



**SOLID WASTE AGENCY OF LAKE COUNTY, IL**

**AGREEMENT  
ESTABLISHING THE  
SOLID WASTE AGENCY  
OF LAKE COUNTY, ILLINOIS  
(SWALCO)**

Approved July 1, 1990  
Amended November 1, 1990  
Amended August 27, 1992  
Amended June 26, 1997  
Amended October 22, 2009

**AN AGREEMENT ESTABLISHING  
THE SOLID WASTE AGENCY OF LAKE COUNTY, ILLINOIS  
AS A MUNICIPAL JOINT ACTION AGENCY**

THIS AGREEMENT is entered into by and among the municipalities and the County which under ordinances duly adopted by their respective corporate authorities have executed this Agreement pursuant to its terms, and is dated as of February 21, 1991.

**WITNESSETH:**

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois authorizes units of local government to contract and associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or ordinance; and

WHEREAS, the purpose of the Illinois Solid Waste Planning and Recycling Act, Ill. Rev. Stat. Rev. Stat., ch. 111 ½, par. 7051-7057, is to reduce reliance on land disposal of solid waste and to encourage and promote alternative means of managing solid waste; and

WHEREAS, Solid Waste Planning and Recycling Act, Ill. Rev. Stat. ch. 85, par. 5951 et. seq., requires certain counties to develop comprehensive waste management plans that place substantial emphasis on recycling and other alternatives to landfills; and

WHEREAS, under Article VII, Section 10 of the 1970 Constitution of the State of Illinois and pursuant to the Local Solid Waste Disposal Act, as amended, Ill. Rev. Stat., ch. 85, par. 5901-5906; ch. 24, par. 11-19-1, 11-19-4 and 11-19-7; ch. 34, par. 25.11a, 25.11b and 418; and ch. 127 par. 743.2 (hereinafter "the Disposal Act"), units of local government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities; and

WHEREAS, the Intergovernmental Cooperation Act, as amended, (Ill. Rev. Stat., ch. 127, par. 741 et seq., as amended, (the "Coop Act")), also authorizes units of local government to exercise and enjoy jointly their powers, privileges or authority and to enter into intergovernmental agreements for that purpose; and

WHEREAS, section 3.2 of the Coop Act, authorizes any two or more municipalities and counties as units of local government to establish, by an intergovernmental agreement, a municipal joint action agency as a municipal corporation and public body politic and corporate in order to provide for efficient and environmentally sound collection, transportation, processing, storage and disposal of municipal waste; and

WHEREAS, the Disposal Act authorizes units of local government to enter into intergovernmental agreements to develop, prepare and implement solid waste management plans and adopt such procedures as are necessary for the preparation and implementation of such plans; and

WHEREAS, the Disposal Act authorizes units of local government to delegate any power to another unit of local government or agency created by intergovernmental agreement for the specific purpose of preparing a solid waste management plan; and

WHEREAS, the parties to this Agreement have determined that they need to join together to create a joint action agency by intergovernmental agreement to provide an efficient and environmentally sound waste disposal system, (that may include Waste Projects), for their use and mutual benefit; and

WHEREAS, the units of local government which are parties to this Agreement ("Members") have determined that there is a need to take a comprehensive regional approach to solid waste management by implementation of a regional solid waste management plan which addresses the significant economic, political and environmental problems associated with solid waste disposal and management; and

WHEREAS, the Lake County Solid Waste Management plan (the "Plan") has been prepared by the Lake County Joint Action Solid Waste Planning Agency and adopted by the Lake county Board on September 12, 1989 in accordance with the Solid Waste Planning and Recycling Act, (Ill. Rev. Stat., ch. 85, par. 5951 et seq.); and

WHEREAS, it has been determined by the Members that it is necessary and in their best interests to establish a joint action agency by intergovernmental agreement whose function it would be to implement the recommendations of the Plan in furtherance of the regional solid waste management policies set forth therein, and to exercise the powers granted herein and in the Act; and

WHEREAS, the Agency, when formed, may enter into System Development and Implementation Agreements with Members and Customers providing for the Agency to develop and operate a Waste Project(s), providing for the rights of Members and Customers to use the Waste Project(s), assessing charges for such use or providing for payment of amounts without regard to use of the project, and establishing conditions with respect to use of the Waste Project(s), including, but not limited to, conditions requiring a Member to make exclusive use of the Waste Project(s) for all or a specified portion of the Municipal Waste within its jurisdiction, all as may be agreed to by the Member or Customer and the Agency in a System Development and Implementation Agreement; and

WHEREAS, it is necessary for purposes of economy and environmental safety that the parties form a municipal joint action agency to exercise the powers and duties conferred by law for their benefit; and

WHEREAS, the parties to this Agreement have approved this Agreement by ordinance duly adopted by their respective corporate authorities.

NOW, THEREFORE, the parties agree as follows:

**Section 1.** Definitions.

For the purpose of this Agreement each of the following words and phrases shall have the meaning set forth following the word or phrase, unless the context clearly indicates a different meaning.

**1.1** The word "Act" shall mean the Environmental Protection Act (Ill. Rev. Stat., ch. 111 ½, par. 1001 et seq.), as it has been and as it may be amended from time to time.

**1.2** The phrase "Additional Member" shall mean any municipality or the county which becomes a Member of the Agency pursuant to paragraph 5.3 of this Agreement. An Original Member which withdraws from the Agency pursuant to this Agreement may become an Additional Member of the Agency in the manner provided in Section 5.3 of this Agreement.

