

**RESOLUTION AUTHORIZING WILL COUNTY EXECUTIVE TO EXECUTE
SETTLEMENT AGREEMENT
WITH
WASTE MANAGEMENT OF ILLINOIS, INC.**

WHEREAS, the County of Will (the County) and Waste Management of Illinois, Inc. (Waste Management) are parties to a Host Agreement entered into on June 2, 1997 (the Agreement); and

WHEREAS, the Agreement provided Waste Management with a license to develop and operate a landfill upon property the County is to acquire under the terms and conditions of Public Law 104-106 (110 Stat. 594); and

WHEREAS, Public Law 106-65 (113 Stat. 863) amended Public Law 104-106 (110 Stat. 594), so that the Landfill to be operated pursuant to the Agreement was thereafter limited to the disposal of ~~waste generated in the County or in municipalities located at least in part in the County; and~~

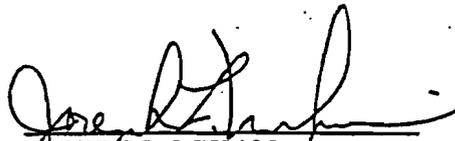
WHEREAS, the County and Waste Management have disputed whether Public Law ~~104~~106-65 (113 Stat. 863) is an *Uncontrollable Circumstance* pursuant to Section 19.1 of the Agreement; and

WHEREAS, the County and Waste Management desire to resolve this dispute and to enter into the Settlement Agreement attached hereto and made a part hereof as attachment Number One (1);

NOW THEREFORE BE IT RESOLVED that the WILL COUNTY EXECUTIVE is authorized and directed to execute the Settlement Agreement (Attachment Number 1) attached hereto and made a part hereof;

BE IT FURTHER RESOLVED that the preamble of this resolution is hereby adopted as if fully set forth herein.

Dated this 20th day of September 2001.


JOSEPH L. MIKAN
WILL COUNTY EXECUTIVE

ATTEST:


JAN GOULD
WILL COUNTY CLERK

VOTE: YES- 23 NO- 1 PASS- 0

Settlement Agreement

This Settlement Agreement ("Settlement Agreement") is made and entered into this 20th day of September, 2001, by and between the County of Will ("County") and Waste Management of Illinois, Inc. ("Operator").

Recitals

WHEREAS, the County and the Operator are parties to a Host Agreement made and entered into on the 2nd day of June 1997 (the "Agreement"); and

WHEREAS, the Agreement provided Waste Management with a license to develop certain property the County is to acquire under the terms and conditions of Public Law 104-106 (110 Stat. 594); and

WHEREAS, Public Law 106-65 (113 Stat. 863) amended Public Law 104-106 (110 Stat. 594), resulting in the landfill to be operated pursuant to the Agreement being limited to the disposal of waste generated in the County or in municipalities located at least in part in the County; and

WHEREAS, the County and the Operator have disputed whether Public Law 106-65 (113 Stat. 863) is an "Uncontrollable Circumstance" pursuant to Section 19.1 of the Agreement; and

WHEREAS, the parties hereto desire to resolve this dispute and to amend the Agreement to reflect the limitation on waste that can be disposed of at the landfill that is the subject of the Agreement; and

WHEREAS, due to a prior lawsuit challenging the Agreement, there exists an actual controversy between Waste Management and the County over whether the amendment to the Agreement, if entered into, is valid and enforceable; and

WHEREAS, the parties desire to resolve this controversy.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and in reliance upon the Recitals set forth above (which are incorporated herein by reference), the parties agree as follows:

1. Subject to the terms and conditions of Section Three (3) herein below, the parties agree to enter into the attached Amendment.
2. The parties acknowledge that the County has approved an increase in the initial "Base Unit Price" under Section 5.6 of the Agreement to \$3.75 per ton. This new "Base Unit Price" will be the price upon which any applicable increases subsequent to June 2, 1997 will be based under the terms of Section 5.6 of the Agreement.

