

AN ORDINANCE APPROVING A HOST CITY AGREEMENT WITH ALLIED WASTE TRANSPORTATION, INC., A DELAWARE CORPORATION, d/b/a CENTRAL WASTE SERVICES

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

Section 1. That a Host City Agreement Between Allied Waste Transportation, Inc., a Delaware Corporation, d/b/a Central Waste Services and the City of Urbana, Illinois, in the form of a copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

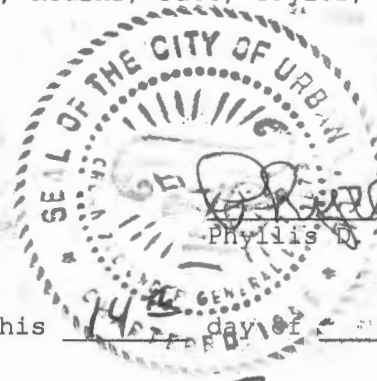
Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf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

PASSED by the City Council this 6th day of March, 2000.

AYES: Hayes, Huth, Kearns, Patt, Taylor, Whelan, Wyman

NAYS:

ABSTAINS:

 Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 14th day of March, 2000.

Tod Satterthwaite
Tod Satterthwaite, Mayor

HOST CITY AGREEMENT

This HOST CITY AGREEMENT ("Agreement") is made effective this 31st day of MARCH, 2000 ("Effective Date") by and between Allied Waste Transportation, Inc., a Delaware Corporation, d/b/a Central Waste Services ("CWS") and the City of Urbana, Illinois ("City").

WITNESSETH:

WHEREAS, although this Agreement is intended to be applicable to any Material Recovery/Transfer Facility (MR/TF) site located within the jurisdiction of the City if sited in accordance with the relevant statutes and ordinances, it is recognized that CWS is considering submitting an application for such site to locate a (MR/TF) on a parcel of land located on North Lincoln Avenue in Urbana, Illinois; and

WHEREAS, the parties to this Agreement recognize the demand and the desirability to locate a MR/TF within the Urbana-Champaign metropolitan area to manage not only the municipal solid waste generated within the corporate limits of the City of Urbana, but to manage the municipal solid waste generated within the regional area; and

WHEREAS, the City agrees to timely process a properly submitted request by CWS for the establishment and development of a MR/TF under the local siting process commonly known as Senate Bill No. 172 and codified as 415 ILCS 5/39.2, and Urbana's own ordinances pertaining thereto; and

WHEREAS, the City has not consented to, concurred in or objected to the proposed plans of CWS to develop the MR/TF and nothing in this agreement shall be deemed by CWS, the City, or other public agencies, or the public to indicate that the City has heretofore adopted any position on the potential development of the MR/TF; and

WHEREAS, CWS is desirous of earning the good will of the citizens of the City of Urbana by demonstrating its good faith to educate the community of the benefits of waste reduction, recycling and proper management of wastes, and as to the nature of its operations, and in demonstrating that its operations are, and will continue to be conducted in an environmentally sound manner; and

WHEREAS, the City is desirous of protecting the health, safety and welfare of its citizens by measures set forth herein, and insuring that factually accurate information is provided to the public, and to assist CWS in efforts at public education; and

WHEREAS, if CWS chooses to submit an application for the North Lincoln Avenue site, in an effort to accommodate the orderly consideration of a siting of a facility on North Lincoln Avenue, it would be necessary to improve certain portions of North Lincoln Avenue and thus it is deemed to be in the best interests of all parties that the terms and conditions of the improvement of North Lincoln Avenue be agreed to in advance of any decision on the siting of a MR/TF at that location so that, if it is sited on North Lincoln Avenue, all parties understand in advance their rights and obligations regarding the improvements of Lincoln Avenue; and

Ord. No. 2000-07-023

WHEREAS, both parties acknowledge that this Agreement, if the contemplated siting application is approved, will serve to assist the City in attaining its goal to not only reduce municipal solid waste, but to insure the proper and environmentally safe manner of handling such.

NOW THEREFORE, in consideration of the promises and of the mutual obligations undertaken herein, receipt and sufficiency of which are hereby acknowledged, and in order to define, carry out, and put into effect the desires of the parties hereto, it's mutually understood and agreed as follows:

1. **INCORPORATION OF RECITALS.**

The above recitals are incorporated as a part of this Agreement as though fully set forth herein.