**1.3** The word "Agency" shall mean the Solid Waste Agency of Lake County, Illinois established by this Agreement.

**1.4** The phrase "Board of Directors" shall mean the Board of Directors of the Agency.

**1.5** The word "Bonds" shall mean any bonds, notes or other evidences of indebtedness of the agency.

**1.6** The term "By-laws" shall mean By-laws of the Agency as adopted and as amended from time to time by the Board of Directors.

**1.7** The word "Compost" or "Composting" shall mean the controlled biological decomposition of organic solid waste under aerobic conditions.

**1.8** The words "Coop Act" shall mean the Intergovernmental Cooperation Act (Ill. Rev. Stat., ch. 127, par. 741 et seq.), as it has been and as it may be amended from time to time.

**1.9** The word "County" shall mean the County of Lake, Illinois.

**1.10** The word "Customer" shall mean any person, corporation, unit of government or other entity which is not a Member but which has entered into a System Development and Implementation Agreement with the Agency with respect to a Waste Project.

**1.11** "Disposal Act" shall mean the Local Solid Waste Disposal Act, (Ill. Rev. Stat., ch. 85, par. 5901--5906; ch. 24, par. 11-19-1, 11-19-4, and 11-9-7; ch. 34 par. 25.11a, 25.11b, and 418; and ch. 127, par. 743.2), as it has been and as it may be amended from time to time.

**1.12** The phrase "Effective Date" shall have the meaning provided in Section 13 hereof.

**1.13** The phrase "Executive Committee" shall mean the Executive Committee of the Board of Directors of the Agency.

**1.14** "Jurisdiction" shall mean (a) in the case of a Municipality, the territory within the corporate limits of the Municipality now or in the future; (b) in the case of a county, the territory within the corporate limits of the County which does not lie within the corporate limits of any Municipality that are party to this Agreement; and (c) in the case of a Municipal Joint Action Agency, the territory within the corporate limits of each Municipality which is a member of such Municipal Joint Action Agency and the territory within the corporate limits of the County in which the Joint Municipal Action Agency is located which does not lie within the corporate limits of any Municipality.

**1.15** The word "Member" shall mean the county or any municipality which is an Original Member or which becomes an Additional Member of the Agency pursuant to the terms of this Agreement.

**1.16** "Municipality" shall mean a city, village or an incorporated town.

**1.17** "Municipal Joint Action Agency" shall mean a municipal corporation and a public body politic and corporate organized and existing under and pursuant to the Act.

**1.18** The phrase "Municipal Waste" shall mean any garbage, refuse, industrial, lunchroom, or office waste, and other material resulting from the operation of residential, commercial, or institutional establishments and from community activities or such other definition as the Board of Directors may lawfully determine.

**1.19** The phrase "Original Member" shall mean the County or a municipality which becomes an Original Member of the Agency as provided for in paragraph 5.2 of this Agreement.

**1.20** "Plan" shall mean the Lake County Solid Waste Management plan approved by the Lake County Board on September 12, 1989, and as thereafter amended and adopted pursuant to State Law.

**1.21** "Planning and Recycling Act" shall mean Ill. Rev. Stat., ch. 85, par. 5951 et seq., as it has been and as it may be amended from time to time.

**1.22** The phrase "System Development and Implementation Agreement" shall mean the interim or long term contract or contracts between the Agency and a Member or Customer establishing the rights and obligations of the parties with respect to development and use of a Waste Project(s) and assessing charges for such use or providing for payment of amounts by the Member or Customer without regard to use of the Project(s), as amended and supplemented from time to time.

**1.23** "Public Agency" shall mean the State of Illinois, any agency of the State, and any units of local government as defined in the Illinois Constitution of 1970.

**1.24** "Recyclable Materials" shall mean materials that are separated from solid waste by the generator or during collection, for the purpose of recycling, including, but not limited to, paper, glass, metals, automobile oil, and batteries.

**1.25** "Recycling" shall mean the process of collecting and preparing recyclable materials and reusing said materials in their original form or using them in manufacturing processes.

**1.26** "Regional Pollution Control Facility" shall have the meaning ascribed to such term in Section 3 of the Environmental Protection Act, except that such term shall not include sewers and sewage treatment facilities owned or operated by sanitary districts.

**1.27** "Solid Waste" shall mean "waste", as defined in Section 3 of the Environmental Protection Act, which is in solid or semi-solid form.

**1.28** "State" shall mean the State of Illinois.

**1.29** "Units of Local Government" shall mean a county, municipality, township, special district or unit, designated as a unit of local government by law, including a Municipal Joint Action Agency, which exercises limited governmental power or powers in respect to limited governmental subjects, but not including school districts, or, if the context requires, the member municipalities of any such entity or their respective territories.

**1.30** The phrase "Waste Project" shall mean land, any rights therein and improvements thereto; one or more buildings, structures or other improvements; machinery; equipment; vehicles; other facilities; and the specialized consultation, engineering, design, and administrative expenses incidental to the procurement, construction, operation and/or

maintenance of the foregoing owned, operated or used by the Agency for the collection, transportation, transfer, storage, disposal, processing, treatment, recovery and re-use of Municipal Waste. A Waste project shall include land held for a planned Waste Project or used to buffer a Waste Project from adjacent land uses.

