forfeited. The purpose of the foregoing provisions of this paragraph is to assure the availability of all such property to the continued, uninterrupted and unfettered use of the Association until the termination of this Agreement according to its terms and to assure that any withdrawal or deemed withdrawal will not abrogate, diminish, impair or otherwise reduce the effectiveness of any Association property or other assets of the Association for the purposes of the Association or of the remaining Members. The withdrawal or deemed withdrawal of any Member shall not abrogate, diminish or impair any right, action, obligation or claim against such withdrawn Member which has accrued or vested prior to the effective withdrawal of such Member.

ARTICLE VIII

Miscellaneous Terms and Provisions

Section 8.1. Term. This Agreement shall become effective upon the due execution and delivery hereof by Champaign, Urbana and the County and shall remain in effect and constitute the binding obligation of such initial Members, and of the other Members who from time to time execute and deliver this Agreement and are accepted and approved as Members by the Association, and unless earlier terminated under and pursuant to the terms hereof shall remain in effect and constitute such a binding obligation until July 1, 2016.

Section 8.2. Agreements and Binding Effect. This Agreement shall be binding upon Champaign, Urbana, the County, and other Members, 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 provided, however, that where certain obligations under Article III are to be funded from fees from operation of the Association's Facilities, the parties shall not be obligated to perform if funds are not available from the Association for such purposes.

Section 8.3. Precedence of Agreement. Between Champaign and Urbana, except as otherwise herein provided, the provisions of this Agreement shall be read and interpreted consistently with the terms and provisions of both the "Champaign-Urbana Solid Waste Disposal System Agreement" (System Agreement) dated December, 1975, between Champaign and Urbana and the "Solid Waste Disposal Agreement" dated May 22, 1985, among Champaign, Urbana, and the System, but in the event of a conflict between the terms and provisions

of this Agreement and the Solid Waste Disposal Agreement, the terms and conditions of this Agreement shall supersede and control anything to the contrary in said System Agreement and the Solid Waste Disposal Agreement.

Section 8.4. Amendments. This Agreement may be amended from time to time, but only in writing duly approved by the Governing Bodies of Champaign, Urbana, the County and other voting Members.

Section 8.5. 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 rights, remedy or claim under or in respect to this Agreement. All of the terms, agreements, covenants, conditions and provisions shall be for the sole and exclusive benefit of the parties as herein provided and not otherwise. The powers, responsibilities, and functions herein given the Association shall be liberally construed to achieve the objects and purposes of this Agreement and the Association.

Section 8.6. 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 to any particular Member 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, other than with respect to an event of default under Section 7.2 (a) hereof, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances or to any other Member, or of rendering any other

provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. For example, in the event any Member does not have the power and authority to issue and sell debt instruments under Section 5.6.4 of this Agreement in connection with which such debt instruments are or might not be validly issued as a joint exercise of power where such Member is a party, then it shall be deemed that such issuance and sale is the singular or joint exercise of power and performance of a function by one or more of the Members who have such power and authority and the non-empowered Member shall not be deemed to have contracted or agreed to such extent. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections in this Agreement contained shall not affect the remaining portions of this Agreement, or any other part hereof. The foregoing provisions of this Section 8.6, or any other provision of this Agreement, shall not be interpreted, construed or applied to abrogate, diminish, impair, avoid or defend any failure by a Member, the result of which is an event of default under Section 7.2(a) hereof.

Section 8.7. 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 8.8. 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, the City of Urbana, Illinois, and the County of Champaign, Illinois have caused this Agreement to be duly executed by their respective Mayors in their respective

July 21, 1986 Council - packet (172)

municipal names and their respective seals to be impressed hereon and attested by their respective City Clerks, and the County of Champaign has caused this Agreement to be executed by its Chairman and County Clerk, all as of the date first above written.

CITY OF CHAMPAIGN, ILLINOIS

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

CITY OF URBANA, ILLINOIS

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

COUNTY OF CHAMPAIGN, ILLINOIS

By: _____
Chairman of the County Board

(SEAL)

ATTEST:

By: _____
County Clerk