

RESOLUTION NO. 2006-6

RESOLUTION BY THE ECONOMIC DEVELOPMENT AND LAND USE PLANNING COMMITTEE AUTHORIZING RACINE COUNTY TO EXERCISE THE OPTION TO WAIVE RENEGOTIATION OF EXISTING AGREEMENTS AFFECTING THE ONYX EMERALD PARK LANDFILL AND THE ONYX EMERALD PARK LANDFILL WESTERN HORIZONTAL EXPANSION

To the Honorable Members of the Racine County Board of Supervisors:

BE IT RESOLVED by the Racine County Board of Supervisors that Racine County Planning and Development Department is authorized to exercise its option under the terms in Paragraph 27 of Negotiated Agreement, as detailed in "Exhibit A" that is attached hereto and incorporated herein, resulting from the litigation in Waukesha County Case No. 99CV1476.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that any two of the County Clerk, the County Executive and/or the County Board Chairman are authorized to execute any contracts, agreements or other documents necessary to carry out the intent of this resolution.

Respectfully submitted,

1st Reading _____

ECONOMIC DEVELOPMENT AND LAND USE PLANNING COMMITTEE

2nd Reading _____

BOARD ACTION

Jeff Halbach, Chairman

Adopted _____

For _____

Against _____

Absent _____

Robert Grove, Vice-Chairman

VOTE REQUIRED: Majority

Q.A. Shakoor, II, Secretary

Prepared by: Corporation Counsel

Mark M. Gleason

Kenneth Hall

Karen A. Nelson

Thomas Pringle

3
4 **INFORMATION ONLY**

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6 **WHEREAS**, on or about December 23, 2005, Onyx Emerald Park, LLC submitted
7 an Initial Site Report for the Onyx Emerald Park Landfill Western Horizontal Expansion;
8 and

9
10 **WHEREAS**, the Onyx Emerald Park Landfill (formerly known as the Emerald Park
11 Landfill and the Superior Emerald Park Landfill) is a solid waste disposal facility located
12 within the City of Muskego, Waukesha County, Wisconsin; and

13
14 **WHEREAS**, Onyx Emerald Park Landfill, LLC, a domestic limited liability company,
15 is the current owner of the Onyx Emerald Park Landfill; and

16
17 **WHEREAS**, the City of Muskego, Waukesha County, City of Franklin, Town of
18 Norway, and Racine County each constitute an "Affected Municipality" under Wis. Stat. §
19 289.01(1); and

20
21 **WHEREAS**, the Onyx Emerald Park Landfill is licensed by the Wisconsin
22 Department of Natural Resources ("WDNR") under WDNR License No. 3290 pursuant to
23 Chapter 289 of the Wisconsin Statutes; and

24
25 **WHEREAS**, the Onyx Emerald Park Landfill is further subject to multiple
26 agreements, to wit: the Interim Construction Agreement, Stipulation as to Agreed Upon
27 Issues as to Negotiated Agreement, the Arbitration Award of the Wisconsin Waste
28 Facilities Siting Board, the Settlement Agreement and Mutual Release in Case No. 99-CV-
29 1476, and the January 20, 2000 Letter of Understanding regarding City of Muskego v.
30 Superior Emerald Park Landfill, Inc. (all of which are collectively referred to herein as the
31 "Agreement"); and

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33 **WHEREAS**, the Agreement arises out of, and is related to, an expansion of the
34 Onyx Emerald Park Landfill; and

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36 **WHEREAS**, the Agreement was ultimately concluded on or about March 13, 2000
37 after approximately two years of contentious litigation; and

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39 **WHEREAS**, the aforementioned Stipulation as to Agreed Upon Issues as to
40 Negotiated Agreement and the Negotiated Agreement incorporated therein (the
41 "Negotiated Agreement") was entered into under Wis. Stat. § 289.33(9)(g); and

42
43 **WHEREAS**, Paragraph 27 of the Negotiated Agreement (attached hereto and
44 incorporated by reference as Exhibit "A") expressly grants the Affected Municipalities the
45 option to waive negotiations for future expansions and thereby make applicable all terms
46 and rate schedules for compensation set forth in the Negotiated Agreement.
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