**Section 2.** Establishment

A municipal joint action agency is hereby established by this Intergovernmental Agreement among the Members. The Agency shall be a municipal corporation and a public body politic and corporate and not a joint venture or partnership among the Members. The corporate name of the Agency so established is the Solid Waste Agency of Lake County, Illinois.

**Section 3.** Purpose

The Agency is established for the purpose of efficient and environmentally sound management and disposal of Municipal Waste generated and disposed of within the jurisdiction of the Members all as provided by law and this Agreement.

**Section 4.** Duration

The Agency shall have perpetual duration unless dissolved and terminated as provided in Section 6 of this Agreement or as otherwise provided by law.

**Section 5.** Membership

**5.1** The Members of the Agency shall be any municipality or the County which becomes an Original Member as provided in paragraph 5.2 or an Additional Member as provided in paragraph 5.3. However, any Original Members or Additional Members which shall have withdrawn from the Agency pursuant to this Agreement shall no longer be Members.

**5.2** Any Illinois municipality which is listed on Exhibit One which is attached to and made a part of this Agreement and the County of Lake may become an Original Member of the Agency upon execution of this Agreement no later than the Effective Date of this Agreement and upon payment of an initial capital contribution as outlined in Exhibit Two which is attached to and made part of this Agreement. Execution of this Agreement by an Original Member shall be authorized by ordinance adopted by the corporate authorities of the Member.



**5.3** (a) Any Illinois municipality which is listed on Exhibit One which is attached to and made a part of this Agreement and the County of Lake and which is not an Original Member may become an Additional Member of the Agency, provided: (1) the corporate authorities of said municipality or the County of Lake have adopted an ordinance authorizing execution of this Agreement; (2) a majority of the then Directors of the Agency has adopted an ordinance consenting to the Additional Member; (3) the corporate authorities of a majority of the then Members have adopted an ordinance consenting to the Additional Member; (4) the Additional Member has accepted any conditions imposed by the Agency under subparagraph (b); and (5) the Additional Member has paid to the Agency its initial capital contribution and a late fee. The late fee shall be determined at the time the corporate authorities of the Additional Member authorize by ordinance execution of this Agreement. The late fee shall equal the population of the municipality as determined by the most recent federal census or, if available, a more recent corrected, revised or special federal census as reported in Illinois Counties and Municipalities, dated June 1, 1989 and published by the Secretary of State of the State of Illinois multiplied by: (i) Twenty-five (25¢) cents, if the time of determination is less than thirty-one (31) days after the Effective Date of this Agreement; (ii) Fifty (50¢) cents, if the time of determination is greater than thirty (30) days, but less than sixty-one (61) days after the Effective Date of this Agreement; (iii) One (\$1) Dollar if the time of determination is greater than sixty (60) days, but less than ninety-one (91) days after the Effective Date of this Agreement; (iv) Five (\$5) Dollars if the time of determination is greater than ninety (90) days, but less than one year and one day after the Effective Date of this Agreement; (v) Ten (\$10) Dollars if the time of determination is greater than one year, but less than two years and one day after the Effective Date of this Agreement; (vi) Fifteen (\$15) Dollars, if the time of determination is greater than two years, but less than three years and one day after the Effective Date of this Agreement; and (vii) Twenty (\$20) Dollars, if the time of determination is greater than three years after the Effective Date of this Agreement; or as such other amount as the Board of Directors so may determine.

(b) The Board of Directors may establish conditions with respect to any municipality or the County becoming an Additional Member under subparagraph 5.3(a). These conditions may be in addition to the initial capital contribution required under paragraph 5.3 and may include, without limitation, the making of a capital contribution to the Agency, reimbursements to members for cost incurred in organization and start-up of the Agency and any Waste project, the

payment of differential rates, fees or charges with respect to the Agency or use of a Waste Project, and the assumption of all or a portion of contracts, debts and obligations of the Agency, or of members with respect to the Agency.

**5.4** Promptly upon the county or any municipality becoming an Additional member, the fact shall be certified by the Secretary of the Agency to the Illinois Secretary of State.

**5.5** Membership in the Agency is a prerequisite to participation as a Member in any one of the Agency's programs. Before participating in any one of the Agency's programs, as a Member, a Member must have first executed an SDI Agreement for that particular program.

**Section 6.** Withdrawal, Termination, and Dissolution.

**6.1** Any Member may withdraw as a Member of the Agency without the consent of the Board of Directors, provided that the withdrawing Member shall remain obligated (I) as provided in paragraph 9.7; (ii) under the terms and conditions of any outstanding System Development and Implementation Agreement to which the withdrawing Member is a party; and (iii) for any liabilities imposed by law. No Member may withdraw from the Agency while and so long as any Bonds of the Agency are outstanding, except as permitted by the resolution or resolutions authorizing the issuance of such Bonds. No Member may withdraw while and so long as any Bonds are outstanding, if such withdrawal would reduce the number of Members to less than three.

**6.2** Any Member may withdraw pursuant to paragraph 6.1 of this Section only upon filing with the Secretary of the Agency no less than 180 days before the intended effective date of withdrawal a certified copy of an ordinance of the Member determining so to withdraw.

**6.3** The Agency shall be dissolved and terminated (i) upon the withdrawal of one or more Members so as to reduce the number of Members to less than three; or (ii) upon the filing with the Secretary of the Agency of certified copies of ordinances of three-fifths (3/5) of the Members determining to dissolve and terminate the Agency.

**6.4** Notwithstanding the provisions of paragraph 6.3, as long as any Bonds of the Agency are outstanding and unpaid, the Agency shall not dissolve and terminate.