2. **LANDS COVERED.**

This Agreement covers any property under the jurisdiction of the City.

3. **EFFECTIVE DATE.**

This Agreement shall be effective as of the date shown on page 1 ("Effective Date").

4. **EXPIRATION DATE.**

This Agreement shall expire upon the certified closure of the MR/TF by the Illinois Environmental Protection Agency (IEPA).

5. **BAN ON HAZARDOUS WASTE.**

CWS shall not knowingly accept, treat or dispose of any waste which is defined as hazardous by the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (the "Act") or the regulations adopted thereunder ("Hazardous Waste") at the Property. CWS shall comply with all regulations of the Act and the Illinois Pollution Control Board ("IPCB"), and shall immediately inform the City orally and in writing of any Hazardous Waste that has been accepted, received, stored, treated, disposed, or transported to or from the Property.

6. **URBANA'S USE OF FACILITIES.**

A. **Transfer Capacity**

Upon the issuance of an operating permit by IEPA for the MR/TF, and for a period extending through its permitted site life, CWS shall provide the City sufficient capacity to transfer all municipal solid wastes accepted under an IEPA permit at the MR/TF (permitted wastes), that are generated from within the Champaign County regardless of who delivers the waste, CWS, the City, Citizens of the City, or other private haulers, provided the quantity of such wastes does not

exceed the permitted capacity of the MR/TF and the MR/TF is operating and permitted by IEPA to receive said wastes. However, if CWS has sufficient capacity, nothing in this Agreement shall be construed as preventing CWS from accepting permitted wastes from other sources.

B. Anticipated Quantities

Not less than sixty (60) days prior to January 1 of each calendar year, the City shall provide CWS with an estimate of the amount of non-hazardous municipal solid waste it expects to be generated within the City and require transfer for the year. The estimate shall include a description of assumptions utilized and show calculations supporting the estimate.

7. HOST BENEFIT CONSIDERATIONS.

The proposed MR/TF will be a regional pollution control facility and will be capable of managing the wastes generated from a population greater than that of the host City, Urbana. It is anticipated that the increased number of heavily loaded vehicles will impact the roads involved so that they will deteriorate at a rate faster than otherwise anticipated. Furthermore, the parties recognize that there is the unknown potential of future liability of not only CWS, but of the City as host and thus, in recognition of these uncertain and unquantifiable liabilities, it is agreed the only effective way of compensating the City for undertaking such liabilities, is to provide for the following host benefit considerations:

A. City Disposal Privileges.

Commencing upon the date an IEPA operating permit is issued for the MR/TF and the MR/TF is operating and receiving wastes the City's Public Works Department may dispose of permitted wastes at a cost of sixty five (65) percent of the current posted gate rate in effect at the time of the disposal.

B. Host Benefit Fee.

CWS shall pay the City a Host Benefit Fee. Payment of this fee shall commence sixty days (60) from the date an IEPA operating permit is issued for the MR/TF and the MR/TF is operating and receiving wastes. This fee shall continue as long as the facility is permitted, operating, and receiving wastes and shall be calculated as follows:

The weight, in short tons (2000 pounds) of all municipal solid wastes received and transferred, as determined by the official records kept by CWS and approved by the City, multiplied by an amount equal to thirty-five (35) cents per ton.

The host benefit fee shall be payable to the City on a quarterly basis, on or before the 45th day following the end of the quarter for which payment is due. The host benefit fee shall be adjusted annually each year following the first year of payments, at the rate of the Consumer Price Index (C.P.I.-W) published for the Chicago Metropolitan area, but in no event shall the adjustment in the fee be more than five (5) percent of the fee then in effect.

C. Education Fee.

CWS shall pay to the City an education fee to be used for the purposes of educating the public of the benefits of source reduction, reuse and recycling efforts. The amount of this fee shall be three thousand (\$3,000) dollars and shall be due within sixty (60) days of an operating permit for the MR/TF being issued by IEPA and the MR/TF operating and receiving wastes. In addition, an amount of Thirty-five thousand (\$35,000) dollars shall be due in seven annual payments of five thousand dollars (\$5,000) each beginning within 60 days from the date an IEPA operating permit is issued for the MR/TF and the MR/TF operating and receiving wastes and continuing annually for six years.

