SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

(Mark One)

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarterly Period Ended September 30, 2006

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number 1-12154

Waste Management, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**73-1309529**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

1001 Fannin
Suite 4000
Houston, Texas 77002
(Address of principal executive offices)

(713) 512-6200
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☑ Accelerated filer o Non-accelerated filer o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes o No ☑

The number of shares of Common Stock, $0.01 par value, of the registrant outstanding at October 23, 2006 was 535,012,925 (excluding treasury shares of 95,269,536).

PART I.

Item 1. ***Financial Statements.***

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS
(In Millions, Except Share and Par Value Amounts)

	September 30, 2006 (Unaudited)	December 31, 2005
ASSETS		
Current assets:		
Cash and cash equivalents	$ 746	$ 666
Accounts receivable, net of allowance for doubtful accounts of $58 and $61, respectively	1,739	1,757
Other receivables	224	247
Parts and supplies	98	99
Deferred income taxes	89	94
Other assets	704	588
Total current assets	3,600	3,451
Property and equipment, net of accumulated depreciation and amortization of $11,905 and $11,287, respectively	10,985	11,221
Goodwill	5,312	5,364
Other intangible assets, net	127	150
Other assets	895	949
Total assets	$ 20,919	$ 21,135
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 605	$ 719
Accrued liabilities	1,448	1,533
Deferred revenues	443	483
Current portion of long-term debt	862	522
Total current liabilities	3,358	3,257
Long-term debt, less current portion	7,780	8,165
Deferred income taxes	1,373	1,364
Landfill and environmental remediation liabilities	1,218	1,180
Other liabilities	742	767
Total liabilities	14,471	14,733
Minority interest in subsidiaries and variable interest entities	288	281
Commitments and contingencies		
Stockholders' equity:		
Common stock, $0.01 par value; 1,500,000,000 shares authorized; 630,282,461 shares issued	6	6
Additional paid-in capital	4,501	4,486
Retained earnings	4,282	3,615
Accumulated other comprehensive income	154	126
Restricted stock unearned compensation	—	(2)
Treasury stock at cost, 95,817,415 and 78,029,452 shares, respectively	(2,783)	(2,110)
Total stockholders' equity	6,160	6,121
Total liabilities and stockholders' equity	$ 20,919	$ 21,135

See notes to the Condensed Consolidated Financial Statements.

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(In Millions, Except Per Share Amounts)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Operating revenues	$ 3,441	$ 3,375	$ 10,080	$9,702
Costs and expenses:				
Operating	2,181	2,202	6,480	6,419
Selling, general and administrative	344	309	1,040	952
Depreciation and amortization	340	369	1,013	1,036
Restructuring	—	27	—	27
(Income) expense from divestitures, asset impairments and unusual items	19	86	(10)	57
	2,884	2,993	8,523	8,491
Income from operations	557	382	1,557	1,211
Other income (expense):				
Interest expense	(138)	(125)	(412)	(369)
Interest income	24	8	53	20
Equity in net losses of unconsolidated entities	(20)	(27)	(18)	(79)
Minority interest	(11)	(12)	(33)	(33)
Other, net	1	—	2	1
	(144)	(156)	(408)	(460)
Income before income taxes	413	226	1,149	751
Provision for (benefit from) income taxes	113	11	246	(141)
Net income	$ 300	$ 215	$ 903	$ 892
Basic earnings per common share	$ 0.56	$ 0.39	$ 1.66	$ 1.58
Diluted earnings per common share	$ 0.55	$ 0.38	$ 1.65	$ 1.57
Cash dividends declared per common share (1st quarter 2006 dividend of $0.22 per share declared in December 2005, paid in March 2006)	$ 0.22	$ 0.20	$ 0.44	$ 0.60

See notes to the Condensed Consolidated Financial Statements.

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In Millions)
(Unaudited)

	Nine Months Ended September 30, 2006	Nine Months Ended September 30, 2005
Cash flows from operating activities:		
Net income	$ 903	$ 892
Adjustments to reconcile net income to net cash provided by operating activities:		
Provision for bad debts	33	34
Depreciation and amortization	1,013	1,036
Deferred income tax provision (benefit)	(46)	(19)
Minority interest	33	33
Equity in net losses of unconsolidated entities, net of distributions	34	55
Net gain on disposal of assets	(16)	(12)
Effect of (income) expense from divestitures, asset impairments and unusual items	(10)	57
Excess tax benefits associated with equity-based compensation	(34)	—
Change in operating assets and liabilities, net of effects of acquisitions and divestitures:		
Receivables	(62)	(57)
Other current assets	(13)	(36)
Other assets	(5)	(14)
Accounts payable and accrued liabilities	25	(250)
Deferred revenues and other liabilities	10	7
Net cash provided by operating activities	1,865	1,726
Cash flows from investing activities:		
Acquisitions of businesses, net of cash acquired	(32)	(130)
Capital expenditures	(824)	(765)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	198	158
Purchases of short-term investments	(2,381)	(604)
Proceeds from sales of short-term investments	2,355	434
Net receipts from restricted trust and escrow accounts	156	295
Other, net	(41)	(26)
Net cash used in investing activities	(569)	(638)
Cash flows from financing activities:		
New borrowings	118	25
Debt repayments	(236)	(285)
Common stock repurchases	(934)	(573)
Cash dividends	(358)	(339)
Exercise of common stock options and warrants	219	68
Excess tax benefits associated with equity-based compensation	34	—
Minority interest distributions paid	(11)	(13)
Other, net	(48)	(98)
Net cash used in financing activities	(1,216)	(1,215)
Effect of exchange rate changes on cash and cash equivalents	—	3
Increase (decrease) in cash and cash equivalents	80	(124)
Cash and cash equivalents at beginning of period	666	424
Cash and cash equivalents at end of period	$ 746	$ 300

See notes to the Condensed Consolidated Financial Statements.

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(In Millions, Except Shares in Thousands)
(Unaudited)

	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Restricted Stock Unearned Compensation	Treasury Stock	
	Shares	Amount					Shares	Amount
Balance, December 31, 2004	630,282	$ 6	$ 4,481	$ 3,004	$ 69	$ (4)	(60,070)	$ (1,585)
Net income	—	—	—	1,182	—	—	—	—
Cash dividends paid	—	—	—	(449)	—	—	—	—
Cash dividends declared, but not paid	—	—	—	(122)	—	—	—	—
Common stock issued upon exercise of stock options and warrants and grants of restricted stock, including tax benefit of $17	—	—	(11)	—	—	—	6,112	164
Earned compensation related to restricted stock	—	—	—	—	—	2	—	—
Common stock repurchases	—	—	—	—	—	—	(24,727)	(706)
Unrealized gain resulting from changes in fair value of derivative instruments, net of taxes of $11	—	—	—	—	16	—	—	—
Realized losses on derivative instruments reclassified into earnings, net of taxes of $4	—	—	—	—	6	—	—	—
Unrealized gains on marketable securities, net of taxes of $1	—	—	—	—	2	—	—	—
Translation adjustment of foreign currency statements	—	—	—	—	33	—	—	—
Other	—	—	16	—	—	—	656	17
Balance, December 31, 2005	630,282	$ 6	$ 4,486	$ 3,615	$ 126	$ (2)	(78,029)	$ (2,110)
Net income	—	—	—	903	—	—	—	—
Cash dividends paid	—	—	—	(237)	—	—	—	—
Cash dividends adjustment	—	—	—	1	—	—	—	—
Common stock issued upon exercise of stock options and warrants, including tax benefit of $33	—	—	3	—	—	—	8,841	245
Common stock repurchases	—	—	—	—	—	—	(27,425)	(940)
Unrealized losses resulting from changes in fair value of derivative instruments, net of taxes of $1	—	—	—	—	(2)	—	—	—
Realized losses on derivative instruments reclassified into earnings, net of taxes of $2	—	—	—	—	3	—	—	—
Unrealized gains on marketable securities, net of taxes of $1	—	—	—	—	3	—	—	—
Translation adjustment of foreign currency statements	—	—	—	—	24	—	—	—
Other	—	—	12	—	—	2	796	22
Balance, September 30, 2006	630,282	$ 6	$ 4,501	$ 4,282	$ 154	$ —	(95,817)	$ (2,783)

See notes to the Condensed Consolidated Financial Statements.

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. Basis of Presentation

The financial statements presented in this report represent the consolidation of Waste Management, Inc., a Delaware corporation, our wholly-owned and majority-owned subsidiaries and certain variable interest entities for which we have determined that we are the primary beneficiary. Waste Management, Inc. is a holding company and all operations are conducted by subsidiaries. When the terms "the Company," "we," "us" or "our" are used in this document, those terms refer to Waste Management, Inc., its consolidated subsidiaries and consolidated variable interest entities. When we use the term "WMI," we are referring only to the parent holding company.

WMI was incorporated in Oklahoma in 1987 under the name "USA Waste Services, Inc." and was reincorporated as a Delaware company in 1995. In a 1998 merger, the Illinois-based waste services company formerly known as Waste Management, Inc. became a wholly-owned subsidiary of WMI and changed its name to Waste Management Holdings, Inc. ("WM Holdings"). At the same time, our parent holding company changed its name from USA Waste Services to Waste Management, Inc. Like WMI, WM Holdings is a holding company and all operations are conducted by subsidiaries. For more detail on the financial position, results of operations and cash flows of WMI, WM Holdings and their subsidiaries, see Note 13.

The Condensed Consolidated Financial Statements as of September 30, 2006 and for the three and nine months ended September 30, 2006 and 2005 are unaudited. In the opinion of management, these financial statements include all adjustments, which, unless otherwise disclosed, are of a normal recurring nature, necessary for a fair presentation of the financial position, results of operations, and cash flows for the periods presented. The results for interim periods are not necessarily indicative of results for the entire year. The financial statements presented herein should be read in connection with the financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2005.

In preparing our financial statements, we make numerous estimates and assumptions that affect the accounting for and recognition of assets, liabilities, stockholders' equity, revenues and expenses. We must make these estimates and assumptions because certain information that we use is dependent on future events, cannot be calculated with a high degree of precision from data available, or simply cannot be readily calculated based on generally accepted methodologies. In some cases, these estimates are particularly difficult to determine and we must exercise significant judgment. Actual results could differ materially from the estimates and assumptions that we use in the preparation of our financial statements.

Accounting Change — On January 1, 2006, we adopted Statement of Financial Accounting Standards ("SFAS") No. 123 (revised 2004), *Share Based Payment* ("SFAS No. 123(R)"), which requires compensation expense to be recognized for all share-based payments made to employees based on the fair value of the award at the date of grant. We adopted SFAS No. 123(R) using the modified prospective method, which results in (i) the recognition of compensation expense using the provisions of SFAS No. 123(R) for all share-based awards granted or modified after December 31, 2005 and (ii) the recognition of compensation expense using the provisions of SFAS No. 123, *Accounting for Stock-Based Compensation* ("SFAS No. 123") for all unvested awards outstanding at the date of adoption. Under this transition method, the results of operations of prior periods have not been restated. Accordingly, we will continue to provide pro forma financial information for periods prior to January 1, 2006 to illustrate the effect on net income and earnings per share of applying the fair value recognition provisions of SFAS No. 123.

Through December 31, 2005, as permitted by SFAS No. 123, we accounted for equity-based compensation in accordance with Accounting Principles Board ("APB") Opinion No. 25, *Accounting for Stock Issued to Employees*, as amended ("APB No. 25"). Under APB No. 25, we recognized compensation expense based on an award's intrinsic value. For stock options, which were the primary form of equity-based awards we granted through December 31, 2004, this meant that we recognized no compensation expense in connection with the grants, as the exercise price of the options was equal to the fair market value of our common stock on the date of grant and all other provisions were fixed. As discussed below, beginning in 2005, restricted stock units and performance share units became the primary form of equity-based compensation awarded under our long-term incentive plans. For restricted stock units, intrinsic value is equal to the market value of our common stock on the date of grant. For performance share units, APB No. 25 required "variable accounting," which resulted in the recognition of compensation expense based on the intrinsic value of each award at the end of each reporting period.

The most significant difference between the fair value approaches prescribed by SFAS No. 123 and SFAS No. 123(R) and the intrinsic value method prescribed by APB No. 25 relates to the recognition of compensation expense for stock option awards based on their grant date fair value. Under SFAS No. 123, we estimated the fair value of stock option grants using the Black-Scholes-Merton option-pricing model. The following table reflects the pro forma impact on net income and earnings per common share for the three and nine months ended September 30, 2005 of accounting for our equity-based compensation using SFAS No. 123 (in millions, except per share amounts):

	Three Months Ended September 30, 2005	Nine Months Ended September 30, 2005
Reported net income	$ 215	$ 892
Add: Equity-based compensation expense included in reported net income, net of tax benefit	2	9
Less: Total equity-based compensation expense per SFAS No. 123, net of tax benefit	(12)	(43)
Pro forma net income	$ 205	$ 858
Basic earnings per common share:		
Reported net income	$ 0.39	$ 1.58
Add: Equity-based compensation expense included in reported net income, net of tax benefit	—	0.02
Less: Total equity-based compensation expense per SFAS No. 123, net of tax benefit	(0.02)	(0.08)
Pro forma net income	$ 0.37	$ 1.52
Diluted earnings per common share:		
Reported net income	$ 0.38	$ 1.57
Add: Equity-based compensation expense included in reported net income, net of tax benefit	—	0.02
Less: Total equity-based compensation expense per SFAS No. 123, net of tax benefit	(0.02)	(0.08)
Pro forma net income	$ 0.36	$ 1.51

In December 2005, the Management Development and Compensation Committee of our Board of Directors approved the acceleration of the vesting of all unvested stock options awarded under our stock incentive plans, effective December 28, 2005. The decision to accelerate the vesting of outstanding stock options was made primarily to reduce the non-cash compensation expense that we would have otherwise recorded in future periods as a result of adopting SFAS No. 123(R). We estimate that the acceleration eliminated approximately $55 million of cumulative pre-tax compensation charges that would have been recognized during 2006, 2007 and 2008 as the stock options would have continued to vest. We recognized a $2 million pre-tax charge to compensation expense during the fourth quarter of 2005 as a result of the acceleration, but do not expect to recognize future compensation expense for the accelerated options under SFAS No. 123(R) unless further modifications are made to the options, which is not anticipated.

Additionally, as a result of changes in accounting required by SFAS No. 123(R) and a desire to design our long-term incentive plans in a manner that creates a stronger link to operating and market performance, the Management Development and Compensation Committee approved a substantial change in the form of awards that we grant. Beginning in 2005, annual stock option grants, as well as stock option grants in connection with new hires and promotions, were replaced with either (i) grants of restricted stock units and performance share units or (ii) an enhanced cash compensation award. The terms of restricted stock units and performance share units granted during 2006 are summarized in Note 8.

The following table presents compensation expense recognized in connection with restricted stock, restricted stock units and performance share units (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Compensation expense	$ 6	$ 3	$ 15	$ 14
Compensation expense, net of tax	$ 4	$ 2	$ 9	$ 9

As discussed above, the decisions of the Management Development and Compensation Committee of the Board of Directors related to equity-based compensation included the consideration of the expected impact of adopting SFAS No. 123(R) and resulted in their decision to accelerate the vesting of outstanding stock options and replace stock options with restricted stock units and performance share units. As a result of these changes, the adoption of SFAS No. 123(R) on January 1, 2006 did not significantly affect our accounting for equity-based compensation or our net income for either the three or nine months ended September 30, 2006. We do not currently expect this change in accounting to significantly impact our future results of operations. However, we do expect equity-based compensation expense to increase over the next three to four years because of the incremental expense that will be recognized each year as additional awards are granted.

Prior to the adoption of SFAS No. 123(R), we included all tax benefits associated with equity-based compensation as operating cash flows in the Statement of Cash Flows. SFAS No. 123(R) requires any reduction in taxes payable resulting from tax deductions that exceed the recognized compensation expense (excess tax benefits) to be classified as financing cash flows. We included $34 million of excess tax benefits in our cash flows from financing activities for the nine months ended September 30, 2006 that would have been classified as an operating cash flow if we had not adopted SFAS No. 123(R). During the first nine months of 2005, excess tax benefits improved our operating cash flows by approximately $10 million.

Reclassification of Segment Information — In the third quarter of 2005, we eliminated our Canadian Group office, and the management of our Canadian operations was allocated among our Eastern, Midwest and Western Groups. The historical operating results of our Canadian operations have been allocated to the Eastern, Midwest and Western Groups to provide financial information that consistently reflects our current approach to managing our operations. This reorganization also resulted in the centralization of certain Group office functions. The administrative costs associated with these functions were included in the measurement of income from operations for our reportable segments through August 2005, when the integration of these functions with our existing centralized processes was completed. Beginning in September 2005, these administrative costs have been included in the income from operations of our Corporate organization. The reallocation of these costs has not significantly affected the operating results of our reportable segments for the periods presented.

Reconsideration of a Variable Interest — During the third quarter of 2003, we issued a letter of credit to support the debt of a surety bonding company established by an unrelated third party to issue surety bonds to the waste industry and other industries. The letter of credit, which was valued at $28.6 million, served as a guarantee of the entity's debt obligations. In 2003, we determined that our guarantee created a significant variable interest in a variable interest entity, and that we were the primary beneficiary of the variable interest entity under the provisions of the Financial Accounting Standards Board's ("FASB") Interpretation No. 46, *Consolidation of Variable Interest Entities* ("FIN 46"). Accordingly, from the third quarter of 2003 until April 2006, this variable interest entity was consolidated into our financial statements.

During 2006, the debt of this entity was refinanced. As a result of the refinancing, our guarantee arrangement was also renegotiated, reducing the value of our guarantee to approximately $5 million as of September 30, 2006. We determined that the refinancing of the entity's debt obligations and corresponding renegotiation of our guarantee represented significant changes in the entity that required reconsideration of the applicability of FIN 46. As a result of the reconsideration of our interest in this variable interest entity, we concluded that we are no longer the primary beneficiary of this entity. Accordingly, in April 2006, we deconsolidated the surety bonding company. The deconsolidation of this entity did not materially impact our Condensed Consolidated Financial Statements for the periods presented.

2. Landfill and Environmental Remediation Liabilities

Accounting Policies

Final Capping, Closure and Post-Closure Costs — Following is a description of our asset retirement activities and our related accounting:

- *Final capping* — Involves the installation of flexible membrane liners and geosynthetic clay liners, drainage and compacted soil layers and topsoil over areas of a landfill where total airspace capacity has been consumed. Final capping asset retirement obligations are recorded on a units-of-consumption basis as airspace is consumed related to the specific final capping event, with a corresponding increase in the landfill asset. Each final capping event is accounted for as a discrete obligation based on estimates of the discounted cash flows and capacity associated with each final capping event.

- *Closure* — Includes the construction of the final portion of methane gas collection systems (when required), demobilization and routine maintenance costs. These are costs incurred after the site ceases to accept waste, but before the landfill is certified as closed by the applicable state regulatory agency. These costs are accrued as an asset retirement obligation as airspace is consumed over the life of the landfill with a corresponding increase in the landfill asset. Closure obligations are accrued over the life of the landfill based on estimates of the discounted cash flows associated with performing closure activities.