3. This Settlement Agreement is subject to the issuance of a final, non-appealable judicial determination that the Agreement, as amended, pursuant to the attached documents, is not subject to the competitive bidding requirements applicable to certain County purchases, 55 ILCS 5/5-1002. The parties agree to expeditiously and cooperatively take appropriate legal action to obtain such a determination.

4. Operator agrees to pay \$1,000,000 into an interest bearing escrow account on or before October 1, 2001, pursuant to an Escrow Agreement mutually negotiated in good faith among Operator, the County and, an escrow agent agreed to by the parties. Subject to the further provisions of this section set forth herein below, the \$1,000,000 principal amount (as well as all interest accrued thereon) will be in escrow until receipt by the parties of a final Order from a court of competent jurisdiction which is: (1) no longer appealable, and (2) addresses those issues set forth herein pertaining to the Illinois Competitive Bid Statute and/or the Will County Purchasing Ordinance (the "Statutes"). In the event the Will County Circuit Court determines that the Agreement, as amended, is not subject to the Statutes, upon such order of the Circuit Court becoming final and no longer appealable, the escrowed funds, with accumulated interest, will be paid to the County in full satisfaction of Operator's obligations under Section 5.1 of the Host Agreement, within three (3) days of receipt of such Order from the Court. In the event the Will County Circuit Court determines that the Agreement, as amended, is subject to the Statutes and that the requirements of that statute have not been met, the escrowed funds, with accumulated interest, will be paid to Operator within three (3) days of receipt of such Order from the Court. In the further event that the Will County Circuit Court determines that the Agreement, as amended, is not subject to the Statutes, but that determination is later overturned by an Appellate Court of further review, and in the event that the Order of the Appellate Court overturning the Circuit Court's decision becomes final and no longer appealable, the escrowed funds with accumulated interest shall be paid to the Operator within three (3) days of receipt of such Order from the Court. Conversely, in the event that the Will County Circuit Court determines that the Agreement, as amended is subject to the Statutes, but that determination is later overturned by an Appellate Court of further review, and in the event that the Order of the Appellate Court overturning the Circuit Court's decision becomes final and no longer appealable, the escrowed funds with accumulated interest shall be paid to the County within three (3) days of receipt of such Order from the Court.

Nothing herein shall be construed as a waiver or release of any claim by the County to such funds or any other remedy which may be afforded to the County by law or by contract in the event that a final Order, which is no longer appealable, is entered by a court of competent jurisdiction which holds that the Agreement, as amended, is subject to the Statutes and that the requirements of the statute have not been met.

5. The Will County Executive shall execute the proposed Amendment to the Host Agreement as such time as: (1) a final, court-ordered determination which is no longer appealable has been rendered that the Agreement, as amended, is not subject to 55 ILCS 5/5-1022 and/or if that Statute is applicable, the requirements of the Statute have been met, and (2) Operator has complied with and satisfied all duties and obligations made incumbent upon it under this Agreement and the County has received all funds and payments due under the terms and conditions of this Settlement

Agreement.

6. This Agreement contains all the terms and conditions agreed on by the parties with respect to any matter mentioned herein. No prior oral understanding pertaining to any such matters shall be deemed to exist and bind the parties. This Agreement shall be modified in writing only, signed by the parties in interest at the time of modification.

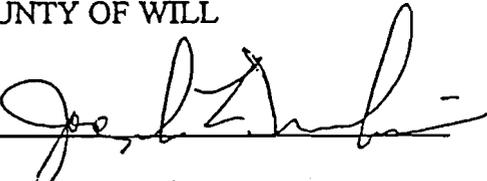
7. This Agreement shall bind the parties, their successors and assigns.

8. This Agreement shall be governed by the laws of the State of Illinois.

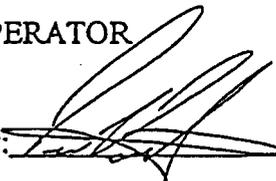
9. Venue for purposes of any dispute which may arise between the parties shall be deemed to be the Circuit Court in and for Will County, Illinois.

