

AN ORDINANCE APPROVING FURTHER AMENDMENTS TO THE REVISED AGREEMENT AND GENERAL PLAN FOR THE 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, an Agreement and General Plan for Development of the Solid Waste Disposal Facilities and Programs and the Creation of the Intergovernmental Solid Waste Disposal Association was originally adopted by the City of Urbana, the City of Champaign, and the County of Champaign in 1986; and

WHEREAS, the aforesaid Agreement was subsequently revised all as set forth in Ordinance No. 9091-40 which Revised Agreement was adopted by this Council on the 17th day of September, 1990 and approved by the Mayor on the same date; and

WHEREAS, although Section 5.4.7 of the Revised Agreement presently provides for the establishment of a long-term landfill maintenance escrow fund, the Intergovernmental Solid Waste Disposal Association has in their Resolution No. 91-10-1 requested that the City of Urbana, as a member government of the said Association, make certain amendments to expand the use of the said escrow fund and to set forth that a specific portion of the proposed Material Recovery/Transfer Facility Tipping Fee be allocated to the said escrow fund for the reasons set forth in the ISWDA Resolution No. 91-10-1; and

WHEREAS, in the aforesaid ISWDA Resolution NO. 91-10-1, the City of Urbana, as a member government, was also asked to amend the appropriate Sections to reflect a long-term commitment to flow control in order to provide financial stability for the ISWDA Material Recovery/Transfer Facility and Landfill.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, that the following amendments to the Revised 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 are hereby approved:

1. Section 5.4.7 of the Revised Agreement is hereby amended to read as follows:

"Section 5.4.7. Future Landfill Site and other Association Facilities Long Term Maintenance; Escrow Fund. The Members agree that upon the exhaustion of the Future Landfill Site, and possibly upon abandonment of other Association Facilities, 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 or pay the costs incurred by the Association in a failed attempt to site a landfill. 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 and other Association Facilities. Two Dollars of the tipping fee charged for each ton of Acceptable Waste delivered to the Association's Material Recovery/Transfer Facility (MR/TF) shall be deposited to this fund. This two dollar charge shall be increased to \$8.50 per ton upon completion of the landfill construction and the acceptance of solid waste. Each year thereafter the charge per ton will be increased by an annual inflation factor based on the Consumer Pricing Index (CPI). The ISWDA Board shall review the adequacy of the escrow fee prior to operation of the landfill and a minimum of every five (5) years thereafter or upon the closure of each landfill cell, whichever occurs first. The ISWDA Board shall request member governments

to modify the fee when appropriate based on engineering review to ensure that adequate funding of the escrow account. The monies in the Escrow Fund from time to time shall 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, shall pay or cause to be paid the deficiencies in that connection. 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.

2. That Section 7.6 of the Revised Agreement is hereby amended to read as follows:

"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 such 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. The withdrawing member shall also cooperate with the ISWDA in maintaining and enforcing flow control ordinances pursuant to Section 5.5.1 of this Agreement, to the same effect and in the same manner as if it were a member of the Association, for the duration of the term of this Agreement as set forth in Section 8.1 and as may be extended from time to time by amendments to this Agreement as of the date the ordinance or resolution of withdrawal was enacted. Any withdrawn Member that fails to cooperate with the ISWDA in continuing to maintain and enforce flow control as such existed on the date of withdrawal shall reimburse the Association for net revenues lost as a result of such failure as determined by the ISWDA Board. 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 as specified in Section 8.1, 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.

3. That Section 8.1 of the Revised Agreement is hereby amended to read as follows:

"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, 2031. It is intended that the term will be periodically extended by future amendments to this Agreement.

ADOPTED this 18th day of November, 1991, pursuant to roll call vote as follows:

AYES 7
NAYS 0
ABSENT 0

this 4th PASSED and APPROVED by the Mayor of the City of Urbana,
day of December, 1991.



Jeffrey T. Markland
Jeffrey T. Markland, Mayor of
the City of Urbana, Illinois

ATTEST:

Ruth S. Brookens
RUTH S. BROOKENS, City Clerk
of the City of Urbana, Illinois

PERMANENT RECORDS
SOUTH BOSTON COLLEGE
70% COTTON FIBER CONTENT