- *Post-closure* — Involves the maintenance and monitoring of a landfill site that has been certified as closed by the applicable state regulatory agency. Generally, we are required to maintain and monitor landfill sites for a 30-year period. These maintenance and monitoring costs are accrued as an asset retirement obligation as airspace is consumed over the life of the landfill with a corresponding increase in the landfill asset. Post-closure obligations are accrued over the life of the landfill based on estimates of the discounted cash flows associated with performing post-closure activities.

We develop our estimates of these obligations using input from our operations personnel, engineers and accountants. Our estimates are based on our interpretation of current requirements as well as proposed regulatory changes and are intended to approximate fair value under the provisions of SFAS No. 143, *Accounting for Asset Retirement Obligations* ("SFAS No. 143"). Absent quoted market prices, the estimate of fair value should be based on the best available information, including the results of present value techniques. In many cases, we contract with third parties to fulfill our obligations for final capping, closure and post-closure. We use historical experience, professional engineering judgment and quoted and actual prices paid for similar work to determine the fair value of these obligations. We are required to recognize these obligations at market prices whether we plan to contract with third parties or perform the work ourselves. In those instances where we perform the work with internal resources, the incremental profit margin realized is recognized as a component of operating income when the work is performed.

Additionally, an estimate of fair value should also include the price that marketplace participants are able to receive for bearing the uncertainties inherent in these cash flows. However, when using discounted cash flow techniques, reliable estimates of market premiums may not be obtainable. In the waste industry, there is generally not a market for selling the responsibility for final capping, closure and post-closure obligations independent of selling the landfill in its entirety. Accordingly, we do not believe that it is possible to develop a methodology to reliably estimate a market risk premium. We have excluded any such market risk premium from our determination of expected cash flows for landfill asset retirement obligations.

Once we have determined the final capping, closure and post-closure costs, we inflate those costs to the expected time of payment and discount those expected future costs back to present value. We have inflated these costs in current dollars until the expected time of payment using an annual inflation rate of 2.5%. We discount these costs to present value using the credit-adjusted, risk-free rate effective at the time an obligation is incurred consistent with the expected cash flow approach. Any changes in expectations that result in an upward revision to the estimated cash flows are treated as a new liability and discounted at the current rate while downward revisions are discounted at the historical weighted-average rate of the recorded obligation. As a result, the credit-adjusted, risk-free discount rate used to calculate the present value of an obligation is specific to each individual asset retirement obligation. The weighted-average annual rate applicable to our asset retirement obligations is between 6.00% and 7.25%, the range of the credit-adjusted, risk-free discount rates effective since adopting SFAS No. 143 in 2003.

We record the estimated fair value of final capping, closure and post-closure liabilities for our landfills based on the capacity consumed through the current period. The fair value of final capping obligations is developed based on our estimates of the airspace consumed to date for each final capping event and the expected timing of each final capping event. The fair value of closure and post-closure obligations is developed based on our estimates of the airspace consumed to date for the entire landfill and the expected timing of each closure and post-closure activity. Because these obligations are measured at estimated fair value using present value techniques, changes in the estimated cost or timing of future final capping, closure and post-closure activities could result in a material change in these liabilities, related assets and results of operations. We assess the appropriateness of the estimates used to develop our recorded balances annually, or more often if significant facts change.

Changes in inflation rates or the estimated costs, timing or extent of future final capping and closure and post-closure activities typically result in both (i) a current adjustment to the recorded liability and landfill asset; and (ii) a change in liability and asset amounts to be recorded prospectively over the remaining capacity of either the related discrete final capping event or the landfill. Any changes related to the capitalized and future cost of the landfill assets are then recognized in accordance with our amortization policy, which would generally result in amortization expense being recognized prospectively over the remaining capacity of the final capping event or the landfill, as appropriate. Changes in such estimates associated with airspace that has been fully utilized result in an adjustment to the recorded liability and landfill assets with an immediate corresponding adjustment to landfill airspace amortization expense.

Interest accretion on final capping, closure and post-closure liabilities is recorded using the effective interest method and is recorded as final capping, closure and post-closure expense, which is included in "Operating" costs and expenses within our Consolidated Statements of Operations.

In the United States, the final capping, closure and post-closure requirements are established by the Environmental Protection Agency ("EPA") and applied on a state-by-state basis. The costs to comply with these requirements could change materially as a result of future legislation or regulation.

Environmental Remediation — We are subject to an array of laws and regulations relating to the protection of the environment. Under current laws and regulations, we may have liabilities for environmental damage caused by operations or for damage caused by conditions that existed before we acquired a site. Such liabilities include potentially responsible party ("PRP") investigations, settlements, certain legal and consultant fees, as well as costs directly associated with site investigation and clean up, such as materials and incremental internal costs directly related to the remedy. We provide for expenses associated with environmental remediation obligations when such amounts are probable and can be reasonably estimated. We routinely review and evaluate sites that require remediation and determine our estimated cost for the likely remedy based on several estimates and assumptions.

Our estimations are based on several factors. We estimate costs required to remediate sites where it is probable that a liability has been incurred based on site-specific facts and circumstances. We routinely review and evaluate sites that require remediation, considering whether we were an owner, operator, transporter, or generator at the site; the amount and type of waste hauled to the site; and the number of years we were associated with the site. Next, we review the same type of information with respect to other named and unnamed PRPs. Estimates of the cost for the likely remedy are then either developed using our internal resources or by third party environmental engineers or other service providers. Internally developed estimates are based on:

- Management's judgment and experience in remediating our own and unrelated parties' sites;
- Information available from regulatory agencies as to costs of remediation;
- The number, financial resources and relative degree of responsibility of other PRPs who may be liable for remediation of a specific site; and
- The typical allocation of costs among PRPs.

There can sometimes be a range of reasonable estimates of the costs associated with the likely remedy of a site. In these cases, we use the amount within the range that constitutes our best estimate. If no amount within the range appears to be a better estimate than any other, we use the amount that is the low end of the range in accordance with SFAS No. 5, *Accounting for Contingencies*, and its interpretations. If we used the high ends of such ranges, our aggregate potential liability would be approximately $185 million higher on a discounted basis than the $275 million recorded in the Condensed Consolidated Financial Statements as of September 30, 2006.

Estimating our degree of responsibility for remediation of a particular site is inherently difficult and determining the method and ultimate cost of remediation requires that a number of assumptions be made. Our ultimate responsibility may differ materially from current estimates. It is possible that technological, regulatory or enforcement developments, the results of environmental studies, the inability to identify other PRPs, the inability of other PRPs to contribute to the settlements of such liabilities, or other factors could require us to record additional liabilities that could be material. Additionally, our ongoing review of our remediation liabilities could result in revisions that could cause upward or downward adjustments to income from operations. These adjustments could also be material in any given period.

Where we believe that both the amount of a particular environmental remediation liability and the timing of the payments are reliably determinable, we inflate the cost in current dollars (by 2.5% per annum at September 30, 2006 and December 31, 2005) until the expected time of payment and then discount the cost to present value using a risk-free discount rate, which is based on the rate for United States Treasury bonds with a term approximating the weighted average period until settlement of the underlying obligation. We determine the risk-free discount rate and the inflation rate on an annual basis unless interim changes would significantly impact our results of operations. As a result of an increase in our risk-free discount rate, which increased from an annual rate of 4.25% for 2005 to an annual rate of 4.75% for 2006, we recorded a $6 million reduction in "Operating" expenses during the first quarter of 2006 and a corresponding decrease in environmental remediation liabilities. For remedial liabilities that have been discounted, we include interest accretion, based on the effective interest method, in "Operating" costs and expenses in our Condensed Consolidated Statements of Operations.

Landfill and Environmental Remediation Liabilities

Liabilities for landfill and environmental remediation costs are presented in the table below (in millions):

	September 30, 2006			December 31, 2005		
	Landfill	Environmental Remediation	Total	Landfill	Environmental Remediation	Total
Current (in accrued liabilities)	$ 102	$ 50	$ 152	$ 114	$ 47	$ 161
Long-term	993	225	1,218	938	242	1,180
	$ 1,095	$ 275	$ 1,370	$ 1,052	$ 289	$ 1,341

The changes to landfill and environmental remediation liabilities for the year ended December 31, 2005 and the nine months ended September 30, 2006 are reflected in the table below (in millions):

	Landfill	Environmental Remediation
December 31, 2004	$ 979	$ 324
Obligations incurred and capitalized	62	—
Obligations settled	(51)	(52)
Interest accretion	66	10
Revisions in estimates	(6)	12
Acquisitions, divestitures and other adjustments	2	(5)
December 31, 2005	1,052	289
Obligations incurred and capitalized	48	—
Obligations settled	(51)	(19)
Interest accretion	52	7
Revisions in estimates	(3)	(3)
Acquisitions, divestitures and other adjustments	(3)	1
September 30, 2006	$ 1,095	$ 275

At several of our landfills, we provide financial assurance by depositing cash into restricted escrow accounts or trust funds for purposes of settling closure, post-closure and environmental remediation obligations. The fair value of these escrow accounts and trust funds was $214 million at September 30, 2006, and is primarily included as long-term "Other assets" in our Condensed Consolidated Balance Sheet. Balances maintained in these trust funds and escrow accounts will fluctuate based on (i) changes in statutory requirements; (ii) the ongoing use of funds for qualifying closure, post-closure and environmental remediation activities; (iii) acquisitions or divestitures of landfills; and (iv) changes in the fair value of the financial instruments held in the trust fund or escrow account.

3. Current Other Assets

The primary components of current "Other assets" as of September 30, 2006 and December 31, 2005 were as follows:

Short-term investments available for use — We invest in auction rate securities and variable rate demand notes, which are debt instruments with long-term scheduled maturities and periodic interest rate reset dates. The interest rate reset mechanism for these instruments results in a periodic marketing of the underlying securities through an auction process. Due to the liquidity provided by the interest rate reset mechanism and the short-term nature of our investment in these securities, they have been classified as current assets in our Condensed Consolidated Balance Sheets. As of September 30, 2006 and December 31, 2005, $332 million and $300 million, respectively, of investments in auction rates securities and variable rate demand notes have been included as a component of current "Other assets."

Assets held for sale — As of September 30, 2006 and December 31, 2005 our current "Other assets" included $261 million and $124 million, respectively, of operations and properties held for sale. These balances are primarily attributable to our divestiture program, which was approved by our Board of Directors to divest under-performing and non-strategic operations. In July 2005, operations representing $400 million in annual revenues were identified for inclusion in the divestiture program. In January 2006, we identified additional operations, representing over $500 million in annual revenues, that may also be sold as part of this divestiture plan. As of September 30, 2006 we have either sold or are actively marketing the majority of these operations. However, as of September 30, 2006, many of these businesses did not meet the accounting guidelines necessary to account for them as held-for-sale for financial reporting purposes.

Held-for-sale assets are recorded at the lower of their carrying amount or their fair value less the estimated cost to sell. Our quarterly assessment of these operations includes an analysis to determine if they qualify for discontinued operations accounting. Discontinued operations were not material to our results of operations or cash flows for the three and nine month periods ended September 30, 2006 and 2005. Generally, we do not expect discontinued operations to be material to our results of operations or cash flows due to the current integration and anticipated continuing involvement of these businesses with our remaining operations.

4. Debt

Debt

The following table summarizes the major components of debt at each balance sheet date (in millions):

	September 30, 2006	December 31, 2005
Revolving credit and letter of credit facilities(a)	$ —	$ —
Canadian credit facility (weighted average interest rate of 4.5% at September 30, 2006 and 4.4% at December 31, 2005)(b)	324	340
Senior notes and debentures, maturing through 2032, interest rates ranging from 5.00% to 8.75% (weighted average interest rate of 7.0% at September 30, 2006 and December 31, 2005) (c),(d)	5,132	5,155
Tax-exempt bonds maturing through 2039, fixed and variable interest rates ranging from 2.9% to 7.4% (weighted average interest rate of 4.5% at September 30, 2006 and 4.2% at December 31, 2005) (e),(f)	2,381	2,291
Tax-exempt project bonds, principal payable in periodic installments, maturing through 2027, fixed and variable interest rates ranging from 3.8% to 9.3% (weighted average interest rate of 5.3% at September 30, 2006 and December 31, 2005)(g)	383	404
Capital leases and other, maturing through 2036, interest rates up to 12%(h)	422	497
	8,642	8,687
Less current portion	862	522
	$ 7,780	$ 8,165

a) On August 17, 2006, WMI entered into a new five-year, $2.4 billion revolving credit facility, replacing a $2.4 billion revolving credit facility that would have expired in 2009. We generally use our revolving credit facility to support letters of credit issued to support our bonding and financial assurance needs. As of September 30, 2006, no borrowings were outstanding under our facility and we had unused and available credit capacity of $995 million. As of December 31, 2005, no borrowings were outstanding under our facility and we had unused and available credit capacity of $941 million.

b) As of September 30, 2006, we had $327 million of principal ($324 million net of discount) outstanding under this credit facility agreement. The advances do not accrue interest during their terms. Accordingly, the proceeds we initially received were for the principal amount of the advances net of the total interest obligation due for the term of the advance, and the debt was initially recorded based on the net proceeds received. The advances have a weighted average effective interest rate of 4.5%, which is being amortized to interest expense with a corresponding increase in our recorded debt obligation using the effective interest method. During the nine months ended September 30, 2006, we increased the carrying value of the debt for the recognition of $12 million of interest expense. A total of $160 million of the advances under this three-year credit facility agreement have matured during the nine months ended September 30, 2006. We elected to renew $118 million of these advances under the terms of the facility and have repaid the remaining $42 million with available cash. The carrying value of these debt obligations was also increased by approximately $14 million during the nine months ended September 30, 2006 as a result of an increase in the Canadian currency translation rate from December 31, 2005.

Our outstanding advances mature either three or twelve months from the date of issuance, but may be renewed under the terms of the facility. While we may elect to renew portions of our outstanding advances under the terms of the facility, we currently expect to repay our borrowings under the facility within one year with available cash. Accordingly, these borrowings are classified as current in our September 30, 2006 Condensed Consolidated Balance Sheet. As of December 31, 2005, we had expected to repay $86 million of outstanding advances with available cash and renew the remaining borrowings under the terms of the facility. Based on our expectations at that time, we classified $86 million as current and $254 million as long-term in our December 31, 2005 Consolidated Balance Sheet.

c) We manage the interest rate risk of our debt portfolio principally by using interest rate derivatives to achieve a desired position of fixed and floating rate debt. As of September 30, 2006, the interest payments on $2.35 billion of our fixed-rate senior notes have been swapped to variable rates. Fair value hedge accounting for interest rate swap contracts increased the carrying value of our senior notes by $22 million at September 30, 2006 and by $46 million at December 31, 2005.

d) On October 15, 2006, $300 million of our senior notes matured and were repaid with cash on hand. These borrowings were classified as current maturities of long-term debt at September 30, 2006 and December 31, 2005.

e) We issued $92 million of tax-exempt bonds during the nine months ended September 30, 2006. The proceeds from the issuance of the bonds were deposited directly into a trust fund. Accordingly, the restricted funds provided by this financing activity have been excluded from "New Borrowings" in our Condensed Consolidated Statement of Cash Flows. During the nine months ended September 30, 2006, $2 million of our tax-exempt bonds matured and were repaid with available cash.

f) Fair value hedge accounting for interest rate swap contracts increased the carrying value of our tax-exempt bonds by $1 million at September 30, 2006 and December 31, 2005.

g) The decrease in our tax-exempt project bonds from December 31, 2005 to September 30, 2006 is primarily related to the repayment of various borrowings upon their scheduled maturities.

h) The decrease in our capital leases and other debt obligations from December 31, 2005 to September 30, 2006 is primarily related to (i) the repayment of various borrowings upon their scheduled maturities and (ii) the deconsolidation of a variable interest entity during the second quarter of 2006.

Debt Covenants

Our revolving credit facility and certain other financing agreements contain financial covenants. The most restrictive of these financial covenants are contained in our revolving credit facility. The following table summarizes the requirements of these financial covenants and the results of the calculation, as defined by the revolving credit facility:

Covenant	Requirement per Facility	Computed Results September 30, 2006	Computed Results December 31, 2005
Interest coverage ratio	>2.75 to 1	3.7 to 1	3.7 to 1
Total debt to EBITDA	<3.50 to 1	2.6 to 1	2.7 to 1

Our revolving credit facility and senior notes also contain certain restrictions intended to monitor our level of indebtedness, types of investments and net worth. We monitor our compliance with these restrictions, but do not believe that they significantly impact our ability to enter into investing or financing arrangements typical for our business. As of September 30, 2006, we were in compliance with the covenants and restrictions under all of our debt agreements.

5. Income Taxes

The current tax obligations associated with the provision for income taxes recorded in the Condensed Consolidated Statements of Operations are reflected in the accompanying Condensed Consolidated Balance Sheets as a component of "Accrued liabilities," and the deferred tax obligations are reflected in "Deferred income taxes."

The difference between federal income taxes computed at the federal statutory rate and reported income taxes for the three months ended September 30, 2006 is primarily due to (i) the favorable impact of non-conventional fuel tax credits; (ii) the finalization of our 2005 tax returns; and (iii) favorable tax audit settlements, which were offset in part by (i) state and local income taxes; and (ii) the impact of nondeductible goodwill associated with our divestitures. These items have also affected our reported income taxes for the nine months ended September 30, 2006, which have also been favorably affected by the realization of a tax benefit due to scheduled tax rate reductions in Canada and the resulting revaluation of related deferred tax balances. The difference between federal income taxes computed at the federal statutory rate and reported income taxes for the three months ended September 30, 2005 is primarily due to (i) favorable effects of tax audit settlements; (ii) the favorable impact of non-conventional fuel tax credits; and (iii) the finalization of our 2004 federal tax return offset in part by state and local income taxes. These items also impact the difference between federal income taxes computed at the federal statutory rate and reported income taxes for the nine months ended September 30, 2005 as did the second quarter impact of our planned repatriation of accumulated earnings from certain of our Canadian subsidiaries. We continue to evaluate our effective tax rate and adjust it accordingly as facts and circumstances warrant.

Tax audit settlements — When excluding the effect of interest income, the settlement of various federal and state tax audit matters resulted in a reduction in income tax expense of $7 million, or $0.01 per diluted share, for the three months ended September 30, 2006 and $141 million, or $0.26 per diluted share, for the nine months ended September 30, 2006. These tax audit settlements resulted in a 1.6 percentage point reduction in our effective tax rate for the three months ended September 30, 2006 and a 12.3 percentage point reduction in our effective tax rate for the nine months ended September 30, 2006. During the three and nine months ended September 30, 2006, our net income also increased, principally due to interest income, by $7 million, or $4 million net of tax, and $12 million, or $7 million net of tax, respectively, as a result of these settlements.

The settlement of several tax audits resulted in a reduction in income tax expense of $28 million, or $0.05 per diluted share, for the three months ended September 30, 2005 and $375 million, or $0.66 per diluted share, for the nine months ended September 30, 2005. These tax audit settlements resulted in a 12.5 percentage point reduction in our effective tax rate for the three months ended September 30, 2005 and a 49.9 percentage point reduction in our effective tax rate for the nine months ended September 30, 2005.