**6.5** Promptly upon any Member withdrawing from the Agency, or upon action having been taken to dissolve and terminate the Agency, that fact shall be certified by the Secretary of the Agency to the Illinois Secretary of State.

**6.6** In addition to the withdrawal rights provided in Section 6.1:

(a) Any Member may withdraw from the Agency without the consent of the Board of Directors at any time prior to execution of a System Development and Implementation Agreement (SDI Agreement) by the Member without obligation, except that the Member shall be liable for the following costs: (i) the Member's initial capital contribution as set forth in Exhibit Two to the Agreement; (ii) any other capital contributions or charges assessed by the Board of Directors prior to the Member's withdrawal solely for the Agency's administrative or planning expenses; and (iii) any costs imposed under the second sentence of Section 9.7 of the Agreement;

(b) Any Member may withdrawal from the Agency without the consent of the Board of Directors at any time after execution of an SDI Agreement by the Member and prior to a formal determination by the Board of Directors to proceed with marketing and seeking a rating for any bond issue pursuant to said SDI Agreement without obligation, except that the Member shall be liable for: (i) any obligations agreed to by such Member in the SDI Agreement (excluding obligations with respect to bonds authorized to be issued pursuant to the SDI Agreement); and (ii) the obligations provided in (i), (ii) or (iii) of Section 6.6 (a);

(c) Notwithstanding the second and third sentences of Section 6.1 of this Agreement, any Member may withdrawal from the Agency without the consent of the Board of Directors at any time after execution of an SDI Agreement by the Member and the issuance of bonds by the Agency, provided, however, the Member shall be liable for: (i) its obligations under the SDI Agreement (including obligations with respect to the bonds which have been issued or are authorized to be issued), but not including payments with respect to any further bonds that are issued by the Agency pursuant to SDI Agreements executed after the Member withdraws as a Member; and (ii) the obligations provided in (i), (ii) or (iii) of Section 6.6 (a), provided that no withdrawal pursuant to this Section 6.6 shall result in a dissolution of the Agency pursuant to Section 6.3 while bonds of the Agency are outstanding; and

(d) For purposes of determining the date on which the Member shall be deemed to have withdrawn under this Section 6.6, the date on which the Notice of Withdrawal is received by the Agency shall be the date of withdrawal by the Member.

**Section 7.** Powers

**7.1** In addition to any powers, and subject to any limitations, set forth elsewhere in the Agreement, the Agency shall have the following powers:

- (a) To sue or be sued;
- (b) To apply for and accept gifts, grants or loans of funds, property or financial or other aid from any public agency or private entity;
- (c) To invest available funds as provided by law;
- (d) To plan, finance, construct, reconstruct, acquire, own, lease as lessor or lessee, equip, extend, improve, manage, operate, maintain, repair and close any Waste Project and to take any and all action necessary or incidental thereto;
- (e) To acquire, hold, sell, lease as lessor or lessee, lend, transfer or dispose of real or personal property, including intangible property, or interests therein, as it deems appropriate in the exercise of its powers, and to provide for the use thereof by any Members upon such terms and conditions and with such fees or, charges as it shall determine, and to mortgage, pledge or otherwise grant security interests in any such property;
- (f) To make and execute all contracts and other instruments necessary or convenient to exercise of its powers, including System Development and Implementation Agreements with Members or with Customers;
- (g) To adopt, amend and repeal ordinances, resolutions, rules and regulations with respect to its powers and functions and not inconsistent with section 3.2 of the Act or this Agreement, including, but not limited to the use of a Waste Project;
- (h) To provide for the insurance, including self-insurance, of any property or operations of the Agency or of its Members, directors, officers and employees, against any risk or hazard, and to indemnify its Members, directors, officers and employees against any risk or hazard;
- (i) To appoint, retain and employ officers, agents, independent contractors and employees to carry out its powers and functions hereunder and to fix their compensation and terms and conditions of employment;
- (j) To make and execute any contract relating to a Waste Project with the federal or a state government or any agency thereof, with a Member or any unit of local government or with any person including, but not limited to, contracts which require:

(1) The contracting party to pay the Agency an agreed amount for the collection, transportation, transfer, processing, storage, treatment, disposal, recovery or re-use of a stated amount of Municipal Waste (whether or not the stated amount of waste is collected, transported, transferred, processed, stored, treated, disposed of, recovered or re-used), or pay all or a portion of the capital and operating expenses of a Waste Project;

(2) The contracting party make exclusive use of a Waste Project for collecting, transporting, transferring, processing, storing, treating, disposing, recovering, or re-using all or any portion of Municipal Waste over which the party has control;

(3) The abandonment, restriction or prohibition on completion or construction of competing waste projects by the contracting party;

(4) Specific provisions with respect to the collection, transportation, transfer, processing, storage, treatment, disposal, recovery and re-use of Municipal Waste; and

(5) Payment of fees and charges with respect to a Waste Project;

(k) To enter into contracts which provide or which may provide for compensation to areas affected by an Agency Waste Project;

(l) To enter into contracts with the community in which an Agency Waste Project is located controlling location, use, operation, maintenance and closing of a Waste Project;

(m) To create and fund reserves for the purpose of planning, constructing, reconstructing, financing, acquiring, owning, managing, insuring, leasing, equipping, extending, improving, operating, maintaining, repairing, and closing Waste Projects and/or the potential effects resulting from operating a Waste Project;