The parties have caused this Agreement to be executed on the date referenced hereinabove.

COUNTY OF WILL

By: 
Its County Executive

OPERATOR

By:  9-20-01
Its: REAR VICE-PRESIDENT

Amendment to Host Agreement

This Amendment to Host Agreement ("Amendment") is made and entered into this 13th day of December, 2001, by and between the County of Will ("County") and Waste Management of Illinois, Inc. ("Operator").

Recitals

WHEREAS, the County and the Operator are parties to a Host Agreement made and entered into on the 2nd day of June 1997 (the "Agreement"); and

WHEREAS, the Agreement provided Waste Management with a license to develop certain property the County is to acquire under the terms and conditions of Public Law 104-106 (110 Stat. 594); and

WHEREAS, Public Law 106-65 (113 Stat. 863) amended Public Law 104-106 (110 Stat. 594), resulting in the landfill to be operated pursuant to the Agreement being limited to the disposal of waste generated in the County or in municipalities located at least in part in the County; and

WHEREAS, the County and the Operator have disputed whether Public Law 106-65 (113 Stat. 863) is an "Uncontrollable Circumstance" pursuant to Section 19.1 of the Agreement;

WHEREAS, the parties hereto desire to resolve this dispute and to amend the Agreement pursuant to Section 20.3 to reflect the limitation on waste that can be disposed of at the landfill that is the subject of the Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and in reliance upon the Recitals set forth above (which are incorporated herein by reference), the parties agree as follows:

1. Sections 4.3 and 5.7 of the Agreement are hereby amended by replacing "500,000 tons" with "280,000 tons" where used and the example in Section 4.3 is revised as follows:

In any given year of operation of the Final Disposal Facility, the Operator is required to pay the Host Fee then applicable on the 280,000 tons per year for each year of operation of the Final Disposal Facility. Presume that in the first year only 100,000 tons are actually brought in. Also presume that the Host Fees are as follows: Year 1 - \$2.00/ton; Year 2 - \$2.25/ton. The Operator will be required to pay the County \$560,000 (280,000 ton guarantee times \$2.00 ton). The Operator will have an unused capacity amount of 180,000 tons which will carry forward as a credit to the second year. If the Operator actually brings in 500,000 tons in the second year, the Operator will have to pay a Host Fee of \$2.25/ton on 320,000 tons (500,000 tons less the unused capacity credit of 180,000 tons), or \$720,000. However, the Operator will

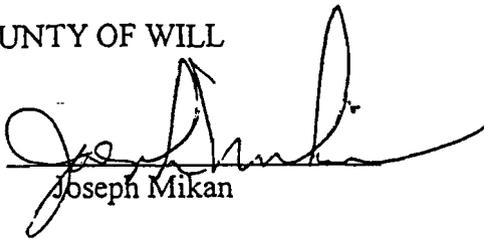
... required to pay an additional \$45,000 (180,000 x \$.25) in year two because of the incremental differential of \$0.25 in that second year.

2. In all other respects, the parties acknowledge that the Agreement is in full force and effect.
3. In the event Public Law 106-65 (113 Stat. 863) is rescinded or otherwise rendered ineffective or unenforceable, this Agreement becomes void and of no effect and the prospective relationship of the parties will be governed in all respects by the Agreement.

The parties have caused this Amendment to be executed on the date referenced hereinabove.

COUNTY OF WILL

By:



Joseph Mikan

Its: County Executive

OPERATOR

By:



Its: REGION VICE-PRESIDENT

ESCROW AGREEMENT

This Escrow Agreement (the "Agreement") is made this 1st day of October, 2001, by and among FIRST MIDWEST BANK, N.A., as escrow agent ("Escrow Agent"), the COUNTY OF WILL, a body politic ("County"), and WASTE MANAGEMENT OF ILLINOIS, INC., an Illinois corporation ("Waste Management").