The reduction in income taxes recognized as a result of these tax audit settlements is primarily attributable to the associated reduction in our accrued tax and related accrued interest liabilities. For information regarding the status of current audit activity refer to Note 9.

Non-conventional fuel tax credits — The impact of non-conventional fuel tax credits has been derived from methane gas projects at our landfills and our investments in two coal-based, synthetic fuel production facilities (the "Facilities"), which are discussed in more detail below. The fuel generated from our landfills and the Facilities qualifies for tax credits through 2007 pursuant to Section 45K (formerly Section 29, but re-designated as Section 45K effective for years ending after December 31, 2005) of the Internal Revenue Code. These tax credits are phased-out if the price of crude oil exceeds an annual average price threshold determined by the U.S. Internal Revenue Service.

Our effective tax rate for the three months ended September 30, 2006 reflects (i) our current expectations for the phase-out of 35% of Section 45K tax credits generated during 2006 and (ii) the impact of the temporary suspension of operations at the Facilities, which occurred from May 2006 to late September 2006. When considering these items, our estimated recurring effective tax rate as of September 30, 2006 is 36.0%, a 3.3 percentage point decrease in our estimated effective tax rate from June 30, 2006. Applying this decrease to our year-to-date pre-tax earnings resulted in a reduction in our provision for income taxes and an increase in our net income of approximately $38 million for the three months ended September 30, 2006. Revisions to our estimated recurring effective tax rate, from 37.1% at March 31, 2006 to 39.3% at June 30, 2006, had an unfavorable impact on our second quarter 2006 Statement of Operations, increasing our provision for income taxes and reducing our net income by $16 million. The change in our estimate of the phase-out of Section 45K credits from 78% at June 30, 2006 to 35% at September 30, 2006 also had a significant impact on our recognition of losses attributable to the operations of the Facilities during the third quarter of 2006. This impact is discussed below.

We have developed our current expectations for the phase-out of 35% of Section 45K credits using market information for current and forward-looking crude oil prices as of September 30, 2006. Increases in market prices of crude oil could further reduce the tax benefits we ultimately realize in 2006 from both our landfills and the Facilities. Accordingly, our current estimated effective tax rate could be materially different than our actual 2006 effective tax rate if our expectations for crude oil prices for the year are inconsistent with actual results.

In 2004, we acquired minority ownership interests in the Facilities, which results in the recognition of our pro-rata share of the Facilities' losses, the amortization of our investments, and additional expense associated with other estimated obligations all being recorded as "Equity in net losses of unconsolidated entities" within our Condensed Consolidated Statements of Operations. We recognize these losses in the period in which the tax credits are generated; however, we recognize the associated tax credits ratably over the entire year. As discussed above, our effective tax rate and equity losses associated with our investments in these unconsolidated entities for the three and nine months ended September 30, 2006 include the effects of a partial phase-out of Section 45K credits generated during 2006. Although we currently project that we will not be able to recognize 35% of the tax credits generated during 2006, we have been required to fund 100% of our pro-rata portion of the Facilities' losses and production costs for 2006 operations. Amounts paid to the Facilities for which we do not ultimately realize a tax benefit are refundable to us, subject to certain limitations. Our 2006 effective tax rate and equity losses also reflect the impacts of the temporary suspension of operations at the Facilities, which occurred from May 2006 to late September 2006. The operation of the Facilities had been suspended in order to minimize operating losses as a result of the expected phase-out of tax credits generated during 2006. For quarterly periods that the Facilities' operations are suspended, our obligations associated with funding the entities' operations may be deferred for a period of up to four quarters. Due to the relatively low production during the third quarter of 2006, certain of our obligations for the period were deferred to the fourth quarter when the Facilities are expected to operate at or near their capacity.

The following table summarizes the impact of our investments in the Facilities on our Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2006 and 2005 (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Equity in net losses of unconsolidated entities(a),(b)	$ (20)	$ (28)	$ (21)	$ (83)
Interest expense	(1)	(1)	(3)	(5)
Loss before income taxes(b)	(21)	(29)	(24)	(88)
Provision for (benefit from) income taxes(b),(c)	(36)	(39)	(45)	(106)
Net income(b)	$ 15	$ 10	$ 21	$ 18

a) For the nine months ended September 30, 2006, our "Equity in net losses of unconsolidated entities" includes (i) the recognition of expense for our estimate of contractual obligations associated with the Facilities' operations during 2006 based on an anticipated 35% phase-out of Section 45K credits, which was partially offset by (ii) a cumulative adjustment necessary to appropriately reflect our life-to-date obligations to fund the costs of operating the Facilities and the value of our investment. This cumulative adjustment was recorded during the second quarter of 2006. We have determined that the recognition of the cumulative adjustment was not material to either the current year or prior year periods presented herein.

b) As of September 30, 2006, we estimate that we will not be able to recognize 35% of Section 45K credits generated during 2006 due to the phase-out of the credits. As of June 30, 2006, we had estimated that we would not be able to recognize 78% of tax credits generated during 2006. The significant change in our estimate of the phase-out percentage during the current quarter is due to a substantial decrease in the market price of crude oil. As a result of this change in estimate, we recognized $17 million of expense recorded as "Equity in net losses of unconsolidated entities" during the three months ended September 30, 2006 associated with the Facilities' operations during the first and second quarters of 2006. This increase in our equity losses was more than offset by a corresponding reduction in our "Provision for (benefit from) income taxes."

c) The "Provision for (benefit from) income taxes" attributable to the Facilities includes tax credits of $28 million and $36 million for the three and nine months ended September 30, 2006, respectively, and $27 million and $71 million for the three and nine months ended September 2005, respectively. As discussed above, we recognize these credits ratably over the entire year based on our expectations for the entire year's production. Accordingly, our "Provision for (benefit from) income taxes" for the nine months ended September 30, 2006 includes the recognition of a pro-rata portion of (i) the tax benefits we expect to realize for the generation of credits during the first three quarters of 2006 and (ii) the tax credits that we expect to be generated by the Facilities during the fourth quarter of 2006.

The equity losses and associated tax benefits would not have been incurred if we had not acquired the minority ownership interest in the Facilities. If the tax credits generated by the Facilities were no longer allowable under Section 45K of the Internal Revenue Code, we could cease making payments in the period in which that determination is made and not incur additional losses.

The tax credits generated by our landfills are provided by our Renewable Energy Program, under which we develop, operate and promote the beneficial use of landfill gas. Our recorded taxes for the three and nine months ended September 30, 2006 include benefits of $13 million and $16 million, respectively, from tax credits generated by our landfill gas-to-energy projects. This compares to $8 million and $21 million, respectively, for the same periods in 2005.

The application of our revised estimate of the 2006 phase-out of Section 45K credits to the activities of the Facilities and our landfills for the first and second quarters of 2006 increased our "Net income" by $11 million, or $0.02 per diluted share, for the three months ended September 30, 2006.

Canada statutory rate change — During the second quarter of 2006, both the Canadian federal government and several provinces enacted tax rate reductions. SFAS No. 109, *Accounting for Income Taxes*, requires that deferred tax balances be revalued to reflect the tax rate changes. The revaluation resulted in a $20 million tax benefit for the nine months ended September 30, 2006.

6. Comprehensive Income

Comprehensive income represents all changes in our equity except for changes resulting from investments by, and distributions to, stockholders. Comprehensive income for the three and nine months ended September 30, 2006 and 2005 was as follows (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Net income	$ 300	$ 215	$ 903	$ 892
Other comprehensive income:				
Unrealized gains (losses) resulting from changes in fair value of derivative instruments, net of taxes	—	7	(2)	16
Realized losses on derivative instruments reclassified into earnings, net of taxes	3	2	3	7
Unrealized gains on marketable securities, net of taxes	2	1	3	2
Translation adjustment of foreign currency statements	—	59	24	34
Other comprehensive income	5	69	28	59
Comprehensive income	$ 305	$ 284	$ 931	$ 951

The components of accumulated other comprehensive income were as follows (in millions):

	September 30, 2006	December 31, 2005
Accumulated unrealized loss on derivative instruments, net of taxes	$ (26)	$ (27)
Accumulated unrealized gain on marketable securities, net of taxes	8	5
Cumulative translation adjustment of foreign currency statements	172	148
	$ 154	$ 126

7. Earnings Per Share

The following reconciles the number of shares outstanding at September 30 of each year shown to the number of weighted average basic shares outstanding and the number of weighted average diluted shares outstanding for the purpose of calculating basic and diluted earnings per share. The table also provides the number of shares of common stock potentially issuable at the end of each period and the number of potentially issuable shares excluded from the diluted earnings per share computation for each period (shares in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Number of common shares outstanding at end of period	534.5	553.6	534.5	553.6
Effect of using weighted average common shares outstanding	2.5	5.3	8.0	11.1
Weighted average basic common shares outstanding	537.0	558.9	542.5	564.7
Dilutive effect of equity-based compensation awards and warrants	4.5	2.9	5.3	3.3
Weighted average diluted common shares outstanding	541.5	561.8	547.8	568.0
Potentially issuable shares	28.3	39.9	28.3	39.9
Number of anti-dilutive potentially issuable shares excluded from diluted common shares outstanding	4.9	14.9	4.9	14.5

8. Stock-Based Compensation, Common Stock Dividends and Common Stock Repurchases

Stock-Based Compensation

Since May 2004, all stock-based compensation awards described herein have been made under the Company's 2004 Stock Incentive Plan, which authorizes the issuance of a maximum of 34 million shares of our common stock. Upon the adoption by the Management Development and Compensation Committee of the Board of Directors and the approval by the stockholders of the 2004 Stock Incentive Plan at the 2004 Annual Meeting of stockholders, all of the Company's other stock-based incentive plans were terminated, with the exception of the 2000 Broad-Based Employee Plan. The Broad-Based Employee Plan was not required to be approved by stockholders, as no executive officers of the Company may receive any grants under the plan. However, only approximately 100,000 shares remain available for issuance under that plan. We currently utilize treasury shares to meet the needs of our equity-based compensation programs under the 2004 Stock Incentive Plan and to settle outstanding awards granted pursuant to previous incentive plans. During 2005 and 2006, the primary forms of equity-based compensation granted to our employees under our long-term incentive programs were restricted stock units and performance share units. The significant terms of awards granted during 2006 are summarized below.

Restricted stock units — During the nine months ended September 30, 2006, we granted approximately 751,000 restricted stock units. These restricted stock units provide the award recipients with dividend equivalents during the vesting period, but the units may not be voted or sold until time-based vesting restrictions have lapsed. The restricted stock units vest ratably over a four-year period, and unvested units are subject to forfeiture in the event of voluntary or for-cause termination. These restricted stock units are subject to pro-rata vesting upon an employee's retirement or involuntary termination other than for cause and become immediately vested in the event of an employee's death or disability.

Compensation expense associated with restricted stock units is measured based on the grant-date fair value of our common stock and is recognized on a straight-line basis over the required employment period, which is generally the vesting period. Compensation expense is only recognized for those awards that we expect to vest, which we estimate based upon an assessment of current period and historical forfeitures.

A summary of the status of our restricted stock units as of and for the nine months ended September 30, 2006 is presented in the table below (units in thousands):

	Units	Weighted Average Fair Value
Unvested, December 31, 2005	767	$ 29.04
Granted	751	$ 31.80
Vested(a)	(213)	$ 29.11
Forfeited	(29)	$ 30.85
Unvested, September 30, 2006	1,276	$ 30.61

a) The total fair market value of the shares issued upon the vesting of restricted stock units during the nine months ended September 30, 2006 was $7 million.

Performance share units — During the nine months ended September 30, 2006, we granted approximately 724,000 performance share units. The performance share units are payable in shares of common stock based on the achievement of certain financial measures, after the end of a three-year performance period. Performance share units do not provide award recipients with either dividend equivalents or voting rights during the required performance period. These performance share units are payable to an employee (or his beneficiary) upon death or disability as if that employee had remained employed until the end of the performance period, subject to pro-rata vesting upon an employee's retirement or involuntary termination other than for cause and subject to forfeiture in the event of voluntary or for-cause termination.

Compensation expense associated with performance share units that continue to vest based on future performance is measured based on the grant-date fair value of our common stock, net of the present value of expected dividend payments on our common stock during the vesting period. Compensation expense is recognized ratably over the performance period based on our estimated achievement of the established performance criteria. Compensation expense is only recognized for those awards that we expect to vest, which we estimate based upon an assessment of both the probability that the performance criteria will be achieved and current period and historical forfeitures. A summary of the status of our performance share units as of and for the nine months ended September 30, 2006 is presented in the table below (units in thousands):

	Units	Weighted Average Fair Value
Unvested, December 31, 2005	693	$ 27.05
Granted	724	$ 31.93
Vested	—	N/A
Forfeited	(26)	$ 30.80
Unvested, September 30, 2006	1,391	$ 29.52

For the three and nine months ended September 30, 2006, we recognized $6 million and $15 million, respectively, of compensation expense associated with restricted stock unit and performance share unit awards as a component of “Selling, general and administrative” expenses in our Condensed Consolidated Statement of Operations. Our “Provision for (benefit from) income taxes” for the three and nine months ended September 30, 2006 includes a corresponding deferred income tax benefit of $2 million and $6 million, respectively. We have not capitalized any equity-based compensation costs during the three and nine month periods ended September 30, 2006. As of September 30, 2006, we estimate that a total of approximately $50 million of currently unrecognized compensation expense will be recognized in future periods for unvested restricted stock unit and performance share unit awards issued and outstanding. This expense is expected to be recognized over a period of up to four years.

Stock options — Prior to 2005, stock options were the primary form of equity-based compensation we granted to our employees. On December 16, 2005, the Management Development and Compensation Committee of our Board of Directors approved the acceleration of the vesting of all unvested stock options awarded under our stock incentive plans effective December 28, 2005. The decision to accelerate the vesting of outstanding stock options was made primarily to reduce the future non-cash compensation expense that we would have otherwise recorded as a result of our January 1, 2006 adoption of SFAS No. 123(R). We estimate that the acceleration eliminated approximately $55 million of pre-tax compensation charges that would have been recognized over 2006, 2007 and 2008 as the stock options vested. We recognized a $2 million pre-tax charge to compensation expense during the fourth quarter of 2005 as a result of the acceleration, but will not be required to recognize future compensation expense for the accelerated options under SFAS No. 123(R) unless further modifications are made to the options, which is not anticipated.

A summary of the status of our stock options as of and for the nine months ended September 30, 2006 is presented in the table below (shares in thousands):

	Shares	Weighted Average Exercise Price
Outstanding, December 31, 2005	34,786	$ 28.15
Granted	7	$ 33.89
Exercised(a)	(8,886)	$ 24.21
Forfeited or expired	(448)	$ 42.38
Outstanding, September 30, 2006(b)	25,459	$ 29.26
Exercisable, September 30, 2006(b)	25,452	$ 29.26

a) The aggregate intrinsic value of stock options exercised during the nine months ended September 30, 2006 was $88 million. Approximately 3.3 million stock options were exercised during the nine months ended September 30, 2005 with an aggregate intrinsic value of $26 million.

b) Stock options outstanding and exercisable as of September 30, 2006 have a weighted average contractual term of 4.6 years and an aggregate intrinsic value of $229 million based on the market value of our common stock on September 30, 2006.

We received $219 million during the nine months ended September 30, 2006 from our employees' stock option exercises. We realized a tax benefit from these stock option exercises of $33 million. These amounts have been presented in the "Cash flows from financing activities" section of our September 30, 2006 Condensed Consolidated Statement of Cash Flows.

Common Stock Dividends and Repurchases

In October 2004, our Board of Directors approved a capital allocation program that provides for up to $1.2 billion in aggregate dividend payments and share repurchases each year during 2005, 2006 and 2007. In June 2006, our Board of Directors approved up to $350 million of additional share repurchases for 2006, increasing the maximum amount of capital to be allocated to our share repurchases and dividends for the current year to $1.55 billion. Aggregate dividend payments and share repurchases under the capital allocation program were $418 million and $1,297 million during the three and nine months ended September 30, 2006, respectively. Aggregate dividend payments and share repurchases under our capital allocation program were $404 million and $922 million during the three and nine months ended September 30, 2005, respectively.

Common Stock Dividends — We have paid a $0.22 per share dividend in each of the first three quarters of 2006. The third quarter dividend was declared in August 2006 and paid on September 22, 2006 to shareholders of record as of September 5, 2006 for an aggregate of $118 million. We have paid $358 million in cash dividends during the nine months ended September 30, 2006. In each quarter of 2005, we declared and paid a dividend of $0.20 per share, which resulted in aggregate cash payments of $111 million for the three months ended September 30, 2005 and $339 million for the nine months ended September 30, 2005. All future dividend declarations are at the discretion of the Board of Directors, and depend on various factors, including our net earnings, financial condition, cash required for future prospects and other factors the Board may deem relevant.

Common Stock Repurchases — In January 2006, we repurchased 9.0 million shares of our common stock for $275 million through an accelerated share repurchase transaction. The number of shares purchased under the accelerated share repurchase transaction was determined by dividing the $275 million by the fair market value of our common stock on the repurchase date. At the end of the transaction's valuation period, which was in February 2006, we were required to make a settlement payment for the difference between the $275 million paid at the inception of the valuation period and the weighted average daily market price of our common stock during the valuation period times the number of shares we repurchased, or $16 million. We elected to make the required settlement payment in cash.

During the nine months ended September 30, 2006, we also repurchased 18.4 million shares of our common stock through either open market or other privately negotiated transactions at a cost of $648 million, of which $5 million was settled in October 2006. During the nine months ended September 30, 2005, we repurchased 20.5 million shares of our common stock at a cost of $583 million, of which $10 million was settled in October 2005. Future share repurchases under our capital allocation program will be made at the discretion of management.

9. Commitments and Contingencies

Financial instruments — We have obtained letters of credit, performance bonds and insurance policies and have established trust funds and issued financial guarantees to support tax-exempt bonds, contracts, performance of landfill closure and post-closure requirements, environmental remediation and other obligations.

Historically, our revolving credit facilities have been used to obtain letters of credit to support our bonding and financial assurance needs. We also have letter of credit and term loan agreements and a letter of credit facility that were established to provide us with additional sources of capacity from which we may obtain letters of credit. We obtain surety bonds and insurance policies from various sources, which include an affiliated entity that we have an investment in and account for under the cost method. We also obtain insurance from a wholly-owned insurance company, the sole business of which is to issue policies for WMI and its subsidiaries, to secure such performance obligations. In those instances where our use of captive insurance is not allowed, we generally have available alternative bonding mechanisms.

Because virtually no claims have been made against the financial instruments we use to support our obligations, and considering our current financial position, management does not expect that any claims against or draws on these instruments would have a material adverse effect on our consolidated financial statements. We have not experienced any unmanageable difficulty in obtaining the required financial assurance instruments for our current operations. In an ongoing effort to mitigate risks of future cost increases and reductions in available capacity, we continue to evaluate various options to access cost-effective sources of financial assurance.

Insurance — We carry insurance coverage for protection of our assets and operations from certain risks including automobile liability, general liability, real and personal property, workers' compensation, directors' and officers' liability, pollution legal liability and other coverages we believe are customary to the industry. Our exposure to loss for insurance claims is generally limited to the per incident deductible under the related insurance policy. Our exposure, however, could increase if our insurers were unable to meet their commitments on a timely basis.