(n) To create, develop and implement plans for closing and re-use of sites on which Waste Projects are located, which plans may provide for various uses, including but not limited to, residential, recreational, commercial office, institutional, public and industrial uses. Such plans shall comply with all applicable local zoning;

(o) To prepare, submit and administer plans, and to participate in intergovernmental agreements, pursuant to the Disposal Act and the Planning and Recycling Act;

(p) To prescribe, fix, establish and collect fees, rentals or other charges from Members, Additional Members, Customers, licensees of Members or Customers, and franchisees of Members or Customers, sufficient to fund the planning, development, permitting,

construction, and operation of any Waste Project of the Agency including, but not limited to any costs or expenses incurred by the Agency in the exercise of its powers as set forth herein;

(q) To borrow money and, in evidence of its obligation to repay the borrowing, to issue Bonds for any of its corporate purposes, all as provided in the Act; and, for the purpose of securing and paying any Bonds, to pledge, assign or provide for a lien or security interest on (1) any or all revenues derived from the operation of a Waste Project, and investment earnings thereon; (2) proceeds of any of its Bonds and investment earnings thereon; (3) receipts of the Agency under any System Development and Implementation Agreements or any other contracts with any Member or Customer which provide that such receipts may be used for that purpose, and investment earnings on any such receipts; (4) amounts received from a bank, savings and loan association or other financial institution under a contract or other agreement to lend money or purchase obligations; (5) proceeds of any insurance policy or other contract of insurance; (6) awards from any condemnation or other eminent domain proceeding; (7) proceeds from the sale, lease or other disposition of any property; (8) any funds or accounts securing payment of Bonds, as established by the resolution authorizing the Bonds; and (9) any other amounts which by law may be applied to such obligations, all as and to the extent as provided by law and the resolution authorizing the issuance of the Bonds;

(r) To exercise any or all powers specifically granted to municipal joint action agencies by law;

(s) To exercise all other powers incident to the purposes and objectives of the Agency which may be provided for by law;

(t) To exercise any power with respect to the Municipal Waste of any Member or any Member's municipal waste system that may be delegated to it by that Member pursuant to law;

(u) To enter into agreements for the sale of any materials and energy recovered or produced in connection with the operation of any Waste Project and to apply the revenues derived therefrom to the expenses of operating and maintaining any Waste Project of the Agency, including all debt service, administrative, operating, planning, permitting, development and maintenance costs and expenses, or any and other related costs of the Agency or any Waste Project of the Agency;

(v) To expend funds for administrative and incidental expenses including, but not limited to, clerical expenses, office supplies, travel expenses and operational supplies;

(w) To adopt By-Laws to govern the function and operation of the Agency;

(x) To review and, from time-to-time, prepare and recommend amendments to the Plan in furtherance of the Agency's responsibilities pursuant to this Agreement and applicable provisions of state law, as delegated by the County of Lake; and

(y) To make grants of money and render technical assistance to any Member or other party relative to matters of solid waste disposal.

**7.2** The Agency shall have no taxing power.

**7.3** Upon request from the Agency each Member shall formally consider the exercise of its power of eminent domain to obtain property, easements, rights-of-way or other interests in property within such Member's Jurisdiction which are necessary for, and consistent with, the implementation of the Plan adopted by each such Member and the purposes of the Agency. Should such Member favorably consider exercising said eminent domain power, the Agency shall be responsible for paying such Member for its costs and expenses incurred in the performance of its obligations pursuant to the terms hereunder, including any required payments to the owner(s) of such property, easements, rights-of-way, or other property interest.

## **Section 8.** Governance

**8.1** The Agency shall be governed and administered as provided in this Section and in the By-Laws, adopted pursuant to, and subject to the limitations of this Agreement.

**8.2** The governing body of the Agency shall be the Board of Directors. There shall be one Director for each Member, who shall be appointed by vote of the corporate authorities of the Member and who at the time of appointment shall be: (i) the Mayor or President of a Member (if such Member is a municipality) or the Chairman of the Board (if such Member is the County); (ii) a Trustee, Councilperson, or Alderman (if such Member is a municipality) or a Board Member (if such Member is the County); or (iii) the chief administrative officer of the Member. The term of each initial Director shall begin when he or she is appointed and shall continue until April 30, 1993 or until his or her successor is appointed, whichever is earlier. Thereafter, all Directors shall be appointed for two-year terms expiring on April 30 of odd numbered years.

Except as provided in paragraph 8.4, a person serving as a Director shall serve until his or her term expires, and thereafter until his or her respective successor is appointed. Each Director shall have one vote on the Board of Directors.

**8.3** Any Member may appoint one or more persons to serve as the Alternate Director. Any such appointee shall meet the qualifications for office as a Director established in paragraph 8.2, except in the case where a Member is unable to appoint such an appointee because it is impracticable because of size or time commitments. In that case a Member may appoint an Alternate Director who is a full time employee in an executive level position with the Member. An executive level position is generally intended to mean a person who is a department head or equivalent. The Alternate Director may attend any meeting of the Board of Directors and may vote as Director in the absence of the Director from that Member or if there is a vacancy in the position of Director from that Member. The term of the Alternate Director shall be the same as the term of the Director from the appointing Member. Except as provided in paragraph 8.4, a person serving as Alternate Director shall serve until his or her term expires and thereafter until the successor is appointed.