RECITALS

WHEREAS, on September 20, 2001, the County and Waste Management executed a document entitled "Settlement Agreement" a copy of which is attached hereto and incorporated herein as Exhibit A;

WHEREAS, under the terms of the Settlement Agreement, the County and Waste Management agreed to create an Escrow Account, into which Waste Management would deposit \$1,000,000.00, to be disbursed in accordance with the terms of the Settlement Agreement;

WHEREAS, the County and Waste Management desire to implement the escrow provisions of the Settlement Agreement, and the Escrow Agent is willing to hold the Escrow Deposit in accordance with the following terms and conditions;

NOW, THEREFORE, the parties agree as follows:

1. Incorporation of Preamble. The Recitals set forth above are incorporated herein by reference and made part of this Agreement.
2. Escrow Agent. The County and Waste Management hereby designate and appoint First Midwest Bank, N.A. as Escrow Agent to serve in accordance with the terms, conditions and provisions of this Escrow Agreement, and the Escrow Agent hereby agrees to act as such, upon the terms, conditions and provisions provided in this Escrow Agreement.
3. Escrow Deposit. Upon execution of this Agreement, Waste Management will deliver a check in the amount of \$1,000,000.00 (the "Escrow Deposit") to the Escrow Agent, together with such other executed instruments and documents of transfer as the Escrow Agent reasonably requests.
4. Distribution. The Escrow Agent shall distribute the Escrow Deposit (including any accrued interest and excluding any of the Escrow Agent's costs and fees which are permitted under this Agreement) only upon the joint written direction of the following persons:
 - a. Joe Mikan, County Executive, on behalf of the County of Will; and,
 - b. Dean H. VanderBaan, or any other Waste Management Region Vice-President, on behalf of Waste Management.

5. Responsibility of Escrow Agent. The Escrow Agent shall have no duties or responsibilities except those expressly set forth herein. The Escrow Agent shall have no responsibility for the validity of the Settlement Agreement or any other agreements referred to in this Escrow Agreement, or for the performance of any such agreements by any party thereto or for interpretation of any of the provision of any of such agreements. The liability of the Escrow Agent hereunder shall be limited solely to bad faith, willful misconduct or negligence on its part. The Escrow Agent shall be protected in acting upon any certificate, notice or other instrument whatsoever received by the Escrow Agent under this Escrow Agreement, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and accuracy of any information therein contained, which the Escrow Agent in good faith believes to be genuine and to have been signed or presented by a proper person or persons. The Escrow Agent shall have no responsibility as to the validity, collectibility or value of any property held by it in escrow pursuant to this Escrow Agreement and the Escrow Agent may rely on any notice, instruction, certificate, statement, request, consent, confirmation, agreement or other instrument which it believes to be genuine and to have been signed or represented by a proper person or persons. In the event that the Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive instruction from any of the undersigned with respect to any property held by it in escrow pursuant to this Escrow Agreement which, in the opinion of the Escrow Agent, are in conflict with any of the provisions of this Escrow Agreement, the Escrow Agent shall be entitled to refrain from taking any action until it shall be directed otherwise in writing by all of the other parties hereto or by an order of a court of competent jurisdiction. The Escrow Agent shall be deemed to have no notice of, or duties with respect to, any agreement or agreements with respect to any property held by it in escrow pursuant to this Escrow Agreement other than this Escrow or except as otherwise provided herein. This Escrow Agreement sets forth the entire agreement between the parties hereto and the Escrow Agent as escrow agent. Notwithstanding any provision to the contrary contained in any other agreement (excluding any amendment to the Escrow Agreement) between any of the parties hereto, the Escrow Agent shall have no interest in the property held by it in escrow pursuant to this Escrow Agreement. In the event that any of the terms and provisions of any other agreement (excluding any amendment to this Escrow Agreement), the terms and provisions of this Escrow Agreement shall govern and control in all respects.