We have retained a significant portion of the risks related to our automobile, general liability and workers' compensation insurance programs. For our self-insured retentions, the exposure for unpaid claims and associated expenses, including incurred but not reported losses, is based on an actuarial valuation and internal estimates. The estimated accruals for these liabilities could be affected if future occurrences or loss development significantly differ from utilized assumptions.

For the 14 months ended January 1, 2000, we insured certain risks, including auto, general liability and workers' compensation, with Reliance National Insurance Company, whose parent filed for bankruptcy in June 2001. In October 2001, the parent and certain of its subsidiaries, including Reliance National Insurance Company, were placed in liquidation. We believe that because of various state insurance guarantee funds and probable recoveries from the liquidation, currently estimated to be $19 million, it is unlikely that events relating to Reliance will have a material adverse impact on our financial statements.

We do not expect the impact of any known casualty, property, environmental or other contingency to have a material impact on our financial condition, results of operations or cash flows.

Guarantees — We have entered into the following guarantee agreements associated with our operations:

- As of September 30, 2006, WM Holdings, one of WMI's wholly-owned subsidiaries, has fully and unconditionally guaranteed all of WMI's senior indebtedness, which matures through 2032. WMI has fully and unconditionally guaranteed all of the senior indebtedness of WM Holdings, which matures through 2026. Performance under these guarantee agreements would be required if either party defaulted on their respective obligations. No additional liability has been recorded for these guarantees because the underlying obligations are reflected in our Condensed Consolidated Balance Sheets. See Note 13 for further information.

- WMI and WM Holdings have guaranteed the tax-exempt bonds and other debt obligations of their subsidiaries. If a subsidiary fails to meet its obligations associated with its debt obligations as they come due, WMI or WM Holdings will be required to perform under the related guarantee agreement. No additional liability has been recorded for these guarantees because the underlying obligations are reflected in our Condensed Consolidated Balance Sheets. See Note 4 for information related to the balances and maturities of our tax-exempt bonds and other debt obligations.

- We have guaranteed certain financial obligations of unconsolidated entities. The related obligations, which mature through 2020, are not recorded on our Condensed Consolidated Balance Sheets. As of September 30, 2006, our maximum future payments associated with these guarantees are approximately $30 million. We do not believe that it is likely that we will be required to perform under these guarantees.
- We have issued a letter of credit to support the debt of a surety bonding company. We initially guaranteed the debt of this entity during the third quarter of 2003. At that time we determined that we were the primary beneficiary of this entity under the provisions of FIN 46. As a result, from the third quarter of 2003 until April 2006, this variable interest entity was consolidated into our financial statements. During 2006, this entity refinanced its debt and our guarantee was renegotiated, reducing the value of our guarantee to approximately $5 million as of September 30, 2006. As a result of the significant change in our interest in this entity we have determined that we are no longer the primary beneficiary of this entity, which has resulted in the deconsolidation of the entity in April 2006. Our exposure to loss associated with this guarantee arrangement is now included in the disclosure above related to guarantees of the obligations of unconsolidated entities. For additional information regarding our FIN 46 reconsideration, see Note 1.
- WM Holdings has guaranteed all reimbursement obligations of WMI under its $350 million letter of credit facility and $295 million letter of credit and term loan agreements. Under those facilities, WMI must reimburse the entities funding the facilities for any draw on a letter of credit supported by the facilities. As of September 30, 2006, we had $645 million in outstanding letters of credit under these facilities.
- In connection with the $350 million letter of credit facility, WMI and WM Holdings guaranteed the interest rate swaps entered into by the entity funding the letter of credit facility. The probability of loss for the guarantees was determined to be remote and the fair value of the guarantees is immaterial to our financial position and results of operations.
- Certain of our subsidiaries have guaranteed the market value of certain homeowners' properties that are adjacent to certain of our landfills. These guarantee agreements extend over the life of the respective landfill. Under these agreements, we would be responsible for the difference between the sale value and the guaranteed market value of the homeowners' properties, if any. Generally, it is not possible to determine the contingent obligation associated with these guarantees, but we do not believe that these contingent obligations will have a material effect on our financial position, results of operations or cash flows.
- We have indemnified the purchasers of businesses or divested assets for the occurrence of specified events under certain of our divestiture agreements. Other than certain identified items that are currently recorded as obligations, we do not believe that it is possible to determine the contingent obligations associated with these indemnities. Additionally, under certain of our acquisition agreements, we have provided for additional consideration to be paid to the sellers if established financial targets are achieved post-closing. The costs associated with any additional consideration requirements are accounted for as incurred.
- WMI and WM Holdings guarantee the service, lease, financial and general operating obligations of certain of their subsidiaries. If such a subsidiary fails to meet its contractual obligations as they come due, the guarantor has an unconditional obligation to perform on its behalf. No additional liability has been recorded for service, financial or general operating guarantees because the subsidiaries' obligations are properly accounted for as costs of operations as services are provided or general operating obligations as incurred. No additional liability has been recorded for the lease guarantees because the subsidiaries' obligations are properly accounted for as operating or capital leases, as appropriate.

We currently believe that it is not reasonably likely that we will be required to perform under these guarantee agreements or that any performance requirement would have a material impact on our consolidated financial statements.

Environmental matters — Our business is intrinsically connected with the protection of the environment. As such, a significant portion of our operating costs and capital expenditures could be characterized as costs of environmental protection. Such costs may increase in the future as a result of regulation. However, we believe that we generally tend to benefit when environmental regulation increases, because such regulations increase the demand for our services, and we have the resources and experience to manage environmental risk.

Estimates of the extent of our degree of responsibility for remediation of a particular site and the method and ultimate cost of remediation require a number of assumptions and are inherently difficult, and the ultimate outcome may differ materially from current estimates. However, we believe that our extensive experience in the environmental services industry, as well as our involvement with a large number of sites, provides a reasonable basis for estimating our aggregate liability. As additional information becomes available, estimates are adjusted as necessary. It is reasonably possible that technological, regulatory or enforcement developments, the results of environmental studies, the nonexistence or inability of other PRPs to contribute to the settlements of such liabilities, or other factors could necessitate the recording of additional liabilities which could be material.

As of September 30, 2006, we had been notified that we are a PRP in connection with 73 locations listed on the EPA's National Priorities List ("NPL"). Of the 73 sites at which claims have been made against us, 16 are sites we own. Each of the NPL sites we own were initially developed by others as landfill disposal facilities. At each of these facilities, we are working in conjunction with the government to characterize or remediate identified site problems, and we have either agreed with other legally liable parties on an arrangement for sharing the costs of remediation or are pursuing resolution of an allocation formula. We generally expect to receive any amounts due from these parties at, or near, the time that we make the remedial expenditures. The 57 NPL sites at which claims have been made against us and that we do not own are at various procedural stages under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, which is known as CERCLA or Superfund.

The majority of these proceedings involve allegations that certain of our subsidiaries (or their predecessors) transported hazardous substances to the sites, often prior to our acquisition of these subsidiaries. CERCLA generally provides for liability for those parties owning, operating, transporting to or disposing at the sites. Proceedings arising under Superfund typically involve numerous waste generators and other waste transportation and disposal companies and seek to allocate or recover costs associated with site investigation and remediation, which costs could be substantial and could have a material adverse effect on our consolidated financial statements. At some of the sites at which we've been identified as a PRP, our liability is well defined as a consequence of a governmental decision and an agreement among liable parties as to the share each will pay for implementing that remedy. At other sites, where no remedy has been selected or the liable parties have been unable to agree on an appropriate allocation, our future costs are uncertain. Any of these matters potentially could have a material adverse effect on our consolidated financial statements.

For more information regarding commitments and contingencies with respect to environmental matters, see Note 2.

Litigation — In December 1999, an individual brought an action against the Company, five former officers of WM Holdings, and WM Holdings' former independent auditor, Arthur Andersen LLP, in Illinois state court on behalf of a proposed class of individuals who purchased WM Holdings common stock before November 3, 1994, and who held that stock through February 24, 1998. The action is for alleged acts of common law fraud, negligence and breach of fiduciary duty. This case has remained in the pleadings stage for the last several years due to numerous motions and rulings by the court related to the viability of these claims. The defendants had removed the case to federal court, but recently agreed to the matter being handled in state court as originally filed. The Company believes recent U.S. Supreme Court decisions in other cases require the Illinois trial court to rule that this matter cannot proceed as a class action. Only limited discovery has occurred and the defendants continue to defend themselves vigorously. The extent of possible damages, if any, in this action cannot yet be determined.

In April 2002, a former participant in WM Holdings' ERISA plans and another individual filed a lawsuit in Washington, D.C. against WMI, WM Holdings and others, attempting to increase the recovery of a class of ERISA plan participants based on allegations related to both the events alleged in, and the settlements relating to, the securities class action against WM Holdings that was settled in 1998 and the securities class action against us that was settled in November 2001. Subsequently, the issues related to the latter class action have been dropped as to WMI, its officers and directors. The case is ongoing with respect to WM Holdings and others, and WM Holdings intends to defend itself vigorously.

Two separate lawsuits currently pending in Texas state court against WMI and certain former officers of WMI allege that the plaintiffs are substantial holders of the Company's common stock who intended to sell their stock in 1999, or to otherwise protect themselves against loss, but that WMI made public statements regarding its prospects, and in some instances individual defendants, all of whom were members of prior management, made statements that were false and misleading and induced the plaintiffs to retain their stock or not to take other protective measures. The plaintiffs assert that the value of their retained stock declined dramatically and that they incurred significant losses. The plaintiffs assert claims for fraud, negligent misrepresentation, and conspiracy. The first of these cases was dismissed by summary judgment by a Texas state court in March 2002. That dismissal was ultimately upheld by the appellate court and the plaintiffs requested permission to appeal this decision to the highest state court in Texas, which, after briefing, has denied the plaintiff's request to hear the case and therefore, the dismissal will stand. The second case had been stayed pending resolution of the first case; we are awaiting a decision by the plaintiff as to whether he will dismiss the case or proceed on another theory, in which case WMI and the other defendants will continue to vigorously defend themselves.

The Company has been defending allegations related generally to the termination of a joint venture to which one of our wholly-owned subsidiaries was a party. The claim involves the value of the joint venture, our interest in which was divested in 2000. The matter has been arbitrated and we are awaiting a final ruling. The other party in this matter is seeking a variety of remedies, ranging from monetary damages to unwinding the transaction; however, the nature and extent of the outcome cannot be predicted at this time.

From time to time, we pay fines or penalties in environmental proceedings relating primarily to waste treatment, storage or disposal facilities. At September 30, 2006, there were three proceedings involving our subsidiaries where we reasonably believe that the sanctions could exceed $100,000. The matters involve allegations that subsidiaries (i) failed to comply with air permit, air emission and leachate storage capacity requirements at an operating landfill; (ii) violated a number of state solid waste regulations and permit conditions (including, but not limited to, exceedence of permitted grades, exceedences of leachate head levels, failure to maintain records and notify the state regulatory agency of noncompliance) and federal air regulations at an operating landfill; and (iii) failed to meet reporting requirements under federal air regulations at an operating landfill. We do not believe that the fines or other penalties in any of these matters will, individually or in the aggregate, have a material adverse effect on our financial condition or results of operations.

It is not always possible to predict the impact that lawsuits, proceedings, investigations and inquiries may have on us, nor is it possible to predict whether additional suits or claims may arise out of the matters described above in the future. We intend to defend ourselves vigorously in all of the above matters. However, it is possible that the outcome of any of the matters described, or others, may ultimately have a material adverse impact on our financial condition, results of operations or cash flows in one or more future periods.

From time to time, we also are named as defendants in personal injury and property damage lawsuits, including purported class actions, on the basis of having owned, operated or transported waste to a disposal facility that is alleged to have contaminated the environment or, in certain cases, on the basis of having conducted environmental remediation activities at sites. Some of the lawsuits may seek to have us pay the costs of monitoring and health care examinations of allegedly affected sites and persons for a substantial period of time even where no actual damage is proven. While we believe we have meritorious defenses to these lawsuits, the ultimate resolution is often substantially uncertain due to the difficulty of determining the cause, extent and impact of alleged contamination (which may have occurred over a long period of time), the potential for successive groups of complainants to emerge, the diversity of the individual plaintiffs' circumstances, and the potential contribution or indemnification obligations of co-defendants or other third parties, among other factors. Accordingly, it is possible such matters could have a material adverse impact on our consolidated financial statements.

We are also involved in other civil litigation and governmental proceedings that arise in connection with our operations, including litigation involving: former employees; competitors; persons from whom we purchased businesses or assets; and counterparties to contracts, including those for the purchase or sale of goods and services and relating to the operation of facilities. Although the results of litigation cannot be predicted with certainty, we do not believe that any such matters will ultimately have a material adverse impact on our consolidated financial statements.

Under Delaware law, corporations are allowed to indemnify their officers, directors and employees against claims arising from their actions in such capacities if the individuals acted in good faith and in a manner they believed to be in, or not opposed to, the best interests of the corporation. Further, corporations are allowed to advance defense expenses to the individuals in such matters, contingent upon the receipt of an undertaking by the individuals to repay all expenses if it is ultimately determined that they did not act in good faith and in a manner they believed to be in, or not opposed to, the best interests of the corporation. Like many Delaware companies, WMI's charter and bylaws require indemnification and advancement of expenses subject to meeting an applicable standard of conduct. Additionally, WMI has entered into separate indemnification agreements with members of its Board of Directors as well as its Chief Executive Officer, its President and Chief Operating Officer and its Chief Financial Officer. Additionally, the charter and bylaw documents of certain of WMI's subsidiaries, including WM Holdings, include similar indemnification provisions, and some subsidiaries, including WM Holdings, entered into separate indemnification agreements with their officers and directors prior to our acquisition of them that provide for even greater rights and protections for the individuals.

The Company may incur substantial expenses in connection with the fulfillment of its advancement of costs and indemnification obligations in connection with current actions involving former officers of the Company or its subsidiaries or other actions or proceedings that may be brought against its former or current officers, directors and employees. The Company's obligations to indemnify and advance expenses continue after individuals leave the Company for claims related to actions that occurred before their departures from the Company.

Tax matters — We are currently under audit by the IRS and from time to time are audited by other taxing authorities. We fully cooperate with all audits, but defend our positions vigorously. Our audits are in various stages of completion. We have concluded several audits in the last two years. During the second quarter of 2006, we concluded the IRS audit for the years 2002 and 2003. The current period financial statement impact of concluding this audit is discussed in Note 5. In addition, we have started the examination phase of an IRS audit for the years 2004 and 2005. We expect this audit to be completed within the next 12 months. To provide for certain potential tax exposures, we maintain an allowance for tax contingencies, the balance of which management believes is adequate. Results of audit assessments by taxing authorities could have a material effect on our quarterly or annual cash flows as audits are completed, although we do not believe that current tax audit matters will have a material adverse impact on our results of operations.

As discussed in Note 4, we have approximately $2.8 billion of tax-exempt financings as of September 30, 2006. Tax-exempt financings are structured pursuant to certain terms and conditions of the Internal Revenue Code of 1986, as amended (the "Code"), which exempts from taxation the interest income earned by the bondholders in the transactions. The requirements of the Code can be complex, and failure to comply with these requirements could cause certain past interest payments made on the bonds to be taxable and could cause either outstanding principal amounts on the bonds to be accelerated or future interest payments on the bonds to be taxable. Some of the

Company's tax-exempt financings have been, or currently are, the subject of examinations by the IRS to determine whether the financings meet the requirements of the Code and applicable regulations. It is possible that an adverse determination by the IRS could have a material adverse effect on the Company's liquidity and results of operations.

Unclaimed property audit — We are currently undergoing an unclaimed property audit, which is being conducted by various state authorities. The property subject to review in this audit process generally includes unclaimed wages, vendor payments and customer refunds. State escheat laws generally require entities to report and remit abandoned and unclaimed property. Failure to timely report and remit the property can result in assessments that include substantial interest and penalties, in addition to the payment of the escheat liability itself. During 2006, we have submitted unclaimed property filings with all states. As a result of our findings, we determined that we had unrecorded obligations associated with unclaimed property of approximately $19 million for escheatable items for various periods between 1980 and 2004. Our "Selling, general and administrative" expenses for the nine months ended September 30, 2006 include the charge recognized in the first quarter of 2006 required to record these obligations. During the first quarter of 2006, we also recognized $1 million of estimated interest obligations associated with our findings, which has been included in "Interest expense" in our Condensed Consolidated Statement of Operations. We have determined that the impact of these adjustments is not material to current or prior periods' results of operations. Although we cannot currently estimate the potential financial impacts that any remaining audit findings may have, we do not expect any resulting obligations to have a material adverse effect on our consolidated results of operations or cash flows.

10. Restructuring

During the third quarter of 2005, we reorganized and simplified our management structure by reducing our Group and Corporate staffing levels. This reorganization increased the accountability and responsibility of our Market Areas and allowed us to streamline business decisions and reduce costs at the Group and Corporate offices. Additionally, as part of our restructuring, the responsibility for the management of our Canadian operations was allocated among our Eastern, Midwest and Western Groups, eliminating the Canadian Group. See discussion included in Note 11.

The reorganization eliminated about 600 employee positions throughout the Company. In the third and fourth quarters of 2005, we recorded $28 million for costs associated with the implementation of the new structure. These charges included $25 million for employee severance and benefit costs, $1 million related to abandoned operating lease agreements, and $2 million related to consulting fees incurred to align our sales strategy to our changes in both resources and leadership that resulted from the reorganization.

Through September 30, 2006, we had paid approximately $24 million of the employee severance and benefit costs incurred as a result of this restructuring. Approximately $6 million of these payments were made during 2006. As of September 30, 2006, $1 million of the related accrual remained for employee severance and benefit costs. The length of time we are obligated to make severance payments varies, with the longest obligation continuing through the third quarter of 2007.

11. Segment and Related Information

We manage and evaluate our operations primarily through our Eastern, Midwest, Southern, Western, Wheelabrator and Recycling Groups. These six Groups are presented below as our reportable segments. Our segments provide integrated waste management services consisting of collection, disposal (solid waste and hazardous waste landfills), transfer, waste-to-energy facilities and independent power production plants that are managed by Wheelabrator, recycling services and other services to commercial, industrial, municipal and residential customers throughout the United States and in Puerto Rico and Canada. The operations not managed through our six operating Groups are presented herein as "Other."

In the third quarter of 2005, we eliminated our Canadian Group, and the management of our Canadian operations was allocated among our Eastern, Midwest and Western Groups. The historical operating results of our Canadian operations have been allocated to the Eastern, Midwest and Western Groups to provide financial information that consistently reflects our current approach to managing our operations.

Our third quarter 2005 reorganization, as discussed in Note 10, also resulted in the centralization of certain Group office functions. The administrative costs associated with these functions were included in the measurement of income from operations for our reportable segments through August 2005, when the integration of these functions with our existing centralized processes was complete. Beginning in September 2005, these administrative costs have been included in income from operations of "Corporate and Other." The reallocation of these costs has not significantly affected the operating results of our reportable segments.