**8.4** All appointments of Directors and Alternate Directors shall be by ordinance or resolution of the corporate authorities of the appointing Member, a certified copy of which shall be filed with the Secretary of the Agency. Should any Director or Alternate Director cease to serve as the President, Mayor, Chairman, elected member of the corporate authorities or chief administrative officer of the appointing member, that person shall simultaneously cease to serve as Director or Alternate Director of the Agency and the position shall be vacant. Any vacancy in the office of Director or Alternate Director shall be filled by appointment by the Member with respect to which the vacancy exists. Directors and Alternate Directors shall receive no compensation for their service in this capacity but may be reimbursed by the Agency for reasonable and necessary expenses incurred in performance of their duties.

**8.5** The Board of Directors shall elect one Director to serve as Chairman and another Director to serve as Vice-Chairman. The Chairman shall preside at all meetings of the Board of Directors. The Vice-Chairman shall preside over meetings of the Board of Directors in the Chairman's absence. The Board of Directors shall elect other persons, who need not be Directors, to the positions of Secretary and Treasurer and may elect other persons, who need not be Directors, to such other offices as the Board shall determine. The duties, terms of office, and



manner of selection of the officers shall be prescribed in the By-laws. The Board of Directors may provide that any officer of the Agency who is not a Director may be compensated for service in such capacity.

**8.6** The Board of Directors shall determine the general policy of the Agency, shall approve the annual budget, shall make all appropriations (which may include appropriations made at any time in addition to those made in any annual appropriation document), shall determine the admission of Additional Members, shall approve all System Development and Implementation Agreements, shall impose any charge on Members not provided for in a System Development and Implementation Agreement, shall adopt any ordinances or resolutions providing for the issuance of Bonds of the Agency, shall adopt the By-laws, rules and regulations of the Agency, shall undertake siting of all Waste Projects as required by law, and shall exercise such powers of the Agency and perform such duties as may be prescribed in the Act, this Agreement or the By-laws.

**8.7** Except as a greater majority is otherwise provided in this Agreement or the By-laws, actions required by law or by this Agreement to be taken by the Board of Directors shall be taken by an affirmative vote of a majority of the then Directors.

**8.8** Upon the written request of any Director, any matter with respect to the Agency shall be placed on the agenda of the Board of Directors.

**8.9** There is established an Executive Committee of the Agency. The Executive Committee shall consist of nine (9) Directors. The Executive Committee shall be selected by vote of the Board of Directors of the Agency. The Executive Committee shall include the Director from the County of Lake as a permanent member, and two(2) persons who are Directors from Members in good standing, having a population of more than 30,000 persons. Population shall be determined on the basis of the most recent federal census as reported in the Illinois Counties and Municipalities, dated June 1, 1989, or as thereafter updated, and published by the Secretary of State of the State of Illinois. The remaining six (6) persons shall be elected from the remaining Directors of Members in good standing, without regard to population. The terms of office of members of the Executive Committee shall be established in the Bylaws. Whenever practicable, the Member shall appoint a Director to sit on the Executive Committee. With the consent of the Member, a specified Alternate Director for that Member may be elected to the Executive Committee on behalf of that Member. If the elected representative (Director or

Alternate Director) is unable to attend the Executive Committee Meeting(s), no such substitute shall be allowed to count towards a quorum or shall be allowed to vote at the Executive Committee Meeting(s). The Executive Committee may take any action with respect to the Agency which the Board of Directors is authorized to take, except the Board of Directors shall have the sole authority to: approve the annual budget; to make all appropriations; to adopt any ordinances or resolutions providing for the issues of Bonds; to adopt rules, regulations and By-laws of the Agency; to admit Additional Members; to approve all System Development and Implementation Agreements; to undertake siting of all Waste Projects; to impose any charge on Members not provided for in a System Development and Implementation Agreement; and to take such other action as may be reserved to it in the rules, regulations, By-laws or Ordinances of the Agency. Members of the Executive Committee shall not be compensated for their service in such capacity, but may be reimbursed for reasonable and necessary expenses incurred in performance of their duties.

**Section 9.** Rights and Responsibilities of Members.

**9.1** The Members intend that operational expenses and debt service with respect to Bonds or Notes issued by the Agency with respect to any Waste Project shall be self-sustaining from revenues derived from the operation of such Waste Project, or from revenues derived from the operation the combined Waste Projects implemented by the Agency in accordance with the Plan. However, the Members intend this Section 9 to provide for a method to collect additional funds necessary for the accomplishment of the purposes of the Agency as prescribed herein.

**9.2** The Board of Directors shall determine the costs to be paid by the respective Members as provided in this paragraph:

(a) With respect to capital costs of planning, acquiring, financing, constructing and equipping a Waste Project (or improvements or extensions to a Waste Project), the Agency may itself finance these costs from borrowed money or retained amounts and it may enter into System Development and Implementation Agreements providing for the other party to the System Development and Implementation Agreement to make capital contributions and payments to the Agency (at the times specified by the Board of Directors and in proportionate shares as provided in the system Development and Implementation Agreement). No System Development and Implementation Agreement with a Member shall be executed by the Agency

except upon authorization by a resolution or an ordinance approved by an affirmative vote of a majority of the then Directors.

(b) With respect to annual costs of operation and maintenance of the Agency, the Board of Directors shall establish cost-sharing charges for Members based upon usage of the Waste Projects in amounts sufficient to provide the funds required by the annual budget to the extent that such costs are not anticipated to be paid from other revenues of the Agency. Such costs shall be provided for in the System Development and Implementation Agreement between the Agency and a Member. Notwithstanding the foregoing, by an affirmative vote of 3/4 of the then Directors, the Board of Directors may establish from time to time charges with respect to Members for the Agency's annual budgeted expenditures which may be payable regardless of actual or estimated use of Waste Projects.

