

CLARK COUNTY RESOLUTION 1996- {

FLOYD COUNTY RESOLUTION 1996-II.

A RESOLUTION CONCERNING THE FUNDING OF A CERTAIN DEVELOPMENT
PROJECT PERTAINING TO THE CLARK-FLOYD LANDFILL AND THE
DISPOSITION OF FRANCHISE FEES DERIVED FROM
THE FLOYD-CLARK LANDFILL

WHEREAS, Clark County, Indiana, and Floyd County, Indiana, are the owners, as tenants in common, of the various parcels and tracts of land located in the County of Clark, State of Indiana, and comprising what is commonly know as the Clark-Floyd Landfill, which real estate is under the exclusive jurisdiction, authority, and control of the respective Boards of Commissioners of said counties, all as provided by the provisions of I.C. 36-2-2-2 and I.C. 36-2-2-20; and

WHEREAS, the Board of Commissioners of the County of Clark and the Board of Commissioners of the County of Floyd, did, as of the 6th day of December, 1982, grant to the Clark-Floyd Landfill Corporation, pursuant to the provisions of I.C. 36-2-2-23, a non-exclusive franchise and license to operate upon said real estate a solid waste disposal facility, being a public improvement; and

WHEREAS, pursuant to said Sanitary Landfill Franchise and License, as amended from time to time, the Clark-Floyd Landfill Corporation is obligated to collect, pay over, and remit to Clark and Floyd Counties certain franchise and license fees, which franchise and license fees represent and constitute an assessment only on persons using the facility, and which facility is comprised of property in territory less than that of the whole of Clark County, Indiana, all as addressed by the provisions of I.C. 36-2-9-14(d)(4)(B); the Attorney General of the State of Indiana in his opinion of February 25, 1938; and, those Home Rule Ordinances duly enacted pursuant to I.C. 36-1-3, et seq.; and

WHEREAS, the Board of Commissioners of the County of Clark has, pursuant to the exclusive authority conferred by the provisions of I.C. 36-1-2-9 and I.C. 36-1-3, et seq., established various non-reverting funds for the deposit of those franchise and licenses fees received by Clark and Floyd Counties from and under the non-exclusive License and Franchise granted the Clark-Floyd Landfill Corporation, namely, the Wilson Switch Road Basic Maintenance Fund (Ordinance 8-1993); the Closure and Post-Closure Fund (Ordinance 10-1993); the Landfill Improvements Fund (Ordinance 11-1993) and, the Landfill Insurance Fund (12-1993); and,

WHEREAS, the creation of non-reverting funds by the Board of Commissioners of the County of Clark is in conformity with the audit position of the Indiana State Board of Accounts as set forth in The County Bulletin, Volume No. 283, page 7, January, 1991, and the use of said funds for the deposit of franchise and license fees derived from the operation of the Clark-Floyd Landfill was expressly confirmed by the Indiana State Board of Accounts by its letter of September 19, 1994, addressed to Mr. Gregory Isgrigg, President, Board of Commissioners of Clark County; and

WHEREAS, by Ordinance 1994-VII, the Board of Commissioners of the County of Floyd expressly confirmed the establishment of referenced non-reverting funds and further ordained:

BE IT FURTHER ORDAINED, that the Board of Commissioners of the County of Floyd does hereby designate Clark County, Indiana, acting by and through the Board of Commissioners of the County of Clark, as the custodian of all fees, monies, and revenues which may, from time to time, be deposited in any of the funds delineated by this ordinance, with the expenditure of such fees, monies, or revenues, or the transfer thereof from any such funds, being reserved to the Board of Commissioners of the County of Clark and the Board of Commissioners of the County of Floyd, upon their mutual agreement.