Summarized financial information concerning our reportable segments for the three and nine months ended September 30 is shown in the following tables (in millions):

Three Months Ended:	Gross Operating Revenues	Intercompany Operating Revenues(d)	Net Operating Revenues(e)	Income from Operations(f),(g)
September 30, 2006				
Eastern	$ 998	$ (201)	$ 797	$ 110
Midwest	813	(137)	676	135
Southern	951	(143)	808	204
Western	805	(106)	699	144
Wheelabrator	233	(17)	216	98
Recycling	199	(5)	194	(9)
Other(a)	70	(19)	51	(3)
	4,069	(628)	3,441	679
Corporate and other(b)	—	—	—	(122)
Total	$ 4,069	$ (628)	$ 3,441	$ 557
September 30, 2005				
Eastern	$ 1,003	$ (215)	$ 788	$ 120
Midwest	801	(138)	663	114
Southern	892	(140)	752	173
Western	801	(106)	695	122
Wheelabrator	231	(16)	215	93
Recycling	213	(6)	207	1
Other(a)	73	(18)	55	(29)
	4,014	(639)	3,375	594
Corporate and other (b),(c)	—	—	—	(212)
Total	$ 4,014	$ (639)	$ 3,375	$ 382

Nine Months Ended:	Gross Operating Revenues	Intercompany Operating Revenues(d)	Net Operating Revenues(e)	Income from Operations(f),(g)
September 30, 2006				
Eastern	$ 2,901	$ (584)	$ 2,317	$ 328
Midwest	2,346	(400)	1,946	366
Southern	2,840	(431)	2,409	611
Western	2,382	(326)	2,056	425
Wheelabrator	677	(52)	625	234
Recycling	580	(16)	564	7
Other(a)	217	(54)	163	(16)
	11,943	(1,863)	10,080	1,955
Corporate and other(b)	—	—	—	(398)
Total	$ 11,943	$ (1,863)	$ 10,080	$ 1,557
September 30, 2005				
Eastern	$ 2,842	$ (603)	$ 2,239	$ 259
Midwest	2,286	(400)	1,886	307
Southern	2,641	(416)	2,225	528
Western	2,298	(307)	1,991	350
Wheelabrator	647	(47)	600	217
Recycling	629	(23)	606	9
Other(a)	217	(62)	155	(10)
	11,560	(1,858)	9,702	1,660
Corporate and other (b),(c)	—	—	—	(449)
Total	$ 11,560	$ (1,858)	$ 9,702	$ 1,211

a) Our other revenues are generally from services provided throughout our operating Groups for in-plant services, methane gas recovery, and certain third party sub-contract and administration revenues managed by our Upstream, Renewable Energy and National Accounts organizations. Other operating results reflect the combined impact of (i) the services described above; (ii) non-operating entities that provide financial assurance and self-insurance support for the operating Groups or financing for our Canadian operations; and (iii) certain quarter-end adjustments recorded in consolidation related to the reportable segments that, due to timing, were not included in the measure of segment profit or loss used to assess their performance for the periods disclosed. For the three and nine months ended September 30, 2005, the income from operations of the Other segment included a quarter-end adjustment to reflect a $22 million charge to “Depreciation and amortization” recorded to adjust the amortization periods of five of our landfills. These adjustments reflected cumulative corrections resulting from reducing the amortization periods of the landfills and were necessary to align the lives of these landfills for amortization purposes with the terms of the underlying contractual agreements supporting their operation.

b) Corporate operating results reflect the costs incurred for various support services that are not allocated to our six operating Groups. These support services include, among other things, treasury, legal, information technology, tax, insurance, centralized service center processes, other administrative functions and the maintenance of our closed landfills. Income from operations for “Corporate and other” also includes costs associated with our long-term incentive program and managing our international and non-solid waste divested operations, which primarily includes administrative expenses and the impact of revisions to our estimated obligations. As discussed above, in 2005 we centralized support functions that had been provided by our Group offices. Beginning in the third quarter of 2005, our “Corporate and other” operating results also include the costs associated with these support functions.

c) The increase in Corporate and Other expenses during the three and nine months ended September 30, 2005 was primarily attributable to an impairment charge of $59 million associated with capitalized software costs and charges associated with legal matters. Refer to Note 12 for additional discussion of these items.

d) Intercompany operating revenues reflect each segment's total intercompany sales, including intercompany sales within a segment and between segments. Transactions within and between segments are generally made on a basis intended to reflect the market value of the service.

e) Our operating revenues tend to be somewhat higher in summer months, primarily due to the higher volume of construction and demolition waste. The volumes of industrial and residential waste in certain regions also tend to increase during summer months. Additionally, certain destructive weather conditions, such as the hurricanes experienced in the third quarter of 2005, actually increase our revenues in the areas affected, although these revenues are often low margin due to high start-up costs and other special circumstances related to disaster clean-up. Our second and third quarter revenues and results of operations typically reflect these seasonal trends.

f) The operating results of our reportable segments generally reflect the impact the various lines of business and markets in which we operate can have on the Company's consolidated operating results. The income from operations provided by our four geographic segments is generally indicative of the margins provided by our collection, landfill and transfer businesses, although these groups do provide recycling and other services that can affect these trends. The operating margins provided by our Wheelabrator segment (waste-to-energy facilities and independent power production plants) have historically been higher than the margins provided by our base business generally due to the combined impact of long-term disposal and energy contracts and the disposal demands of the region in which our facilities are concentrated. Income from operations provided by our Recycling segment generally reflects operating margins typical of the recycling industry, which tend to be significantly lower than those provided by our base business. From time to time the operating results of our reportable segments are significantly affected by unusual or infrequent transactions or events.

g) For those items included in the determination of income from operations, the accounting policies of our segments are the same as those described in the summary of significant accounting policies included in our December 31, 2005 Form 10-K.

The table below shows the total revenues contributed by our principal lines of business (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Collection	$ 2,251	$ 2,199	$ 6,661	$ 6,424
Landfill	838	816	2,422	2,283
Transfer	469	462	1,369	1,312
Wheelabrator	233	231	677	647
Recycling and other(a)	278	306	814	894
Intercompany(b)	(628)	(639)	(1,863)	(1,858)
Operating revenues	$ 3,441	$ 3,375	$ 10,080	$ 9,702

a) In addition to the revenue generated by our Recycling Group, we have included revenues generated within our four geographic operating Groups derived from recycling, methane gas operations and Port-O-Let® services in the "recycling and other" line-of-business.

b) Intercompany revenues between lines of business are eliminated within the Condensed Consolidated Financial Statements included herein.

12. (Income) Expense from Divestitures, Asset Impairments and Unusual Items

The following table summarizes the major components of "(Income) expense from divestitures, asset impairments and unusual items" for the three and nine months ended September 30, 2006 and 2005 (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Asset impairments	$ 15	$ 61	$ 28	$ 98
(Income) expense from divestitures	3	(5)	(39)	(76)
Other	1	30	1	35
	$ 19	$ 86	$ (10)	$ 57

Asset impairments — During the second and third quarters of 2006, we recorded impairment charges of $13 million and $5 million, respectively, for operations we intend to sell as part of our divestiture program. The charges were required to reduce the carrying values of the operations to their estimated fair values less the cost to sell in accordance with the guidance provided by SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, for assets to be disposed of by sale. In addition, during the third quarter of 2006, we recorded impairment charges of $10 million related to operations in our Recycling and Southern Groups.

During the second quarter of 2005, we recorded a $35 million charge for the impairment of the Pottstown Landfill located in West Pottsgrove Township, Pennsylvania. We determined that an impairment was necessary because, on May 18, 2005, the Pennsylvania Environmental Hearing Board upheld a denial by the Pennsylvania Department of Environmental Protection of a permit application for a vertical expansion at the landfill. After the denial was upheld, the Company reviewed the options available at the Pottstown Landfill and the likelihood of the possible outcomes of those options. After such evaluation and considering the length of time required for the appeal process and the permit application review, we decided not to pursue an appeal of the permit denial. This decision was primarily due to the expected impact of the permitting delays, which would have hindered our ability to fully utilize the expansion airspace before the landfill's required closure in 2010.

During the third quarter of 2005, we recognized a $59 million charge for capitalized software costs associated with the development of a revenue management system. The impairment of these software costs was recognized as a result of our decision to enter into an agreement for the license, implementation and maintenance of a new revenue management system.

(Income) expense from divestitures — We recognized $3 million of net losses and $39 million of net gains on divestitures during the three and nine months ended September 30, 2006, respectively, which were direct results of the execution of our plan to review under-performing or non-strategic operations and to either improve their performance or dispose of the operations. The majority of these net gains relates to operations located in our Western Group. Total proceeds from divestitures completed during the nine months ended September 30, 2006 were $159 million, all of which were received in cash.

During the second and third quarters of 2005, we recognized $37 million in gains as a result of the divestiture of certain operations in our Western and Southern Groups. In addition, in the first quarter of 2005, we recognized a $39 million gain as a result of the divestiture of a landfill in Ontario, Canada, which was required pursuant to a Divestiture Order by the Canadian Competition Bureau, resulting in a total of $76 million of gains on divestitures for the nine months ended September 30, 2005. Total proceeds from divestitures completed during the nine months ended September 30, 2005 were $151 million, of which $119 million was received in cash, $23 million was in the form of a note receivable and $9 million was in the form of non-monetary assets.

We do not believe that these divestitures are material either individually or in the aggregate and we do not expect these divestitures to materially affect our consolidated financial position or future results of operations or cash flows.

Other — In the first quarter of 2005, we recognized a charge of approximately $16 million for the impact of a litigation settlement reached with a group of stockholders that opted not to participate in the settlement of the securities class action lawsuit against us related to 1998 and 1999 activity. During the third quarter of 2005, we settled our ongoing defense costs and possible indemnity obligations for four former officers of WM Holdings related to legacy litigation brought against them by the SEC. As a result, we recorded a $26.8 million charge for the funding of the court-ordered distribution of $27.5 million to our shareholders in settlement of the legacy litigation against the former officers. This charge was partially offset by the recognition of a $14 million net benefit recorded during the nine months ended September 30, 2005, which was primarily for adjustments to our receivables and estimated obligations for non-solid waste operations divested in 1999 and 2000.

13. Condensed Consolidating Financial Statements

WM Holdings has fully and unconditionally guaranteed all of WMI’s senior indebtedness. WMI has fully and unconditionally guaranteed all of WM Holdings’ senior indebtedness and its 5.75% convertible subordinated notes that matured and were repaid in January 2005. None of WMI’s other subsidiaries have guaranteed any of WMI’s or WM Holdings’ debt. As a result of these guarantee arrangements, we are required to present the following condensed consolidating financial information (in millions):

CONDENSED CONSOLIDATING BALANCE SHEETS

September 30, 2006
(Unaudited)

ASSETS

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Current assets:					
Cash and cash equivalents	$ 817	$ —	$ —	$ (71)	$ 746
Other current assets	332	—	2,522	—	2,854
	1,149	—	2,522	(71)	3,600
Property and equipment, net	—	—	10,985	—	10,985
Investments in and advances to affiliates	9,372	9,294	—	(18,666)	—
Other assets	29	11	6,294	—	6,334
Total assets	$ 10,550	$ 9,305	$ 19,801	$ (18,737)	$ 20,919
LIABILITIES AND STOCKHOLDERS' EQUITY					
Current liabilities:					
Current portion of long-term debt	$ 52	$ 300	$ 510	$ —	$ 862
Accounts payable and other current liabilities	109	25	2,433	(71)	2,496
	161	325	2,943	(71)	3,358
Long-term debt, less current portion	4,112	888	2,780	—	7,780
Due to affiliates	—	—	1,670	(1,670)	—
Other liabilities	117	7	3,209	—	3,333
Total liabilities	4,390	1,220	10,602	(1,741)	14,471
Minority interest in subsidiaries and variable interest entities	—	—	288	—	288
Stockholders' equity	6,160	8,085	8,911	(16,996)	6,160
Total liabilities and stockholders' equity	$ 10,550	$ 9,305	$ 19,801	$ (18,737)	$ 20,919

December 31, 2005

ASSETS

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Current assets:					
Cash and cash equivalents	$ 698	$ —	$ —	$ (32)	$ 666
Other current assets	300	—	2,485	—	2,785
	998	—	2,485	(32)	3,451
Property and equipment, net	—	—	11,221	—	11,221
Investments in and advances to affiliates	9,599	8,262	—	(17,861)	—
Other assets	34	11	6,418	—	6,463
Total assets	$ 10,631	$ 8,273	$ 20,124	$ (17,893)	$ 21,135
LIABILITIES AND STOCKHOLDERS' EQUITY					
Current liabilities:					
Current portion of long-term debt	$ —	$ 303	$ 219	$ —	$ 522
Accounts payable and other current liabilities	202	26	2,539	(32)	2,735
	202	329	2,758	(32)	3,257
Long-term debt, less current portion	4,183	890	3,092	—	8,165
Due to affiliates	—	—	3,006	(3,006)	—
Other liabilities	125	8	3,178	—	3,311
Total liabilities	4,510	1,227	12,034	(3,038)	14,733
Minority interest in subsidiaries and variable interest entities	—	—	281	—	281
Stockholders' equity	6,121	7,046	7,809	(14,855)	6,121
Total liabilities and stockholders' equity	$ 10,631	$ 8,273	$ 20,124	$ (17,893)	$ 21,135

CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

Three Months Ended September 30, 2006
(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	$ —	$ —	$ 3,441	$ —	$ 3,441
Costs and expenses	—	—	2,884	—	2,884
Income from operations	—	—	557	—	557
Other income (expense):					
Interest income (expense)	(72)	(21)	(21)	—	(114)
Equity in subsidiaries, net of taxes	346	359	—	(705)	—
Minority interest	—	—	(11)	—	(11)
Equity in net earnings (losses) of unconsolidated entities and other, net	—	—	(19)	—	(19)
	274	338	(51)	(705)	(144)
Income before income taxes	274	338	506	(705)	413
Provision for (benefit from) income taxes	(26)	(8)	147	—	113
Net income	$ 300	$ 346	$ 359	$ (705)	$ 300

Three Months Ended September 30, 2005
(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	$ —	$ —	$ 3,375	$ —	$ 3,375
Costs and expenses	—	—	2,993	—	2,993
Income from operations	—	—	382	—	382
Other income (expense):					
Interest income (expense)	(70)	(20)	(27)	—	(117)
Equity in subsidiaries, net of taxes	260	273	—	(533)	—
Minority interest	—	—	(12)	—	(12)
Equity in net earnings (losses) of unconsolidated entities and other, net	—	—	(27)	—	(27)
	190	253	(66)	(533)	(156)
Income before income taxes	190	253	316	(533)	226
Provision for (benefit from) income taxes	(25)	(7)	43	—	11
Net income	$ 215	$ 260	$ 273	$ (533)	$ 215

CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

Nine Months Ended September 30, 2006
(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	$ —	$ —	$ 10,080	$ —	$ 10,080
Costs and expenses	—	—	8,523	—	8,523
Income from operations	—	—	1,557	—	1,557
Other income (expense):					
Interest income (expense)	(214)	(62)	(83)	—	(359)
Equity in subsidiaries, net of taxes	1,039	1,078	—	(2,117)	—
Minority interest	—	—	(33)	—	(33)
Equity in net earnings (losses) of unconsolidated entities and other, net	—	—	(16)	—	(16)
	825	1,016	(132)	(2,117)	(408)
Income before income taxes	825	1,016	1,425	(2,117)	1,149
Provision for (benefit from) income taxes	(78)	(23)	347	—	246
Net income	$ 903	$ 1,039	$ 1,078	$ (2,117)	$ 903

Nine Months Ended September 30, 2005
(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	$ —	$ —	$ 9,702	$ —	$ 9,702
Costs and expenses	—	—	8,491	—	8,491
Income from operations	—	—	1,211	—	1,211
Other income (expense):					
Interest income (expense)	(201)	(63)	(85)	—	(349)
Equity in subsidiaries, net of taxes	1,020	1,060	—	(2,080)	—
Minority interest	—	—	(33)	—	(33)
Equity in net earnings (losses) of unconsolidated entities and other, net	—	—	(78)	—	(78)
	819	997	(196)	(2,080)	(460)
Income before income taxes	819	997	1,015	(2,080)	751
Benefit from income taxes	(73)	(23)	(45)	—	(141)
Net income	$ 892	$ 1,020	$ 1,060	$ (2,080)	$ 892

CONDENSED CONSOLIDATING STATEMENTS OF CASH FLOWS

Nine Months Ended September 30, 2006
(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Cash flows from operating activities:					
Net income	$ 903	$ 1,039	$ 1,078	$ (2,117)	$ 903
Equity in earnings of subsidiaries, net of taxes	(1,039)	(1,078)	—	2,117	—
Other adjustments and charges	(17)	(5)	984	—	962
Net cash provided by (used in) operating activities	(153)	(44)	2,062	—	1,865
Cash flows from investing activities:					
Acquisitions of businesses, net of cash acquired	—	—	(32)	—	(32)
Capital expenditures	—	—	(824)	—	(824)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	—	—	198	—	198
Purchases of short-term investments	(2,381)	—	—	—	(2,381)
Proceeds from sales of short-term investments	2,349	—	6	—	2,355
Net receipts from restricted trust and escrow accounts and other, net	—	—	115	—	115
Net cash used in investing activities	(32)	—	(537)	—	(569)
Cash flows from financing activities:					
New borrowings	—	—	118	—	118
Debt repayments	—	—	(236)	—	(236)
Common stock repurchases	(934)	—	—	—	(934)
Cash dividends	(358)	—	—	—	(358)
Exercise of common stock options and warrants	219	—	—	—	219
Other, net	32	—	(57)	—	(25)
(Increase) decrease in intercompany and investments, net	1,345	44	(1,350)	(39)	—
Net cash provided by (used in) financing activities	304	44	(1,525)	(39)	(1,216)
Effect of exchange rate changes on cash and cash equivalents	—	—	—	—	—
Increase (decrease) in cash and cash equivalents	119	—	—	(39)	80
Cash and cash equivalents at beginning of period	698	—	—	(32)	666
Cash and cash equivalents at end of period	$ 817	$ —	$ —	$ (71)	$ 746

CONDENSED CONSOLIDATING STATEMENTS OF CASH FLOWS

Nine Months Ended September 30, 2005
(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Cash flows from operating activities:					
Net income	$ 892	$ 1,020	$ 1,060	$ (2,080)	$ 892
Equity in earnings of subsidiaries, net of taxes	(1,020)	(1,060)	—	2,080	—
Other adjustments and charges	5	(7)	836	—	834
Net cash provided by (used in) operating activities	(123)	(47)	1,896	—	1,726
Cash flows from investing activities:					
Acquisitions of businesses, net of cash acquired	—	—	(130)	—	(130)
Capital expenditures	—	—	(765)	—	(765)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	—	—	158	—	158
Purchases of short-term investments	(558)	—	(46)	—	(604)
Proceeds from sales of short-term investments	399	—	35	—	434
Net receipts from restricted trust and escrow accounts and other, net	1	—	268	—	269
Net cash provided by (used in) investing activities	(158)	—	(480)	—	(638)
Cash flows from financing activities:					
New borrowings	—	—	25	—	25
Debt repayments	—	(138)	(147)	—	(285)
Common stock repurchases	(573)	—	—	—	(573)
Cash dividends	(339)	—	—	—	(339)
Exercise of common stock options and warrants	68	—	—	—	68
Other, net	—	—	(111)	—	(111)
(Increase) decrease in intercompany and investments, net	1,152	185	(1,253)	(84)	—
Net cash provided by (used in) financing activities	308	47	(1,486)	(84)	(1,215)
Effect of exchange rate changes on cash and cash equivalents	—	—	3	—	3
Increase in cash and cash equivalents	27	—	(67)	(84)	(124)
Cash and cash equivalents at beginning of period	357	—	67	—	424
Cash and cash equivalents at end of period	$ 384	$ —	$ —	$ (84)	$ 300

14. New Accounting Pronouncements

FIN 48 — Accounting for Uncertainty in Income Taxes

In June 2006, the FASB issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes (an interpretation of FASB Statement No. 109)*, ("FIN 48"), which clarifies the relevant criteria and approach for the recognition, de-recognition and measurement of uncertain tax positions. FIN 48 will be effective for the Company beginning January 1, 2007. We are currently in the process of assessing the provisions of FIN 48, but do not expect the adoption of FIN 48 to have a material impact on our consolidated financial statements.