(c) Members shall appropriate their funds to pay their share of the costs of the Agency and to service their obligations related to the Agency. Members may use their credit, revenues and other resources including the power to borrow money, to incur debt and to issue and sell bonds, if necessary, to pay such costs and service such obligations as they individually determine, unless otherwise provided for in a System Development and Implementation Agreement.

**9.3** Each Member shall be obligated to adopt an ordinance, consistent with State law and in substantially the form recommended by the Plan as adopted by the Members, providing for the regulation and enforcement of disposal of Solid Waste within its jurisdiction in furtherance of and consistent with the provisions of the Plan. Such ordinance shall be adopted by every Member on or before a date set by the Board of Directors.

**9.4** Each Member shall be responsible for the enforcement within its Jurisdiction of any ordinance adopted by such Member as contemplated by this Agreement and shall diligently take such steps as are necessary, or as are consistent with any actions recommended by the Agency, to continually assure the enforcement of any such adopted ordinance, consistent with the provisions of State law. Each Member shall be responsible for the cost of administering and maintaining any such enforcement program.

**9.5** (a) The Board of Directors may suspend the membership on the Board of Directors and the Executive Committee of any Member whose capital contributions and payments or charges for operation and maintenance due to the Agency, as determined by the

Board of Directors as provided in this Agreement, have not been paid in full within sixty days after demand by the Agency. A Member under suspension shall have no power to make or second motions or to vote either as a Member or through its Director or Alternate Director, nor shall it be counted for the purposes of the establishment of a quorum or the determination of the vote needed to pass or approve any matter coming before the Agency, the Board of Directors or the Executive Committee. A Member under suspension shall continue during its suspension to be responsible for its share of any unpaid contracts, debts and obligations incurred by the Agency. Upon payment of all amounts due the Agency under this Agreement, including those accrued during the suspension, a Member under suspension shall be reinstated to membership on the Board of Directors and the Executive Committee.

(b) The Agency may refuse access to a Waste Project to any Member whose contributions, payments and charges under this Agreement or any System Development and Implementation Agreement have not been paid within sixty days after billing by the Agency. Further, a reasonable penalty charge for late payments may be established and imposed by the Board of Directors.

**9.6** The Agency shall not be liable for any liability or obligation incurred by any Member except as agreed by the Board of Directors or except pursuant to paragraph 7.3 of this Agreement.

**9.7** Any withdrawing Member shall remain liable with respect to any contracts, debts and obligations incurred by the Member with respect to the Agency prior to the date of withdrawal, including any costs imposed on it as provided in paragraph 9.2 of this Agreement. Further, a withdrawing Member shall pay to the Agency in full at the time of withdrawal from the Agency an amount determined by the Agency to be sufficient to pay any and all additional direct costs occasioned to the Agency by reason of a Member's withdrawal. Payment by a withdrawing Member to the Agency of all amounts due upon withdrawal shall be a condition precedent to withdrawal.

**9.8** If withdrawal of one or more Member results in dissolution and termination of the Agency as required by Section 6 of this Agreement, then the withdrawing Member shall participate in the dissolution of the Agency as set forth in paragraph 9.9 of this Agreement.

**9.9** Upon the termination and dissolution of the Agency:

(a) All liabilities and obligations of the Agency shall be paid, satisfied and discharged, or adequate provisions made therefor; and

(b) The assets of the Agency remaining after dissolution shall be distributed among the members who had participated in the Agency within one year prior to such dissolution and termination as shall be determined by the Board of Directors, except as may be provided with respect to a Waste Project in a System Development and Implementation Agreement, after any setoff with respect to the provision for payment of that Member's shares of its contracts, debts and obligations to the Agency.

**9.10** In the event of a default by any Member of the Agency of such Member's share of the amount of principal and/or interest (debt service payment) on any bonds issued by the Agency, any other Member's obligation shall be strictly limited to its contractual payment obligation as set forth in the SDI Agreement under which such bonds were issued (including, if applicable, any contractual step-up or similar obligation). No resolution adopted by the Agency authorizing the issuance of its bonds shall limit any Member's right to withdraw as set forth in new paragraph 6.6 above, nor shall it in any manner whatsoever increase the Member's contractual payment obligation beyond what is set forth in the SDI Agreement. In no event shall any bonds issued by the Agency carry the backing of the full faith and credit of any Member, but instead all bonds issued by the Agency shall state on their face that they are solely the bonds of the Agency, and the Members' obligations with respect to said bonds are strictly limited to their contractual payment obligations as set forth in the SDI Agreement executed by the Members of the Agency.

**9.11** It is expressly understood by the Members and the Agency that a Member shall not be obligated for any costs under an SDI Agreement of any kind whatsoever unless the Member executed said SDI agreement.

**Section 10.** By-Laws

The Board of Directors shall adopt By-laws for the Agency which shall, among other matters, set forth provisions for the holding, notice, call and conduct of meetings of the Board of Directors and the Executive Committee, the adoption of annual budgets and appropriations, and entering into of contracts and purchases by the Agency, the adoption of regulations, approval of

amendment or updates to the Plan, or such other measures as are necessary to the performance of its obligations pursuant to this Agreement. The By-Laws may be adopted or amended only upon the affirmative vote of not less than 2/3 of the then Directors. The by-laws may provide additional requirements and procedures with respect to amendment of the by-laws.