and,

WHEREAS, from time to time since the granting of the License and Franchise to the Clark-Floyd Landfill Corporation and the imposition of license and franchise fees, Clark and Floyd Counties, acting by and through their respective Boards of Commissioners, have caused certain of such fees, monies, and revenues to be remitted and paid to persons due money for the construction, maintenance, or purchase of a public improvement, to include the Clark-Floyd Landfill, and/or have caused such fees, monies and revenues to be deposited in or transferred to other non-reverting funds, each of which transactions has been subject to review and audit by the Indiana State Board of Accounts; and

WHEREAS, with a process beginning in 1993, plans and specifications have been formulated, and permits have been requested or obtained from those entities having jurisdiction, for the development for landfill purposes of certain real estate presently constituting a part of the Clark-Floyd Landfill (the 36 acre tract), which development is deemed necessary to assure the continued use of the facility, and which development remains the exclusive prerogative of the Boards of Commissioners of Clark and Floyd Counties; and

WHEREAS, in first imposing franchise and license fees upon the franchisee and users of the Clark-Floyd Landfill, the Boards of Commissioners of Clark and Floyd Counties then contemplated that this public improvement would continue to be self-supporting, and that neither property tax nor income tax revenues would be utilized in the acquisition, operation, maintenance, expansion, and ultimate closure of the facility; and

WHEREAS, the Board of Commissioners of the County of Clark and the Board of Commissioners of the County of Floyd are desirous of assuring that sufficient funds are accumulated and retained from the fees, monies, and revenues derived from the operation of the Clark-Floyd Landfill to permit the completion, in a timely manner, of the presently defined development project; to provide sufficient reserves to maintain an appropriate level of protection from liability in the event of major environmental problems arising from landfill operations; and, to protect all residents of Clark County and the public as against environmental hazards resulting from such operations or those which may occur subsequent to closure; and,

WHEREAS, The Board of Commissioners of the County of Clark and the Board of Commissioners of the County of Floyd are, therefore, desirous of adopting this joint resolution as a memorial of their respective resolve in the furtherance of the goal of self-sufficiency with respect to the acquisition, operation, maintenance, expansion and ultimate closure of the Clark-Floyd Landfill.

NOW THEREFORE:

BE IT RESOLVED by the Board of Commissioners of the County of Clark and the Board of Commissioners of the County of Floyd that, in view of the presently defined development project and the need for environmental protection, unless and until the total of all revenues accumulated in the Wilson Switch Road Basic Fund and the Landfill Improvements Fund equal or exceed, from time to time, a sum of between \$1,750,000.00 and \$2,000,000.00, no monies from said funds shall be transferred to any other fund(s) or expended except in payment for services rendered by a person in the development of the 36 acre tract and/or the maintenance or improvement of the remainder of the landfill site.

BE IT FURTHER RESOLVED that, in view of the need for protection against liability for landfill operations, no disbursement from the Landfill Insurance fund shall be made, except for insurance purposes or for partial indemnification as against loss, until the total of all revenues accumulated in said fund equal or exceed the sum of \$500,000.00.

BE IT FURTHER RESOLVED that, in view of the continuing need for environmental protection subsequent to the termination of landfill operations, no disbursement from the Closure and Post-Closure fund shall be made, except for closure and post-closure purposes, until it be determined that the total of all revenues accumulated in said fund are sufficient to effect closure and accomplish post-closure requirements, as the same may be established, from time to time, by such governmental entities as shall have jurisdiction.

SO RESOLVED by the Board of Commissioners of the County of Clark this 16 day of JANUARY, 1996, and by the Board of Commissioners of the County of Floyd this 2nd day of JANUARY, 1996.

BOARD OF COMMISSIONERS
OF THE COUNTY OF CLARK

Ralph W. Guthrie
MEMBER

Gregory J. Cousins
MEMBER

Paul Garrett
MEMBER

ATTEST:

Keith J. Jett
CLARK COUNTY AUDITOR

BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD

Mary Ann Hammond
MEMBER

Larry R. Dennis
MEMBER

ATTEST:

Barbara J. Billings
FLOYD COUNTY AUDITOR

William R. Burchett Jr.
MEMBER