SFAS No. 157 — Fair Value Measurements

In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurements*, ("SFAS No. 157"), which defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. SFAS No. 157 will be effective for the Company beginning January 1, 2008. We are currently in the process of assessing the provisions of SFAS No. 157 and determining how this framework for measuring fair value will affect our current accounting policies and procedures and our financial statements. We have not determined whether the adoption of SFAS No. 157 will have a material impact on our consolidated financial statements.

SFAS No. 158 — Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans

In September 2006, the FASB issued SFAS No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans — an amendment of FASB Statements No. 87, 88, 106, and 132(R)* ("SFAS No. 158"). SFAS No. 158 requires companies to recognize the overfunded or underfunded status of their defined benefit postretirement plans as an asset or liability and to recognize changes in that funded status in the year in which the changes occur through comprehensive income. As required, the Company will adopt SFAS No. 158 on December 31, 2006. We do not expect the adoption of SFAS No. 158 to have a material impact on our consolidated financial statements.

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations.***

In an effort to keep our stockholders and the public informed about our business, we may make "forward-looking statements." Forward-looking statements usually relate to future events and anticipated revenues, earning, cash flows or other aspects of our operations or operating results. Forward-looking statements generally include statements containing:

- projections about accounting and finances;
- plans and objectives for the future;
- projections or estimates about assumptions relating to our performance; and
- our opinions, views or beliefs about current or future events, circumstances or performance.

You should view these statements with caution. These statements are not guarantees of future performance, circumstances or events. They are based on the facts and circumstances known to us as of the date the statements are made. All phases of our business are subject to uncertainties, risks and other influences, many of which we do not control. Any of these factors, either alone or taken together, could have a material adverse effect on us and could change whether any forward-looking statement ultimately turns out to be true. Additionally, we assume no obligation to update any forward-looking statement as a result of future events, circumstances or developments. The following discussion should be read together with the Condensed Consolidated Financial Statements and the notes thereto.

Some of the risks that we face and that could affect our business and financial statements for the remainder of 2006 and beyond include:

- competition may negatively affect our profitability or cash flows, our price increases may have negative effects on volumes, and price roll-backs and lower than average pricing to retain and attract customers may negatively affect our yield on base business;
- we may be unable to maintain or expand margins if we are unable to control costs;
- we may be unable to attract or retain qualified personnel, including licensed commercial drivers and truck maintenance professionals;
- we may not be able to successfully execute or continue our operational or other margin improvement plans and programs, including pricing increases, passing on increased costs to our customers, divesting under-performing assets and purchasing accretive businesses, any of which could negatively affect our revenues and margins;
- fuel price increases or fuel supply shortages may increase our expenses, including our tax expense if Section 45K credits are phased out due to continued high crude oil prices;
- fluctuating commodity prices may have negative effects on our operating revenues and expenses;
- inflation and resulting higher interest rates may have negative effects on the economy, which could result in decreases in volumes of waste generated and increases in our financing costs and other expenses;
- the possible inability of our insurers to meet their obligations may cause our expenses to increase;
- weather conditions cause our quarter-to-quarter results to fluctuate, and extremely harsh weather or natural disasters may cause us to temporarily shut down operations;
- possible changes in our estimates of site remediation requirements, final capping, closure and post-closure obligations, compliance and regulatory developments may increase our expenses;

- regulations may negatively impact our business by, among other things, increasing compliance costs and potential liabilities;
- if we are unable to obtain and maintain permits needed to open, operate and/or expand our facilities, our results of operations will be negatively impacted;
- limitations or bans on disposal or transportation of out-of-state or cross-border waste or certain categories of waste can increase our expenses and reduce our revenues;
- possible charges as a result of shut-down operations, uncompleted development or expansion projects or other events may negatively affect earnings;
- trends requiring recycling or waste reduction at the source and prohibiting the disposal of certain types of wastes could have negative effects on volumes of waste going to landfills and waste-to-energy facilities, which are higher margin businesses than recycling;
- efforts by labor unions to organize our employees may divert management's attention and increase operating expenses and we may be unable to negotiate acceptable collective bargaining agreements with those who have chosen to be represented by unions, which could lead to union-initiated work stoppages, including strikes, which could adversely affect our results of operations and cash flows;
- negative outcomes of litigation or threatened litigation or governmental proceedings may increase our costs, limit our ability to conduct or expand our operations, or limit our ability to execute our business plans and strategies;
- possible errors or problems implementing and deploying new information technology systems may decrease our efficiencies and increase our costs to operate;
- the adoption of new accounting standards or interpretations may cause fluctuations in quarterly results of operations or adversely impact our results of operations; and
- we may reduce or eliminate our dividend or share repurchase program or we may need additional capital if cash flows are less than we expect or capital expenditures are more than we expect, and we may not be able to obtain any needed capital on acceptable terms.

These are not the only risks that we face. There may be additional risks that we do not presently know of or that we currently believe are immaterial which could also impair our business and financial position.

General

Our principal executive offices are located at 1001 Fannin Street, Suite 4000, Houston, Texas 77002. Our telephone number at this address is (713) 512-6200. Our website address is http://www.wm.com. Our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K are all available, free of charge, on our website as soon as practicable after we file the reports with the SEC. Our stock is traded on the New York Stock Exchange under the symbol "WMI."

We are the leading provider of integrated waste services in North America. Using our vast network of assets and employees, we provide a comprehensive range of waste management services. Through our subsidiaries we provide collection, transfer, recycling, disposal and waste-to-energy services. In providing these services, we actively pursue projects and initiatives that we believe make a positive difference for our environment, including recovering and processing the methane gas produced naturally by landfills into a renewable energy source. Our customers include commercial, industrial, municipal and residential customers, other waste management companies, electric utilities and governmental entities.

Overview

In the third quarter of 2006, our operating results continued to reflect the progress we are making in margin expansion as a result of the strength of our pricing, cost control and fix-or-sell initiatives. In the third quarter of 2006, revenues increased by $66 million when compared with the three months ended September 30, 2005, largely as a result of growth in our yield on base business. Internal revenue growth from yield on base business increased by $120 million, or 3.6% in the third quarter of 2006, which was partially offset by decreased revenues due to lost volumes. Our volume declines are partially attributable to our focus on improving margins through our pricing initiatives and our divestitures of under-performing businesses. The remaining volume-related revenue declines are due to the loss of nearly one workday when compared with the same period of the prior year and to lower volumes from non-core revenues. For the three months ended September 30, 2006, our operating costs as a percentage of revenue decreased by 1.8 percentage points when compared with the same period of 2005, demonstrating our ability to manage our overall cost structure. Our selling, general and administrative costs as a percentage of revenue for the three months ended September 30, 2006 increased by 0.8 percentage points, largely due to higher bonus expense as a result of the overall improvement in our performance. The increase in selling, general and administrative expenses is also due to non-capitalizable costs incurred to support the development of our revenue management system and the increased costs for our national advertising campaign, both of which we expect to provide long-term benefits to the growth and sustainability of our business.

Our net income for the quarter was $300 million, or $0.55 per diluted share, as compared with $215 million, or $0.38 per diluted share, in the third quarter of 2005. For the nine months ended September 30, 2006, our net income was $903 million, or $1.65 per diluted share, as compared with $892 million, or $1.57 per diluted share, for the same period in 2005. Items that negatively affected the 2005 results and are not part of our ongoing operations had a significant impact on the comparability of our current year results with those of 2005. These items include: asset impairments and unusual items related to the impairment of capitalized software costs and settlements of legal obligations; a restructuring charge related to our July 2005 reorganization; and a charge to amortization expense to reflect the cumulative impact of correcting amortization periods of certain landfills. Notwithstanding these items, each of which is more fully discussed in the following discussion and analysis, we saw improvements in our continuing operations and we remain confident that our strategies will continue to show positive results.

We report our financial results in accordance with generally accepted accounting principles (“GAAP”). However, certain GAAP measures include non-recurring or otherwise unusual items that management does not believe reflect fundamental business performance. We believe it is sometimes appropriate to exclude such items and present non-GAAP measures to provide additional meaningful comparisons between periods. Additionally, we have included free cash flow, which is a non-GAAP measure of liquidity, in our disclosures because we use this measure in the evaluation and management of our business and believe it is indicative of our ability to pay our quarterly dividends, repurchase our common stock and fund acquisitions. Free cash flow is not intended to replace the GAAP measure of “Net cash provided by operating activities.” However, by subtracting cash used for capital expenditures and adding the cash proceeds from divestitures and other asset sales, we believe free cash flow gives investors greater insight into our liquidity and ability to generate cash.

We experienced growth in our 2006 operating and free cash flow, which reflects the improvements in our operating results, particularly those contributed by our increase in revenue from our pricing program. Cash used for capital expenditures increased by 31% in the three months ended September 30, 2006 as compared with the same period in 2005, and we currently expect to see continued increases in our capital expenditures in the fourth quarter, on both a year-over-year and a sequential quarter basis. Therefore, a decrease in free cash flow for the fourth quarter of 2006 may occur unless there is a significant increase in proceeds from sales of businesses under our divestiture program. However, in the nine months ended September 30, 2006, we have already reached our initial 2006 full year forecast of $1.2 billion to $1.3 billion of free cash flow. Therefore, we believe that even with possible decreases in free cash flow in the fourth quarter, we will either meet or exceed our full year projections. Therefore, any potential decrease in our fourth quarter 2006 free cash flow should be viewed solely as a timing difference regarding capital expenditures. We remain confident in our ability to continue generating free cash flow sufficient for our business plans.

Free cash flow for the three and nine-month periods ended September 30, 2006 and 2005 is summarized in the table below (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Net cash provided by operating activities	$ 745	$ 623	$1,865	$1,726
Capital expenditures	(357)	(272)	(824)	(765)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	43	34	198	158
Free cash flow	$ 431	$ 385	$1,239	$1,119

Basis of Presentation of Consolidated and Segment Financial Information

Accounting Change — On January 1, 2006, we adopted Statement of Financial Accounting Standards ("SFAS") No. 123 (revised 2004), *Share Based Payment* ("SFAS No. 123(R)"), which requires compensation expense to be recognized for all share-based payments made to employees based on the fair value of the award at the date of grant. We adopted SFAS No. 123(R) using the modified prospective method, which results in (i) the recognition of compensation expense using the provisions of SFAS No. 123(R) for all share-based awards granted or modified after December 31, 2005 and (ii) the recognition of compensation expense using the provisions of SFAS No. 123, *Accounting for Stock-Based Compensation* ("SFAS No. 123") for all unvested awards outstanding at the date of adoption.

Through December 31, 2005, as permitted by SFAS No. 123, we accounted for equity-based compensation in accordance with Accounting Principles Board ("APB") Opinion No. 25, *Accounting for Stock Issued to Employees*, as amended ("APB No. 25"). Under APB No. 25, we recognized compensation expense based on an award's intrinsic value. For stock options, which were the primary form of awards we granted through December 31, 2004, this meant that we recognized no compensation expense in connection with the grants, as the exercise price of the options was equal to the fair market value of our common stock on the date of grant and all other provisions were fixed. As discussed below, beginning in 2005, restricted stock units and performance share units have been the primary form of equity-based compensation awarded under our long-term incentive plans. For restricted stock units, intrinsic value is equal to the market value of our common stock on the date of grant. For performance share units, APB No. 25 required "variable accounting," which resulted in the recognition of compensation expense based on the intrinsic value of each award at the end of each reporting period.

In December 2005, the Management Development and Compensation Committee of our Board of Directors approved the acceleration of the vesting of all unvested stock options awarded under our stock incentive plans, effective December 28, 2005. The decision to accelerate the vesting of outstanding stock options was made primarily to reduce the non-cash compensation expense that we would have otherwise recorded in future periods as a result of adopting SFAS No. 123(R). We estimate that the acceleration eliminated approximately $55 million of cumulative pre-tax compensation charges that would have been recognized during 2006, 2007 and 2008 as the stock options would have continued to vest. We recognized a $2 million pre-tax charge to compensation expense during the fourth quarter of 2005 as a result of the acceleration, but do not expect to recognize future compensation expense for the accelerated options under SFAS No. 123(R) unless further modifications are made to the options, which is not anticipated.

Additionally, as a result of changes in accounting required by SFAS No. 123(R) and a desire to design our long-term incentive plans in a manner that creates a stronger link to operating and market performance, the Management Development and Compensation Committee approved a substantial change in the form of awards that we grant. Beginning in 2005, annual stock option grants, as well as stock option grants in connection with new hires and promotions, were replaced with either (i) grants of restricted stock units and performance share units or (ii) an enhanced cash compensation award. The terms of restricted stock units and performance share units granted during 2006 are summarized in Note 8 to the Condensed Consolidated Financial Statements.

The following table presents compensation expense recognized in connection with restricted stock, restricted stock units and performance share units (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Compensation expense	$ 6	$ 3	$ 15	$ 14
Compensation expense, net of tax	$ 4	$ 2	$ 9	$ 9

As discussed above, the decisions of the Management Development and Compensation Committee of the Board of Directors related to equity-based compensation included the consideration of the expected impact of adopting SFAS No. 123(R) and resulted in their decision to accelerate the vesting of outstanding stock options and replace stock options with restricted stock units and performance share units. As a result of these changes, the adoption of SFAS No. 123(R) on January 1, 2006 did not significantly affect our accounting for equity-based compensation or net income for the nine months ended September 30, 2006. We do not currently expect this change in accounting to significantly impact our future results of operations. However, we do expect equity-based compensation expense to increase over the next three to four years because of the incremental expense that will be recognized each year as additional awards are granted.

Reclassification of Segment Information — In the third quarter of 2005, we eliminated our Canadian Group office, and the management of our Canadian operations was allocated among our Eastern, Midwest and Western Groups. The historical operating results of our Canadian operations have been allocated to the Eastern, Midwest and Western Groups to provide financial information that consistently reflects our current approach to managing our operations. This reorganization also resulted in the centralization of certain Group office functions. The administrative costs associated with these functions were included in the measurement of income from operations for our reportable segments through August 2005, when the integration of these functions with our existing centralized processes was completed. Beginning in September 2005, these administrative costs have been included in the income from operations of our Corporate organization. The reallocation of these costs has not significantly affected the operating results of our reportable segments for the periods presented.

Reconsideration of a Variable Interest — During the third quarter of 2003, we issued a letter of credit to support the debt of a surety bonding company established by an unrelated third party to issue surety bonds to the waste industry and other industries. The letter of credit, which was valued at $28.6 million, served as a guarantee of the entity's debt obligations. In 2003, we determined that our guarantee created a significant variable interest in a variable interest entity, and that we were the primary beneficiary of the variable interest entity under the provisions of the Financial Accounting Standards Board's ("FASB") Interpretation No. 46, *Consolidation of Variable Interest Entities* ("FIN 46"). Accordingly, from the third quarter of 2003 until April 2006, this variable interest entity was consolidated into our financial statements.

During 2006, the debt of this entity was refinanced. As a result of the refinancing, our guarantee arrangement was also renegotiated, reducing the value of our guarantee to approximately $5 million as of September 30, 2006. We determined that the refinancing of the entity's debt obligations and corresponding renegotiation of our guarantee represented significant changes in the entity that required reconsideration of the applicability of FIN 46. As a result of the reconsideration of our interest in this variable interest entity, we concluded that we are no longer the primary beneficiary of this entity. Accordingly, in April 2006, we deconsolidated the surety bonding company. The deconsolidation of this entity did not materially impact our Condensed Consolidated Financial Statements for the periods presented.

Critical Accounting Estimates and Assumptions

In preparing our financial statements, we make several estimates and assumptions that affect our assets, liabilities, stockholders' equity, revenues and expenses. We must make these estimates and assumptions because certain information that is used in the preparation of our financial statements is dependent on future events, cannot be calculated with a high degree of precision from available data or is simply not capable of being readily calculated based on generally accepted methodologies. In some cases, these estimates are particularly difficult to determine and we must exercise significant judgment. The most difficult, subjective and complex estimates and the assumptions that deal with the greatest amount of uncertainty relate to our accounting for landfills, environmental remediation liabilities, asset impairments and self-insurance reserves and recoveries, as described in Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2005.

Results of Operations

The following table presents, for the periods indicated, the period-to-period change in dollars (in millions) and percentages for the respective Condensed Consolidated Statement of Operations line items:

	Period-to-Period Change For the Three Months Ended September 30, 2006 and 2005		Period-to-Period Change For the Nine Months Ended September 30, 2006 and 2005	
Operating revenues	$ 66	2.0%	$378	3.9%
Costs and expenses:				
Operating	(21)	(1.0)	61	1.0
Selling, general and administrative	35	11.3	88	9.2
Depreciation and amortization	(29)	(7.9)	(23)	(2.2)
Restructuring	(27)	*	(27)	*
(Income) expense from divestitures, asset impairments and unusual items	(67)	*	(67)	*
	(109)	(3.6)	32	0.4
Income from operations	175	45.8	346	28.6
Other income (expense):				
Interest income (expense), net	3	(2.6)	(10)	2.9
Equity in net losses of unconsolidated entities	7	*	61	*
Minority interest	1	(8.3)	—	—
Other, net	1	*	1	*
	12	(7.7)	52	(11.3)
Income before income taxes	$ 187	82.7%	$398	53.0%

* Percentage change does not provide a meaningful comparison.