**Section 11.** Amendment

This Agreement may be amended by written agreement of all Members, authorized by ordinances adopted by their respective corporate authorities, certified copies of which shall be filed with the Secretary of the Agency. Promptly upon there being any amendment to this Agreement, the Secretary of the Agency shall cause a copy of the amendment to be filed in the office of the Illinois Secretary of State, Index Division.

**Section 12.** Enforcement

The Agency, any Member of Members thereof, shall have the right to enforce this Agreement, the By-laws, a System Development and Implementation Agreement or any other agreement among or between the Agency and anyone or more Members against any Member and to compel payment of contributions and charges as provided in this Agreement, the By-laws, a System Development and Implementation Agreement or any other agreements. If suit is necessary to compel enforcement of provisions of this Agreement, the By-laws, a System Development and Implementation Agreement or any other such agreement or to compel payment of contributions and charges of the Agency, any Member or Members thereof, the prevailing party shall have its reasonable legal fees and costs pertaining to the suit, paid for in such amount as determined by the court.

**Section 13.** Effective Date

This Agreement shall become effective upon execution at Closing (the "Effective Date"). Closing shall occur: (i) on the date ten (10) days after twenty (20) Members have adopted and published ordinances authorizing execution of this Agreement; or (ii) on such-later date as the Original Members shall determine, but in no event shall closing occur prior to August 1, 1990. A certified copy of said ordinances shall be provided to the Lake County Administrator.

**Section 14.** Filing with Secretary of State

Promptly upon this Agreement becoming effective, a copy of this Agreement shall be filed with the Illinois Secretary of State, Index Division.

**Section 15.** Organization of the Agency

Simultaneously with the execution of this Agreement by a Member it shall make its appointments to the Board of Directors. Within thirty days of the effective date of this Agreement the Board of Directors shall meet and as soon as may be practicable shall elect the Executive Committee and officers of the Agency and adopt such By-laws as may be appropriate.

**Section 16.** Non-Waiver

Nothing in this Agreement shall be construed as a waiver of any power granted by law to a Member with respect to the location and operation of a Waste Project of the Agency within the corporate limits of the Member.

**Section 17.** Severability

If any provision of this Agreement shall be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect other provisions of this Agreement which can be given effect without the illegal, invalid or unenforceable provision and to this end, the provisions of this Agreement are severable.

**Section 18.** Execution in Several Counterparts

This Agreement may be executed in any number of counterparts each of which shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Agency and the Members or Additional Members shall preserve undestroyed, shall together constitute but one and the same instrument.

In Witness WHEREOF, the undersigned have caused this agreement to be executed in their respective names, and have caused this Agreement to be attested, all y their duly authorized officers and representatives, and have caused this Agreement to be dated as if the date and year first written above.

\_\_\_\_\_  
NAME OF JURISDICTION

\_\_\_\_\_  
MAYOR OR PRESIDENT

\_\_\_\_\_  
ATTEST



**EXHIBIT ONE**

**Eligible Municipalities under Agency Agreement**  
**paragraphs 5.2 and 5.3(a)**

Village of Antioch  
Village of Barrington  
Village of Beach Park  
Village of Deer Park  
Village of Fox Lake  
Village of Grayslake  
Village of Gurnee  
Village of Hawthorn Woods  
City of Highwood  
Village of Island Lake  
Village of Lake Barrington  
City of Lake Forest  
Village of Lake Zurich  
Village of Libertyville  
Village of Lindenhurst  
Village of Mettawa  
Village of North Barrington  
Village of Old Mill Creek  
Village of Riverwoods  
Village of Round Lake Beach  
Village of Round Lake Park  
Village of Tower Lakes  
Village of Wadsworth  
City of Waukegan  
Village of Winthrop Harbor

Village of Bannockburn  
Village of Barrington Hills  
Village of Buffalo Grove  
Village of Deerfield  
Village of Fox River Valley Gardens  
Village of Green Oaks  
Village of Hainesville  
City of Highland Park  
Village of Indian Creek  
Village of Kildeer  
Village of Lake Bluff  
Village of Lake Villa  
Village of Lakemoor  
Village of Lincolnshire  
Village of Long Grove  
Village of Mundelein  
City of North Chicago  
City of Park City  
Village of Round Lake  
Village of Round Lake Heights  
Village of Third Lake  
Village of Vernon Hills  
Village of Wauconda  
Village of Wheeling  
City of Zion

**EXHIBIT TWO**

**Initial Capital Contribution Schedule under  
Agency Agreement paragraph 5.3**

Member's Population Based on the most recent federal census or if available, a more recent corrected, revised or, special census as reported in Illinois Counties and Incorporated Municipalities, dated June 1, 1989 and published by the Secretary of state the State of Illinois

Amount of Initial Capital Contribution

Less than 5,000 .....	\$ 5,000.00
Above 5,000 to 10,000 .....	7,500.00
Above 10,000 to 15,000 .....	10,000.00
Above 15,000 to 20,000 .....	12,500.00
Above 20,000 to 25,000 .....	15,000.00
Above 25,000 to 30,000 .....	17,500.00
Above 30,000 to 35,000 .....	20,000.00
Above 35,000 to 40,000 .....	22,500.00
Above 40,000.....	25,000.00