6. Amendment and Cancellation. The Escrow Agent shall not be bound by any cancellation, waiver, modification or amendment of this Escrow Agreement, including the transfer of any interest hereunder, unless such modification is in writing and signed by the County and by Waste Management and, if the duties of the Escrow Agent hereunder are affected in any way, unless the Escrow Agent also shall have given its written consent thereto.

7. Legal Counsel. The Escrow Agent may consult with, and obtain advice from, independent legal counsel in the event of any question as to any of the provisions hereof of its duties hereunder, and it shall incur no liability and shall be fully protected in acting in good faith in accordance with the opinion and instructions of such counsel. The reasonable cost of such services shall be added to and be a part of the Escrow Agent's fee hereunder.

8. Resignation. The Escrow Agent shall have the right, in its discretion, to resign as Escrow Agent at any time, by giving at least 30 days' prior written notice of such resignation to the County and Waste Management. In such event the County and Waste Management will jointly and promptly select a bank, which will be appointed as successor Escrow Agent, and the County and Waste Management will enter into an agreement with such bank in substantially the form of this Escrow Agreement. Resignation by the Escrow Agent shall relieve the Escrow Agent of any responsibility or duty thereafter arising hereunder, but shall not relieve the Escrow Agent of any responsibility to account to the County and Waste Management for the Escrow Deposit (together with any accrued interest) and other property received the Escrow Agent prior to the effective date of such resignation. If a substitute for the Escrow Agent hereunder shall not have been selected, as aforesaid, the Escrow Agent shall be entitled to petition the Circuit Court for the Twelfth Judicial Circuit, Will County, for the appointment of a substitute for it hereunder or, in the alternative, it may (i) transfer and deliver the funds deposited in the Escrow Account to or upon the order of such court or (ii) keep safely all funds in the Escrow Account until it receives joint notice from the County and Waste Management of a substitute appointment. The Escrow Agent shall be discharged from all further duties hereunder upon acceptance by the substitute of its duties hereunder or upon transfer and delivery of the Escrow Deposit (together with any accrued interest) to or upon the order of any court.

9. Fees. The County and Waste Management shall be liable for Escrow Agent's fees and expenses for its services hereunder.

10. Notices. All communications and distributions required pursuant to this Agreement shall be addressed to Escrow Agent, the County and Waste Management, as follows:

If to Escrow Agent:

First Midwest Bank
50 W. Jefferson Street
Joliet, IL 60432
Attn: Ron Erjavec

If to County:

Joe Mikan, Will County Executive
County of Will
302 N. Chicago St.
Joliet, IL 60432

With a copy (which shall not constitute notice) to:

Will County State's Attorney
C/O John Urban, Assistant State's Attorney
14 West Jefferson Street
Joliet, IL 60432

If to Waste Management:

Waste Management of Illinois, Inc.
Dean H. VanderBaan
Region Vice-President
720 E. Butterfield Road
Lombard, IL 60148

With a copy (which shall not constitute notice) to:

Richard J. Kavanagh
ROOKS, PITTS AND POUST
111 N. Ottawa Street
Joliet, IL 60432

Any notice or instructions under any of the provisions of this Escrow Agreement shall be deemed effectively given only if such notice is in writing and is delivered. Any delivery under this Escrow Agreement shall be made by registered mail, return receipt requested, by overnight courier, or by confirmed telecopy or other facsimile transmission, addressed to the respective addresses of the parties hereto as set forth in paragraph 10 or at such other address as any of the parties hereto may hereafter specify to the others in writing. For the purposes of this Escrow Agreement, delivery by the Escrow Agent shall be deemed to be complete on the day notice is given or mailed. Notwithstanding any of the foregoing, no notice or instructions to the Escrow Agent shall be deemed to have been received by the Escrow Agent prior to actual receipt by the Escrow Agent, and any computation of a time period which is to begin after receipt of a notice by the Escrow Agent shall run from the date of such receipt by the Escrow Agent.

11. Parties in Interest. This Escrow Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

12. Captions. The paragraph captions used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Escrow Agreement.

13. Execution by Escrow Agent. The execution of this Escrow Agreement by the Escrow Agent shall constitute a receipt for the Escrow Deposit.