The following table presents, for the periods indicated, the percentage relationship that the respective Condensed Consolidated Statement of Operations line items bear to operating revenues:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Operating revenues	100.0%	100.0%	100.0%	100.0%
Costs and expenses:				
Operating	63.4	65.2	64.3	66.2
Selling, general and administrative	10.0	9.2	10.3	9.8
Depreciation and amortization	9.9	10.9	10.1	10.7
Restructuring	—	0.8	—	0.3
(Income) expense from divestitures, asset impairments and unusual items	0.5	2.6	(0.1)	0.6
	83.8	88.7	84.6	87.6
Income from operations	16.2	11.3	15.4	12.4
Other income (expense):				
Interest income (expense), net	(3.3)	(3.5)	(3.5)	(3.6)
Equity in net losses of unconsolidated entities	(0.6)	(0.8)	(0.2)	(0.8)
Minority interest	(0.3)	(0.3)	(0.3)	(0.3)
Other, net	—	—	—	—
	(4.2)	(4.6)	(4.0)	(4.7)
Income before income taxes	12.0%	6.7%	11.4%	7.7%

Operating Revenues

Our operating revenues for the three and nine months ended September 30, 2006 were $3.4 billion and $10.1 billion, respectively, compared with $3.4 billion and $9.7 billion for the three and nine months ended September 30, 2005, respectively. We manage and evaluate our operations primarily through our Eastern, Midwest, Southern, Western, Wheelabrator (which includes our waste-to-energy facilities and independent power production plants, or IPPs) and Recycling Groups. These six operating Groups are our reportable segments. Shown below (in millions) is the contribution to revenues during each period provided by our six operating Groups and our Other waste services:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Eastern	$ 998	$ 1,003	$ 2,901	$ 2,842
Midwest	813	801	2,346	2,286
Southern	951	892	2,840	2,641
Western	805	801	2,382	2,298
Wheelabrator	233	231	677	647
Recycling	199	213	580	629
Other	70	73	217	217
Intercompany	(628)	(639)	(1,863)	(1,858)
Total	$ 3,441	$ 3,375	$ 10,080	$ 9,702

Our operating revenues generally come from fees charged for our collection, disposal, transfer, Wheelabrator and recycling services. Some of the fees we charge to our customers for collection services are billed in advance; a liability for future service is recorded when we bill the customer and operating revenues are recognized as services are actually provided. Revenues from our disposal operations consist of tipping fees, which are generally based on the weight, volume and type of waste being disposed of at our disposal facilities and are normally billed monthly or semi-monthly. Fees charged at transfer stations are generally based on the volume of waste deposited, taking into account our cost of loading, transporting and disposing of the solid waste at a disposal site, and are normally billed monthly. Our Wheelabrator revenues are based on the type and volume of waste received at our waste-to-energy facilities and IPPs and fees charged for the sale of energy and steam. Recycling revenue, which is generated by our Recycling Group as well as our four geographic operating Groups, generally consists of the sale of recyclable commodities to third parties and tipping fees. Intercompany revenues between our operations have been eliminated in the consolidated financial statements. The mix of operating revenues from our different services is reflected in the table below (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Collection	$ 2,251	$ 2,199	$ 6,661	$ 6,424
Landfill	838	816	2,422	2,283
Transfer	469	462	1,369	1,312
Wheelabrator	233	231	677	647
Recycling and other	278	306	814	894
Intercompany	(628)	(639)	(1,863)	(1,858)
Total	$ 3,441	$ 3,375	$ 10,080	$ 9,702

The following table provides details associated with the period-to-period change in revenues (dollars in millions) along with an explanation of the significant components of the current period changes:

	Period-to-Period Change For the Three Months Ended September 30, 2006 and 2005		Period-to-Period Change For the Nine Months Ended September 30, 2006 and 2005	
Average yield:				
Base business	$ 120	3.6%	$ 365	3.8%
Commodity	—	—	(56)	(0.6)
Electricity (IPPs)	—	—	2	—
Fuel surcharge and mandated fees	33	1.0	122	1.3
Total	153	4.6	433	4.5
Volume	(61)	(1.8)	(41)	(0.4)
Internal growth	92	2.8	392	4.1
Acquisitions	10	0.3	44	0.4
Divestitures	(48)	(1.4)	(96)	(1.0)
Foreign currency translation	12	0.3	38	0.4
	$ 66	2.0%	$ 378	3.9%

Base Business — Revenue growth from yield on base business reflects the effect on our revenue from the pricing activities of our collection, transfer, disposal and waste-to-energy operations, exclusive of volume changes. Our revenue growth from base business yield includes not only price increases, but also (i) price decreases to retain customers; (ii) changes in average price from new and lost business; and (iii) certain average price changes related to the overall mix of services, which are due to both the types of services provided and the geographic locations where our services are provided. Our pricing excellence initiative continues to be the primary contributor to internal revenue growth. Base business yield provided revenue growth for each line of business during the three and nine months ended September 30, 2006 when compared with the corresponding periods of the prior year.

When comparing the three and nine months ended September 30, 2006 with the comparable prior year periods, the revenue growth from base business yield is primarily attributable to our collection operations, where we experienced substantial revenue growth in every geographic operating group. Our base business yield improvement resulted largely from our continued focus on pricing our business based on market-specific factors, including our costs. As discussed below, the significant collection revenue increase due to yield has been partially offset by revenue declines from lower collection volumes. In assessing the impact of higher collection yield on our volumes, we continue to find that, in spite of collection volume declines, revenue growth from base business yield and a focus on controlling variable costs are providing notable margin and cash flow improvements.

In addition to the improvements in the collection line of business, we have experienced substantial yield contributions to revenues from our waste-to-energy facilities, transfer stations and on construction and demolition, municipal solid waste and special waste streams at our landfills. Revenue improvements at our waste-to-energy facilities were largely due to significant increases in the rates charged for electricity under our long-term contracts with electric utilities, which generally are indexed to natural gas prices. Base business yield improvements at our transfer stations and landfills are due to the improved pricing practices implemented as a result of our findings from our landfill pricing study during 2005.

Our environmental cost recovery fee increased revenues by $13 million and $31 million during the three and nine months ended September 30, 2006, respectively, when compared with the same periods in 2005. Other fee programs targeted at recovering the costs we incur for services, such as the collection of past due balances, also contributed to yield improvement in the current year periods.

Commodity — Revenues attributable to recycling commodities were flat when comparing the three months ended September 30, 2006 with the three months ended September 30, 2005, but have decreased significantly when comparing the nine-month periods. This decrease is largely due to declines in the market prices for commodities we process. For example, during the nine months ended September 30, 2006, the average price for old corrugated cardboard dropped by about 9%, from $78 per ton in 2005 to $71 per ton in 2006, and the average price for old newsprint was down by about 10%, from $83 per ton in the first nine months of 2005 to $75 per ton in the first nine months of 2006.

Fuel surcharge and mandated fees — When comparing revenues for the three and nine months ended September 30, 2006 with those of the comparable prior year periods, fuel surcharges increased revenues by $31 million and $120 million, respectively. This is due to (i) an increase in market prices for fuel; (ii) an increase in the number of customers covered by our fuel surcharge program; and (iii) the revision of our fuel surcharge program at the beginning of the third quarter of 2005 to incorporate the estimated indirect fuel cost increases passed on to us by subcontracted haulers and vendors. The increases in our operating expenses due to higher diesel fuel prices include our direct fuel costs for our operations, included in *Operating Expenses — Fuel*, as well as estimated indirect costs, which are included primarily in *Operating Expenses — Subcontractor Costs.* As discussed in that section, both components were recovered by our fuel surcharge program during the three and nine months ended September 30, 2006. There was not a significant change in revenues attributable to mandated fees during the three and nine months ended September 30, 2006 when compared with the same periods in 2005.

Volume — The year-over-year changes in volume-related revenues for both the three and nine months ended September 30, 2006 have been driven by declines in our collection volumes, which have been partially offset by increased disposal volumes.

We experienced declines of $53 million and $122 million in volume-related revenues in our collection business for the three and nine months ended September 30, 2006, respectively, due primarily to our focus on improving the margins in this line of business through pricing. For the three months ended September 30, 2006, this volume-related decline was the most significant in our industrial and residential collection operations, with our Eastern and Midwestern Groups experiencing the most notable decreases. For the nine months ended September 30, 2006, this volume-related revenue decline was the most significant in our residential collection operations, with our Eastern, Southern and Midwestern Groups experiencing the most notable decreases. Our commercial and industrial collection operations have also experienced volume-related revenue declines in 2006, principally in the Eastern and Midwestern Groups.

For the three and nine months ended September 30, 2006, increases in the revenue generated from our disposal volumes have partially offset the decline in revenue from collection volumes. We believe that the continued strength of the economy and favorable weather in many parts of the country were the primary drivers of the higher disposal volumes, which were particularly strong in the Southern Group. The growth in revenues from our disposal-related volumes is driven primarily from our special waste, municipal solid waste and construction and demolition waste streams.

Also contributing to the changes in our volume-related revenues for 2006 were (i) an increase in volume-related revenues during the first half of 2006 associated with continued hurricane related services, (ii) nearly one less workday during the third quarter of 2006 when compared with the third quarter of 2005, (iii) the deconsolidation of a variable interest entity during the second quarter of 2006 and (iv) a decline in revenue due to the completion in early 2006 of the construction of an integrated waste facility on behalf of a municipality in Canada. The revenue generated by this construction project in 2005 was low margin.

Divestitures — The $48 million and $96 million declines in divestiture related revenue for the three and nine months ended September 30, 2006, respectively, are associated with the Company’s divestiture of under-performing or non-strategic operations.

Operating Expenses

Our operating expenses include (i) labor and related benefits (excluding labor costs associated with maintenance and repairs included below), which include salaries and wages, bonuses, related payroll taxes, insurance and benefits costs and the costs associated with contract labor; (ii) transfer and disposal costs, which include tipping fees paid to third party disposal facilities and transfer stations; (iii) maintenance and repairs relating to equipment, vehicles and facilities and related labor costs; (iv) subcontractor costs, which include the costs charged by independent haulers who transport our waste to disposal facilities and are driven by transportation costs such as fuel prices; (v) costs of goods sold, which are primarily the rebates paid to suppliers associated with recycling commodities; (vi) fuel costs, which represent the costs of fuel and oil to operate our truck fleet and landfill operating equipment; (vii) disposal and franchise fees and taxes, which include landfill taxes, municipal franchise fees, host community fees and royalties; (viii) landfill operating costs, which include landfill remediation costs, leachate and methane collection and treatment, other landfill site costs and interest accretion on asset retirement obligations; (ix) risk management costs, which include workers’ compensation and insurance and claim costs; and (x) other operating costs, which include, among other costs, equipment and facility rent and property taxes.

The following table summarizes the major components of our operating expenses, including the impact of foreign currency translation, for the three and nine months ended September 30, 2006 and 2005 (dollars in millions):

	Three Months Ended September 30, 2006	Three Months Ended September 30, 2005	Period to Period Change		Nine Months Ended September 30, 2006	Nine Months Ended September 30, 2005	Period to Period Change	
Labor and related benefits	$ 625	$ 627	$ (2)	(0.3)%	$ 1,865	$ 1,847	$ 18	1.0%
Transfer and disposal costs	322	328	(6)	(1.8)	948	957	(9)	(0.9)
Maintenance and repairs	273	278	(5)	(1.8)	852	843	9	1.1
Subcontractor costs	252	244	8	3.3	741	680	61	9.0
Cost of goods sold	158	164	(6)	(3.7)	440	489	(49)	(10.0)
Fuel	155	143	12	8.4	446	382	64	16.8
Disposal and franchise fees and taxes	165	169	(4)	(2.4)	481	483	(2)	(0.4)
Landfill operating costs	62	59	3	5.1	172	170	2	1.2
Risk management	75	82	(7)	(8.5)	227	236	(9)	(3.8)
Other	94	108	(14)	(13.0)	308	332	(24)	(7.2)
	$ 2,181	$ 2,202	$ (21)	(1.0)%	$ 6,480	$ 6,419	$ 61	1.0%

Our operating expenses for the three months ended September 30, 2006 declined from the corresponding prior year period for the first time since the second quarter of 2002. Operating expenses as a percentage of revenue improved for both the three and nine months ended September 30, 2006 as compared with the same period of the prior year. For the three months ended September 30, 2006, our operating expense margin improved 1.8 percentage points, from 65.2% in 2005 to 63.4% in 2006. For the year-to-date period, operating expenses as a percentage of revenue improved 1.9 percentage points, from 66.2% in 2005 to 64.3% in 2006. These improvements can be attributed to the fact that we experienced increased revenues while controlling our total operating costs. Our ability to maintain consistent operating costs demonstrates progress on our operational excellence initiatives such as improving productivity, reducing fleet maintenance costs, standardizing operating practices and improving safety.

Our operating expenses have also declined as a result of our divestiture of under-performing or non-strategic operations and due to reduced volumes related to our pricing program and the loss of nearly one workday during the current quarter. Both divestitures and reduced volumes have contributed to cost savings in every category throughout 2006. The divestiture and volume-related declines in our operating expenses were the most significant during the three months ended September 30, 2006 as the effect of our divestiture program accumulates and our pricing initiatives continue to result in the shedding of low-margin revenues. The increased significance of our divestiture program and pricing initiatives to our operating expenses is consistent with the volume-related and divestiture-related revenue declines experienced during the current quarter, which are discussed in the *Operating Revenues* section above.

Other significant factors affecting the change in operating expenses between the three and nine months ended September 30, 2006 and the prior year periods are summarized below.

Labor and related benefits — These costs have increased in 2006 as a result of higher hourly wages and salaries, principally due to annual merit increases as well as higher bonus expense due to the overall improvement in our performance on a year-over-year basis. These cost increases were partially offset by declines in health and welfare insurance expenses largely due to our focus on controlling costs.

Subcontractor costs — The primary drivers of these cost increases were increases in the fuel surcharges we pay to third party subcontractors due to higher diesel fuel prices and increased subcontracted services managed by our Upstream organization. Subcontractor cost increases attributable to higher fuel costs were offset by the revenue generated from our fuel surcharge program, which is reflected as fuel price increases within *Operating Revenues.*

Cost of goods sold — During the nine months ended September 30, 2006, this cost decrease is primarily attributable to a decline in market prices for the commodities processed by our Recycling Group. Changes in the market prices for commodities also affect our revenues, resulting in a corresponding decline in commodity related revenues. In addition, these costs have decreased year-over-year due to the completion of our construction of an integrated waste facility for a municipality in Canada, which had caused a substantial increase in these costs during 2005.

Fuel — When compared with the corresponding prior year periods, we experienced an average increase in the cost of fuel of $0.36 per gallon for the three months ended September 30, 2006 and $0.46 per gallon for the nine months ended September 30, 2006. However, this cost increase is offset by our fuel surcharges to customers, which are reflected as fuel price increases within our *Operating Revenues* section above.

Other — The decline in these costs for the three and nine months ended September 30, 2006 is partially attributable to the deconsolidation of a variable interest entity in April 2006 and insurance recoveries associated with Hurricane Katrina. Gains recognized on the sales of assets also contributed to the year-to-date decline in our other operating costs.

Selling, General and Administrative

Our selling, general and administrative expenses consist of (i) labor costs, which include salaries, bonuses, related insurance and benefits, contract labor, payroll taxes and equity-based compensation; (ii) professional fees, which include fees for consulting, legal, audit and tax services; (iii) provision for bad debts, which includes allowances for uncollectible customer accounts and collection fees; and (iv) other general and administrative expenses, which include, among other costs, facility-related expenses, voice and data telecommunication, advertising, travel and entertainment, rentals, postage and printing.

The following table summarizes the major components of our selling, general and administrative costs for the three and nine months ended September 30, 2006 and 2005 (dollars in millions):

	Three Months Ended September 30,		Period to Period Change		Nine Months Ended September 30,		Period to Period Change	
	2006	2005			2006	2005		
Labor and related benefits	$ 195	$ 182	$ 13	7.1%	$ 595	$ 572	$ 23	4.0%
Professional fees	41	35	6	17.1	119	109	10	9.2
Provision for bad debts	16	13	3	23.1	38	34	4	11.8
Other	92	79	13	16.5	288	237	51	21.5
	$ 344	$ 309	$ 35	11.3%	$ 1,040	$ 952	$ 88	9.2%

Our labor costs, professional fees and other general and administrative costs for the three and nine months ended September 30, 2006 increased by an aggregate of $4 million and $13 million, respectively, due to non-capitalizable costs incurred to support the development of our revenue management system. Other significant changes in these costs are summarized below.

Labor and related benefits — The current year increases are primarily attributable to higher bonus expense largely due to the overall improvement in our performance on a year-over-year basis; higher salaries and hourly wages driven by annual merit increases; and higher non-cash compensation costs associated with the equity-based compensation provided for by our employee stock purchase plan and our long-term incentive plan. These increases were partially offset by savings associated with our July 2005 restructuring.

Professional Fees — The current increases are also attributable to higher consulting fees related to our pricing initiatives.

Other — We are currently undergoing an unclaimed property audit, which is being directed by several state authorities. The property subject to review in this audit process generally includes unclaimed wages, vendor payments and customer refunds. During 2006, we have submitted unclaimed property filings with all states. As a result of our findings, we determined that we had unrecorded obligations associated with unclaimed property for escheatable items for various periods between 1980 and 2004. The increase in our year-to-date expenses includes a $19 million charge recognized during the first quarter of 2006 to record these unrecorded obligations. Refer to Note 9 of our Condensed Consolidated Financial Statements for additional information related to the nature of this charge. The current year increases are also due to higher sales and marketing costs related to our national advertising campaign.

Depreciation and Amortization

Depreciation and amortization includes (i) depreciation of property and equipment, including assets recorded due to capital leases, on a straight-line basis from three to 50 years; (ii) amortization of landfill costs, including those incurred and all estimated future costs for landfill development, construction, closure and post-closure, on a units-of-consumption method as landfill airspace is consumed over the estimated remaining capacity of a site; (iii) amortization of landfill asset retirement costs arising from final capping obligations on a units-of-consumption method as airspace is consumed over the estimated capacity associated with each final capping event; and (iv) amortization of intangible assets with a definite life, either using a 150% declining balance approach or a straight-line basis over the definitive terms of the related agreements, which are from two to ten years depending on the type of asset.

Depreciation and amortization expense for the three months ended September 30, 2006 was $340 million, or 9.9% of revenues, compared with $369 million, or 10.9% of revenues, for the comparable prior year period. For the nine months ended September 30, 2006, depreciation and amortization expense was $1,013 million, or 10.0% of revenues, compared with $1,036 million, or 10.7% of revenues, for the nine months ended September 30, 2005. Depreciation and amortization expenses were higher in 2005 as a result of a $22 million charge to landfill amortization expense recorded to adjust the amortization periods of five of our landfills. These adjustments reflected cumulative corrections resulting from reducing the amortization periods of the landfills and were necessary to align the lives of the landfills for amortization purposes with the terms of the underlying contractual agreements supporting their operations.

Restructuring

During the third quarter of 2005, we reorganized and simplified our organizational structure by eliminating certain support functions performed at the Group or Corporate office. We also eliminated the Canadian Group office, which reduced the number of our operating groups from seven to six. This reorganization has reduced costs at the Group and Corporate offices and increased the accountability of our Market Areas. The most significant cost savings as a result of this reorganization have been attributable to the labor and related benefits component of our "Selling, general and administrative" expenses. During the third quarter of 2005, we recorded $27 million of pre-tax charges for costs associated with the implementation of the new structure, principally for employee severance and benefit costs.