8. PREFERENCE FOR URBANA CITY RESIDENTS AND FIRMS.

Except for positions filled by existing CWS employees, CWS agrees that it shall give preference to suitably skilled applicants residing in Urbana to work at the MR/TF, to the extent that such preference does not violate any state or federal employment and civil rights laws. CWS shall give contracting preference to firms headquartered in the City for materials and non-professional services purchased by CWS, provided said firms submit a competitive price or bid and are capable of performing the required work.

9. RECORDS.

CWS shall provide the City, free of charge, copies of all of the following documents in any manner connected with the MR/TF Property or subsequent operation, within a reasonable period and upon written request of the City:

- A. Those submitted by CWS or its agents or consultants to any state or federal environmental regulatory agency; and
- B. Correspondence with any state or federal environmental regulatory agency; and
- C. Those filed with or received from any state or federal regulatory agency relevant to charges, complaints or citation so environmental violations made by any governmental authority.
- D. Records of quantities of wastes received and recycled.

10. INDEMNIFICATION.

CWS agrees to defend, at the sole option of the City, the City from and against any claims, suits, or actions for death or injury to persons, or damage to property brought against the City arising from any alleged claims, acts or omissions in connection with this agreement whether or not suit is filed, unless such claim, suit or cause of action was based solely upon the negligence of the City, its employees, agents or contractors. Additionally, CWS shall indemnify the City for any sums the City becomes obligated to pay as damages arising out of such circumstances, together with attorney's fees ordered by the Court, except to the extent that such damages or attorney's fees are due to the

negligence of the City, its employees, agents or contractors.

11. COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS.

CWS warrants that it will at all times conduct its operations at the MR/TF in material compliance with all of the ordinances, laws, rules and regulations of the City, the State of Illinois, and the United States of America relevant thereto. The acceptance of payment of the Host Benefit Fee under this Agreement shall not be construed as a waiver by the court of material compliance by CWS with all said laws, rules and regulations; nor shall acceptance of said payment by the City otherwise restrain or prohibit the City from taking such legal action as may be necessary to protect the health, safety and general welfare of the residents of the City in the event of any material violation of any said laws, rules or regulations by CWS.

12. CITY RESPONSIBILITIES.

The City agrees to invest up to two-hundred thousand (\$200,000) dollars toward the cost of extending Lincoln Avenue to the MR/TF property, including the construction of a re-aligned bridge, all as provided for in agreements between the property owner and the City of Urbana and Champaign County and the City of Urbana, if the proposed facility is sited on the North Lincoln Avenue property.

In addition, if the proposed facility is sited on the North Lincoln Avenue property, the City agrees to submit an application to the State of Illinois for extension of the Enterprise Zone to incorporate the property upon which the MR/TF is proposed to be sited, upon submittal of documentation to the City required by said application, including financial commitment to construct real estate improvements with an assessed value exceeding one-hundred thousand (\$100,000) dollars.

13. COVENANT.

This Agreement shall constitute a covenant in the nature of a covenant running with the land. CWS agrees to execute all additional documents necessary for the recording of this Agreement in the chain of title of the property where the MR/TF is proposed to be sited.

14. ASSIGNMENT OF RIGHTS.

This Agreement shall be binding upon CWS and its successors and assigns. No transfer of an ownership or other interest in the MR/TF may be made without the prior written approval of the Urbana City Council, which approval shall not be unreasonably withheld. The Urban City Council shall consider in deciding whether to grant such approval the ability of the transferee, both financially and operationally, to comply with the terms of this Agreement, the terms of all licenses and permits, and all other applicable federal and state statutes and regulations, and local ordinances. The Urbana City Council shall have thirty (30) days from its notification (via certified mail, return receipt requested, to the Mayor) of the proposed transfer in which to notify CWS that the City Council does not approve of the transfer. The City Council shall state in writing its reasons for not approving the transfer. If CWS has not received such written notice within thirty (30) days of its notification of the City Council of the proposed transfer, the transfer will be deemed approved. The Urbana City Council may require an additional written commitment by the transferee to assume and comply with the duties

and obligations of this Agreement.