14. Indemnification of Escrow Agent. The County and Waste Management agree, jointly and severally, to hold the Escrow Agent harmless and to indemnify the Escrow Agent against any loss, liability, claim or demand arising out of or in connection with the performance of its obligations in accordance with the provisions of this Escrow Agreement, except for bad faith, negligence or willful misconduct of the Escrow Agent. The foregoing indemnities in the paragraph 13 shall survive termination of this Escrow Agreement.

15. Disagreements. If any disagreement or dispute arises between the parties to this Escrow Agreement concerning the meaning or validity of any provision under this Escrow Agreement or concerning any other matter relating to this Escrow Agreement, the Escrow Agent (a) shall be under no obligation to act, except under process or order of court, or until it has been adequately indemnified to its full satisfaction, and shall sustain no liability for its failure to act pending such process or court order or indemnification, and (b) may deposit, in its sole and absolute discretion, the Escrow Deposit (together with accrued interest) or that portion thereof it then holds with the Circuit Court for the Twelfth Judicial Circuit, Will County, and interplead the parties. Upon such deposit and filing of interpleader, the Escrow Agent shall be relieved of all liability as to the Escrow Deposit (together with accrued interest) and shall be entitled to recover from the parties its reasonable attorneys' fees and other costs incurred in commencing and maintaining such action.

16. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the domestic laws of the State of Illinois without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois.

17. Counterparts. This Escrow Agreement may be executed in two or more counterparts, all of which taken together shall constitute an instrument.

IN WITNESS WHEREOF, the parties hereunto have duly caused this Escrow Agreement to be executed as of the first day above written.

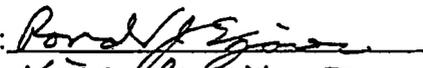
County of Will, a body politic

By: 
Its: Will County Executive

Waste Management of Illinois, Inc.,
an Illinois Corporation

By: 
Its: REGIONAL VICE PRESIDENT

Escrow Agent:
First Midwest Bank, N.A.

By: 
Its: VICE PRESIDENT

IN THE CIRCUIT COURT OF WILL COUNTY
TWELFTH JUDICIAL CIRCUIT

WASTE MANAGEMENT OF ILLINOIS, INC.,)
)
 Plaintiff,)
)
 vs.) NO. 01 MR640
)
 COUNTY OF WILL,)
)
 Defendant.)

JUDGMENT ORDER

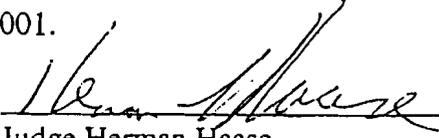
The Court, having heard the testimony submitted at the trial of this matter and the parties' exhibits and arguments, and having entered its Findings of Fact and Conclusions of Law, which are made a part of this Order, NOW ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

1. The Host Agreement entered into by Will County and Waste Management on June 2, 1997 is a license, which is not subject to Illinois or Will County competitive bidding requirements.
2. The Host Agreement entered into by Will County and Waste Management does not involve any purchase by the County, and therefore is not subject to competitive bidding requirements.
3. The Host Agreement entered into by Will County and Waste Management also is an agreement for the provision of professional services, which is not subject to competitive bidding requirements.
4. The Host Agreement entered into by Waste Management and Will County is an agreement which, by its nature, is not subject to award by competitive bidding.
5. The proposed amendment to the Host Agreement approved by the Will County Board of Commissioners on September 20, 2001 is not subject to Illinois or Will County competitive bidding requirements.
6. The Host Agreement was awarded by Will County to Waste Management pursuant to a process which complies with Illinois and Will County competitive bid requirements, and the proposed amendment thereto approved by the Will

County Board on September 20, 2001 does not constitute a material change in that agreement, and is therefore not required to be competitively bid.

7. There is no just reason to delay enforcement or appeal of this Order.

So ordered this 12 day of October, 2001.



Judge Herman Haase