

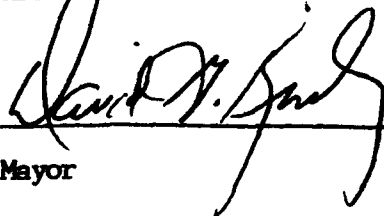
RESOLUTION NO. R-89-45

WHEREAS, the City of Conway, Arkansas deems it necessary and proper to enter into a "contract of obligation" with the Department of Pollution Control and Ecology as authorized by Act 916 of 1983.

NOW, THEREFORE, BE IT RESOLVED by the above-named city that David G. Kinley, Mayor of the City of Conway, as the Signatory Agent of the City of Conway, is hereby authorized to enter into the contract of obligation on behalf of the above-named city.

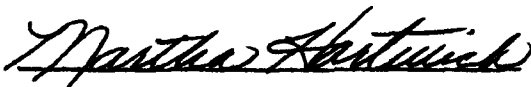
PASSED this 9th day of November, 1989.

APPROVED:



Mayor

ATTEST:



City Clerk

CONTRACT OF OBLIGATION

THIS AGREEMENT is made and entered into by and between City of Conway, Arkansas and the Arkansas Department of Pollution Control and Ecology, hereinafter referred to as the ADPC&E.

Whereas, City of Conway, Arkansas has submitted a permit application for the construction, operation and maintenance of a solid waste disposal facility to ADPC&E pursuant to the requirements of the Arkansas Solid Waste Management Act (Act 237 of 1971, as amended) (Ark. Stats. Ann. §82-2701 et. seq. ¹ hereinafter "Act") and the regulations promulgated thereunder.

Whereas, pursuant to Act 916 of 1983, a municipality or county may execute a "contract of obligation" in lieu of a performance bond in applying for a permit to operate a solid waste disposal site or facility. Then in consideration of the issuance of Permit No. _____ by ADPC&E to City of Conway for the operation of solid waste disposal site or facility, and in consideration of the mutual covenants contained herein, ADPC&E and City of Conway hereby agree as follows:

1. City of Conway is hereby bound unto ADPC&E in the sum of \$187,500 and hereby authorizes the Director of the ADPC&E, or designee, to collect said sum from any funds being disbursed or to be disbursed from the State of Arkansas to City of Conway

upon failure of City of Conway to close the disposal operation in accordance with the requirements of the Act and the regulations promulgated thereunder.

2. Should ADPC&E find that City of Conway has failed to properly close out the disposal operation, ADPC&E shall notify City of Conway of such finding and shall afford the opportunity for administrative and judicial review of such finding prior to seeking collection of any funds as authorized under this contract.
3. The City of Conway hereby authorizes the Commissioner of Revenues and the State Treasurer to withhold from any funds being disbursed or to be disbursed from the State of Arkansas to City of Conway the sum of \$187,500 upon receiving notice from the Director of ADPC&E of City of Conway's failure to properly close the disposal operation.
4. This contract shall terminate upon written approval from ADPC&E that the disposal facility has been closed in compliance with the requirements of the Act and the regulations promulgated thereunder. If City of Conway desires to terminate this contract prior to proper closure of the disposal facility, it must:

- (a) send a notice of termination in writing addressed and delivered to the ADPC&E; and
 - (b) post with the ADPC&E a corporate surety bond for performance, or acceptable alternative, (i.e. certificate of deposit, letter of credit) payable to the ADPC&E, as provided for by Act 916 of 1983, or by any rules and regulations adopted pursuant to the Act; and
 - (c) receive a written acknowledgement from the ADPC&E of receipt by ADPC&E of an acceptable alternative assurance of performance.
5. The City of Conway has by resolution attached hereto as Attachment A and which is hereby incorporated herein and expressly made a part of this agreement, authorized the signatory hereof to execute this contract of obligation and bind City of Conway to the terms hereof.
- 6.- The effective date of this contract is the date this contract is executed by the Director of ADPC&E.

IN WITNESS WHEREOF the parties hereto have set their hands and seals.

City of Conway
City/County

BY: _____
David Kinley, Mayor

DATE: _____

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

BY: _____
Director

DATE: _____

FIRST AMENDMENT TO CONTRACT OF OBLIGATION

On _____, the governing body for the City of Conway adopted Ordinance No. _____, authorizing the Mayor to enter into a Contract of Obligation with the Arkansas Department of Pollution Control and Ecology [ADPC&E] to cover financial assurances for proper closure of a sanitary landfill. Recent legislation -- i.e. Act 531 of 1989 -- provides that solid waste permits shall not issue unless additional financial assurance is provided by the permittee to cover the costs of proper operation and maintenance, corrective action and post-closure care. In order to satisfy this statutory requirement, the City of Conway and ADPC&E hereby amend the previously entered Contract of Obligation as follows:

1. The previous Contract of Obligation is hereby incorporated by reference and remains a binding obligation upon the parties to the extent that it is consistent with the terms of this amendment.

2. The original amount of financial assurance -- One Hundred Eighty Seven Thousand, Five Hundred Dollars (\$187,500.00) -- shall be considered additional financial assurance covering all potential costs related to proper operation and maintenance, corrective action, and post-closure as deemed necessary by ADPC&E. However, if it is determined, following notice and accordance of the opportunity for a hearing, that costs shall be extended pursuant to the Contract of Obligation to cover proper operation and maintenance, corrective action or post-closure care, expenditure of such funds shall in no way deplete the original amount of financial assurance set out above. The amount dedicated to assurance of

proper closure shall remain \$187,500.00 until closure is accomplished or all permit requirements are satisfied.

3. This amendment shall become effective immediately upon execution by the responsible official designated by the governing body of the City of Conway and the Director of ADPC&E.

FOR THE CITY OF CONWAY

RANDALL MATHIS, DIRECTOR

DATE

DATE

<u>BILL #</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>STATUS</u>
HB 1278	Arnold	Requires recycling component in municipal solid waste management plans; 7/1/93; creates a fund; imposes a 50 cent/cu. yd. annual fee on each solid waste permittee; makes other related provisions.	LAW (ACT 849)
HB 1454	Schexnayder	Requires an application for the transfer of a solid waste management permit be subject to the same standards as issuance of the original permit; requires demonstrated financial responsibility; allows denial of permit transfer for violations; makes other related provisions.	LAW (ACT 531) #1550 #1550 #1550
HB 1548	Landers	Places a moratorium on importation of solid waste for disposal in state landfills until these landfills are in compliance with all rules prescribed by EPA and ADPCE; requires full compliance with regulations by 8/1/89.	DEAD
HB 1632/SB 399	Landers	Places a moratorium on building or enlargement of solid waste landfills for the disposal of out-of-state waste; requires reporting to PCED amount of waste received from outside sources; makes other related provisions (same as SB 399).	DEAD
HB 1642	Beatty	Creates eight Regional Solid Waste Planning Districts and Boards; requires a certificate of need for proposed landfill site; provides for procedures and regulations.	LAW (ACT 870)
HB 1816	Clark	Includes scrap paper, cardboard, and glass recycling processors in the definition of "manufacturing" or "processing facilities" exempt from gross receipts tax.	DEAD