15. AMENDMENT TO AGREEMENT.

This Agreement may not be amended except by an Agreement signed in writing by all parties hereto.

16. DELIVERY OF NOTICES.

All notices, upon receipt, under this Agreement shall be personally delivered or sent by certified mail to the Mayor of the City of Urbana, 400 S. Vine Street, Urbana, IL 61801 and to the General Manger of Central Waste Services, P.O. Box 985, Danville, IL 61832.

17. FORCE MAJEURE.

The obligations with respect to performance of this Agreement by either party shall be suspended and extended in the event, and during the period, that such performance is prevented, hindered, or delayed by a cause or causes beyond the reasonable control of either party including, without limitation, Acts of God (except weather conditions normal for the geographic area of the facility); epidemic, landslide, lightning, hurricane, earthquake, fire, explosion, flood or similar occurrence; and act of the public enemy, war, blockade, insurrection, riot, general unrest, civil disturbance or other similar occurrence that may have a material adverse effect on the construction or operation of the MR/TF; and any change in Law which has a material effect on the construction or operation of the MR/TF, including the order or judgment of any court, provided such order is not the result of negligence, failure or wrongful action or omission on the part of the party involved. In the event of disruption of services under any such circumstances, each party will make every reasonable effort and steps to overcome the cause of cessation of services and to reopen the MR/TF as soon as practicable after the cessation of the cause of suspension of services.

18. ENFORCEMENT.

The parties agree that the City shall have the right to enforce this Agreement by an action in the Champaign County Circuit Court. However, prior to commencing such action, the City agrees to give CWS fifteen (15) days written notice of any non-compliance alleged to constitute a violation of the Agreement. In return, within thirty (30) days thereafter, CWS agrees to inform the Urbana City Council in writing of all defenses which it has to the alleged violation. At no time may CWS assert any defense not provided to the Urbana City Council in writing within the thirty (30) day period, except to the extent the failure to assert a defense was inadvertent and based upon knowledge of information that was not known and could not have been known to CWS upon the completion of reasonable and diligent investigation during the time period aforesaid. CWS shall have the right to correct such violation within the thirty (30) day period, or within such time as the parties may agree in writing. In the event CWS fails to correct such violation within this thirty (30) day period, or, if the violation is of such nature that it cannot reasonably be corrected within such thirty (30) day period, and CWS fails to initiate taking appropriate action to correct the violation within thirty (30) day period or within such time as the parties agree in writing, then CWS agrees to pay liquidated damages in the

amount of five hundred dollars and no cents (\$500) per day for each day of noncompliance constituting a material violation of this Agreement. All time periods herein shall be computed counting all weekends and holidays.

The parties agree that either party shall have the right to enforce this Agreement by seeking any and all appropriate relief without limitation.

19. SEVERABILITY AND APPLICABLE LAW.

If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions of this Agreement and/or their applicability other persons or circumstances shall not be affected thereby. It is declared to be the intent of this Agreement that the same would have been adopted had such invalid provision, if any, not been included herein. The laws of the State of Illinois shall govern this Agreement.

20. AUTHORITY TO ENTER INTO AGREEMENT.

CWS hereby represents and warrants that it is a valid and existing corporation authorized to do business in Illinois and that the individuals executing this Agreement have been duly authorized by the corporate to act on its behalf and enter into this Agreement. CWS agrees to provide the City with sufficient proof of said authorization which proof shall include but not be limited to an appropriate corporate resolution authorizing the execution of this Agreement. The City shall approve this Agreement by City ordinance, a certified copy of which shall be provided to CWS.

IN WITNESS WHEREOF, the parties hereto have caused the signatures of their legally authorized representatives to be affixed hereto on the day and year indicated on the first page of this Agreement.

CITY OF URBANA

**ALLIED WASTE TRANSPORTATION, INC.,
A DELAWARE CORPORATION, D/B/A
CENTRAL WASTE SERVICES**

BY: Tal Sattler Luwile

BY: [Signature]

ATTEST: Phyllis D. Clark

ATTEST: [Signature]