(Income) Expense from Divestitures, Asset Impairments and Unusual Items

The following table summarizes the major components of "(Income) expense from divestitures, asset impairments and unusual items" for the three and nine months ended September 30, 2006 and 2005 (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Asset impairments	$ 15	$ 61	$ 28	$ 98
(Income) expense from divestitures	3	(5)	(39)	(76)
Other	1	30	1	35
	$ 19	$ 86	$ (10)	$ 57

Asset impairments — During the second and third quarters of 2006, we recorded impairment charges of $13 million and $5 million, respectively, for operations we intend to sell as part of our divestiture program. The charges were required to reduce the carrying values of the operations to their estimated fair values less the cost to sell in accordance with the guidance provided by SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, for assets to be disposed of by sale. In addition, during the third quarter of 2006, we recorded impairment charges of $10 million related to operations in our Recycling and Southern Groups.

During the second quarter of 2005, we recorded a $35 million charge for the impairment of the Pottstown Landfill located in West Pottsgrove Township, Pennsylvania. We determined that an impairment was necessary because, on May 18, 2005, the Pennsylvania Environmental Hearing Board upheld a denial by the Pennsylvania Department of Environmental Protection of a permit application for a vertical expansion at the landfill. After the denial was upheld, the Company reviewed the options available at the Pottstown Landfill and the likelihood of the possible outcomes of those options. After such evaluation and considering the length of time required for the appeal process and the permit application review, we decided not to pursue an appeal of the permit denial. This decision was primarily due to the expected impact of the permitting delays, which would hinder our ability to fully utilize the expansion airspace before the landfill's required closure in 2010.

During the third quarter of 2005, we recognized a $59 million charge for capitalized software costs associated with the development of a revenue management system. The impairment of these software costs was recognized as a result of our decision to enter into an agreement for the license, implementation and maintenance of a new revenue management system.

(Income) expense from divestitures — We recognized $3 million of net losses and $39 million of net gains on divestitures during the three and nine months ended September 30, 2006, respectively, which were direct results of the execution of our plan to review under-performing or non-strategic operations and to either improve their performance or dispose of the operations. The majority of these net gains relates to operations located in our Western Group. Total proceeds from divestitures completed during the nine months ended September 30, 2006 were $159 million, all of which were received in cash.

During the second and third quarters of 2005, we recognized $37 million in gains as a result of the divestiture of certain operations in our Western and Southern Groups. In addition, in the first quarter of 2005, we recognized a $39 million gain as a result of the divestiture of a landfill in Ontario, Canada, which was required pursuant to a Divestiture Order by the Canadian Competition Bureau, resulting in a total of $76 million of gains on divestitures for the nine months ended September 30, 2005. Total proceeds from divestitures completed during the nine months ended September 30, 2005 were $151 million, of which $119 million was received in cash, $23 million was in the form of a note receivable and $9 million was in the form of non-monetary assets.

We do not believe that these divestitures are material either individually or in the aggregate and we do not expect these divestitures to materially affect our consolidated financial position or future results of operations or cash flows.

Other — In the first quarter of 2005, we recognized a charge of approximately $16 million for the impact of a litigation settlement reached with a group of stockholders that opted not to participate in the settlement of the securities class action lawsuit against us related to 1998 and 1999 activity. During the third quarter of 2005, we settled our ongoing defense costs and possible indemnity obligations for four former officers of WM Holdings related to legacy litigation brought against them by the SEC. As a result, we recorded a $26.8 million charge for the funding of the court-ordered distribution of $27.5 million to our shareholders in settlement of the legacy litigation against the former officers. This charge was partially offset by the recognition of a $14 million net benefit recorded during the nine months ended September 30, 2005, which was primarily for adjustments to our receivables and estimated obligations for non-solid waste operations divested in 1999 and 2000.

Income From Operations by Reportable Segment

The following table summarizes income from operations for the three and nine months ended September 30, 2006 and 2005 (dollars in millions):

	Three Months Ended September 30,		Period to Period Change		Nine Months Ended September 30,		Period to Period Change	
	2006	2005			2006	2005		
Operating segments:								
Eastern	$ 110	$ 120	$ (10)	(8.3)%	$ 328	$ 259	$ 69	26.6%
Midwest	135	114	21	18.4	366	307	59	19.2
Southern	204	173	31	17.9	611	528	83	15.7
Western	144	122	22	18.0	425	350	75	21.4
Wheelabrator	98	93	5	5.4	234	217	17	7.8
Recycling	(9)	1	(10)	*	7	9	(2)	*
Other	(3)	(29)	26	*	(16)	(10)	(6)	*
	679	594	85	14.3	1,955	1,660	295	17.8
Corporate and other	(122)	(212)	90	(42.5)	(398)	(449)	51	(11.4)
Total	$ 557	$ 382	$ 175	45.8%	$ 1,557	$ 1,211	$ 346	28.6%

* Percentage change does not provide a meaningful comparison.

Operating segments — Revenue growth from base business yield improvement, which is the result of our continued focus on pricing, significantly contributed to the operating income of each of our geographic Groups during the three and nine months ended September 30, 2006. Base business yield provided revenue growth for each line of business in 2006, but was driven primarily by our collection operations, where we experienced substantial revenue growth in every geographic operating group. The operating results of the Groups have also benefited from our focus on cost control and increases in our higher margin disposal volumes. These improvements were partially offset by declines in our volume-related revenues in the collection line of business, particularly in our Eastern Group. See the additional discussion in the *Operating Revenues* section above.

The operating results for the three and nine months ended September 30, 2006 also compare favorably with the same periods in the prior year due to the $27 million restructuring charge recognized during the third quarter of

2005. "Corporate and other" reflects $10 million of this impact with the remaining $17 million allocated across the operating groups. See additional discussion of these charges in the *Restructuring* section above.

Other significant items affecting the operating segments' results of operations for the three and nine months ended September 30, 2006 as compared with 2005 are summarized below:

Eastern — The nine months ended September 30, 2005 was negatively affected by the recognition of a $35 million impairment charge related to the Pottstown landfill recognized during the second quarter of 2005. A $13 million impairment of businesses being sold as part of our divestiture program negatively affected the Group's operating income for the three and nine months ended September 30, 2006. It should be noted that this charge was initially recorded during the second quarter of 2006 and was reflected in "Other" because impairments resulting from our accounting for assets-held-for-sale are generally not reflected within the operating results of the related Group in the initial period of the assessment due to the timing of our processes associated with the analyses. Finally, the operating results of our Eastern Group for 2006 and 2005 were negatively affected by costs incurred in connection with labor strikes. For the three and nine months ended September 30, 2006, we incurred $4 million and $14 million, respectively, of costs related primarily to a strike in the New York City area. The Group incurred similar costs during the first quarter of 2005 for a labor strike in New Jersey, which decreased operating income for the nine months ended September 30, 2005 by approximately $9 million.

Southern — In the second quarter of 2005, we recognized $12 million in gains on the divestiture of certain operations in Georgia and North Carolina.

Western — Gains on divestitures of operations were $46 million for the nine months ended September 30, 2006 as compared with $24 million for the same period in 2005

Recycling — During the third quarter of 2006, the Group recognized $10 million of charges for the impairment of certain under-performing operations and a $4 million loss associated with the divestiture of several glass recycling facilities.

Other — The comparative increase in income from operations for the three months ended September 30, 2006 was driven by (i) a third quarter of 2005 adjustment to reflect a $22 million charge to "Depreciation and amortization" expense recorded to adjust the amortization periods of five landfills and (ii) the current quarter reversal of the $13 million held-for-sale impairment charge recognized in the second quarter of 2006 that is now reflected in the operating income of our Eastern Group.

Income from operations attributed to our other operations for the nine months ended September 30, 2006 as compared with the same period in 2005 is relatively flat due to the offsetting impacts of (i) the recognition of a $39 million gain during the first quarter of 2005 resulting from the divestiture of one of our landfills in Ontario, Canada; (ii) the previously discussed $22 million charge to "Depreciation and amortization" expense during the third quarter of 2005; and (iii) certain other quarter-end adjustments related to the operating segments that are recorded in consolidation and, due to timing, not included in the measure of segment income from operations used to assess their performance for the periods disclosed.

Corporate and other — Expenses decreased in the nine months ended September 30, 2006 as compared with the same period of the prior year primarily due to a third quarter 2005 impairment charge of $59 million associated with capitalized software costs and $49 million of charges recognized in the first and third quarters of 2005 associated with the settlement of litigation and other legal matters. These items are discussed in the *(Income) Expense from Divestitures, Asset Impairments and Unusual Items* section above. In addition, Corporate has experienced lower risk management and employee health and welfare plan costs during the three and nine months ended September 30, 2006 largely due to our focus on safety and controlling costs.

Partially offsetting these favorable items are various cost increases, which include (i) a $19 million charge recorded in the first quarter 2006 to recognize unrecorded obligations associated with unclaimed property, which is discussed in the *Selling, General and Administrative* section above; (ii) increased incentive compensation expense associated with the Company's current strong performance; (iii) higher consulting fees and sales commissions primarily related to our pricing initiatives; (iv) an increase in our marketing costs due to our national advertising campaign; and (v) the centralization of support functions that were provided by our Group offices prior to our 2005 reorganization.

Other Components of Net Income

The following table summarizes the other major components of our net income for the three and nine months ended September 30, 2006 and 2005 (dollars in millions):

	Three Months Ended September 30,		Period to Period Change		Nine Months Ended September 30,		Period to Period Change	
	2006	2005			2006	2005		
Interest income (expense), net	$ (114)	$ (117)	$ 3	(2.6)%	$ (359)	$ (349)	$ (10)	2.9%
Equity in net losses of unconsolidated entities	(20)	(27)	7	(25.9)	(18)	(79)	61	(77.2)
Minority interest	(11)	(12)	1	(8.3)	(33)	(33)	—	—
Other, net	1	—	(1)	*	2	1	1	*
Provision for (benefit from) income taxes	113	11	102	*	246	(141)	387	*

* Percentage change does not provide a meaningful comparison.

Interest income (expense), net — The $3 million decrease in net interest expense during the three months ended September 30, 2006 is a result of a $16 million increase in interest income offset in part by a $13 million increase in interest expense. The $10 million increase in net interest expense during the nine months ended September 30, 2006 is a result of a $43 million increase in interest expense offset in part by a $33 million increase in interest income. The increases in interest income are due to (i) an increase in our available cash, which resulted in an increase in our investments in variable rate demand notes and auction rate securities; (ii) higher market interest rates and (iii) the realization of interest income as a result of tax audit settlements. The increases in interest expense are generally attributable to higher market interest rates, which impact the interest expense associated with the variable portion of our debt obligations. As of September 30, 2006, interest expense on 35% of our total debt is driven by variability in market interest rates.

Equity in net losses of unconsolidated entities — In 2004, we acquired an equity interest in two coal-based, synthetic fuel production facilities. The activities of these facilities drive our "Equity in net losses of unconsolidated entities." We recognized losses of $20 million and $21 million during the three and nine months ended September 30, 2006, respectively, due to the activities of these facilities. Our equity in the losses of these facilities was $28 million and $83 million for the three and nine months ended September 30, 2005, respectively. The significant decrease in the equity losses attributable to these facilities when comparing the nine months ended September 30, 2006 to the corresponding prior year period is due to (i) the estimated effect of a 35% phase-out of Section 45K (formerly Section 29) credits generated during 2006 on our contractual obligations associated with funding the facilities' losses; (ii) the suspension of operations at the facilities from May to September of 2006; and (iii) a cumulative adjustment necessary to appropriately reflect our life-to-date obligations to fund the costs of operating the facilities and the value of our investment. Our equity losses from the facilities during the three months ended September 30, 2006 are primarily related to a change in our estimated obligations associated with the facilities' operations during the first and second quarters of 2006. This change in estimate was driven by the significant decline in our estimate of the phase-out percentage during the current quarter (from 78% at June 30, 2006 to 35% at September 30, 2006) as a result of a substantial decrease in the market price of crude oil. The impact of these facilities on our provision for taxes is discussed below within *Provision for (benefit from) income taxes.*

Provision for (benefit from) income taxes — When excluding the effect of interest income, the settlement of various federal and state tax audit matters during the quarter resulted in a reduction in our provision for income taxes of $7 million for the three months ended September 30, 2006, representing a 1.6 percentage point reduction in our effective tax rate, and $141 million for the nine months ended September 30, 2006, representing a 12.3 percentage point reduction in our effective tax rate. The settlement of several tax audits resulted in a reduction in income tax expense of $28 million for the three months ended September 30, 2005 and $375 million for the nine months ended September 30, 2005. These tax audit settlements resulted in a 12.5 percentage point reduction in our effective tax rate for the three months ended September 30, 2005 and a 49.9 percentage point reduction in our effective tax rate for the nine months ended September 30, 2005.

The impact of non-conventional fuel tax credits is derived from methane gas projects at our landfills and our investments in two coal-based, synthetic fuel production facilities, which are discussed in the *Equity in net losses of unconsolidated entities* section above. These tax credits are available through 2007 pursuant to Section 45K of the Internal Revenue Code, and are phased-out if the price of crude oil exceeds a threshold annual average price determined by the IRS. Our effective tax rate for the first nine months of 2006 reflects our current expectations for the phase-out of 35% of Section 45K tax credits generated during 2006. We have developed our current expectations for the phase-out of Section 45K credits using market information for current and forward-looking crude oil prices as of September 30, 2006. Accordingly, our current estimated effective tax rate could be materially different than our actual 2006 effective tax rate if our current expectations for crude oil prices for the year are inconsistent with actual results. Our synthetic fuel production facility investments resulted in a decrease in our tax provision of $36 million for the three months ended September 30, 2006 and $45 million for the nine months ended September 30, 2006. These investments decreased our tax provision by $39 million and $106 million for the three and nine months ended September 30, 2005, respectively. Refer to Note 5 of our Condensed Consolidated Financial Statements for additional information regarding the impact of these investments on our provision for taxes.

Our provision for income taxes for the nine months ended September 30, 2006 has also been affected by the realization of a $20 million tax benefit due to scheduled tax rate reductions in Canada and the resulting revaluation of related deferred tax balances. The benefit from income taxes recognized during the nine months ended September 30, 2005 was partially offset by the accrual of $34 million of taxes during the second quarter of 2005 associated with our plan to repatriate approximately $485 million of accumulated earnings and capital from certain of our Canadian subsidiaries under the American Jobs Creation Act of 2004.

Liquidity and Capital Resources

As a company that has consistently generated cash flows in excess of its reinvestment needs, our primary source of liquidity has been cash flows from operations. However, we operate in a capital-intensive business and continued access to various financing resources is vital to our continued financial strength. In the past, we have been successful in obtaining financing from a variety of sources on terms we consider attractive. Based on several key factors we believe are considered important by credit rating agencies and financial markets in determining our access to attractive financing alternatives, we expect to continue to maintain access to capital sources in the future. These factors include:

- the essential nature of the services we provide and our large and diverse customer base;
- our ability to generate strong and consistent cash flows despite the economic environment;
- our liquidity profile;
- our asset base; and
- our commitment to maintaining a moderate financial profile and disciplined capital allocation.

We continually monitor our actual and forecasted cash flows, our liquidity and our capital resources, enabling us to plan for our present needs and fund unbudgeted business activities that may arise during the year as a result of changing business conditions or new opportunities. In addition to our working capital needs for the general and administrative costs of our ongoing operations, we have cash requirements for: (i) the construction and expansion of our landfills; (ii) additions to and maintenance of our trucking fleet; (iii) refurbishments and improvements at waste-to-energy and materials recovery facilities; (iv) the container and equipment needs of our operations; (v) capping, closure and post-closure activities at our landfills; and (vi) the repayment of debt and discharging of other obligations. We are also committed to providing our shareholders with a return on their investment through our capital allocation program that provides for up to $1.2 billion in aggregate dividend payments and share repurchases each year during 2005, 2006 and 2007. In June 2006, our Board of Directors approved up to $350 million of additional share repurchases for 2006, increasing the maximum amount of capital to be allocated to our share repurchases and dividends for the current year to $1.55 billion. We also continue to invest in acquisitions that we believe will be accretive and provide continued growth for our business.

Summary of Cash, Short-Term Investments, Restricted Trust and Escrow Accounts and Debt Obligations

The following is a summary of our cash, restricted trust and escrow accounts and debt balances as of September 30, 2006 and December 31, 2005 (in millions):

	September 30, 2006	December 31, 2005
Cash and cash equivalents	$ 746	$ 666
Short-term investments available for use	332	300
Total cash, cash equivalents and short-term investments available for use	$ 1,078	$ 966
Restricted trust and escrow accounts:		
Tax-exempt bond funds	$ 120	$ 185
Closure, post-closure and remediation funds	214	199
Debt service funds	59	58
Other	21	18
Total restricted trust and escrow accounts	$ 414	$ 460
Debt:		
Current portion	$ 862	$ 522
Long-term portion	7,780	8,165
Total debt	$ 8,642	$ 8,687
Increase in carrying value of debt due to hedge accounting for interest rate swaps	$ 23	$ 47

Cash and cash equivalents — Cash and cash equivalents consist primarily of cash on deposit, certificates of deposit, money market accounts, and investment grade commercial paper purchased with original maturities of three months or less.

Short-term investments available for use — These investments include auction rate securities and variable rate demand notes, which are debt instruments with long-term scheduled maturities and periodic interest rate reset dates. The interest rate reset mechanism for these instruments results in a periodic marketing of the underlying securities through an auction process. Due to the liquidity provided by the interest rate reset mechanism and the short-term nature of our investment in these securities, they have been classified as other current assets in our Condensed Consolidated Balance Sheets.

Restricted trust and escrow accounts — Restricted trust and escrow accounts consist primarily of funds held in trust for the construction of various facilities or repayment of debt obligations, funds deposited in connection with landfill closure, post-closure and remedial obligations and insurance escrow deposits. These balances are primarily included within long-term "Other assets" in our Condensed Consolidated Balance Sheets.

Debt —

Revolving credit and letter of credit facilities — The table below summarizes the credit capacity, maturity and outstanding letters of credit under our revolving credit facility, principal letter of credit facilities and other credit arrangements as of September 30, 2006 (in millions):

Facility	Total Credit Capacity	Maturity	Outstanding Letters of Credit
Five-year revolving credit facility(a)	$ 2,400	August 2011	$ 1,405
Five-year letter of credit and term loan agreement(b)	15	June 2008	15
Five-year letter of credit facility(b)	350	December 2008	350
Seven-year letter of credit and term loan agreement(b)	175	June 2010	175
Ten-year letter of credit and term loan agreement(b)	105	June 2013	105
Other(c)	—	Various	78
Total	$ 3,045		$ 2,128

a) On August 17, 2006, WMI entered into a new five-year, $2.4 billion revolving credit facility, replacing a $2.4 billion revolving credit facility that would have expired in 2009. We elected to refinance our previous revolving credit facility in order to reduce the fees associated with the maintenance and utilization of the facility and to extend its maturity. This facility provides us with credit capacity that may be used for either cash borrowings or to support letters of credit. At September 30, 2006, no borrowings were outstanding under the facility, and we had unused and available credit capacity of $995 million.

b) These facilities have been established to provide us with letter of credit capacity. In the event of an unreimbursed draw on a letter of credit, the amount of the draw paid by the letter of credit provider generally converts into a term loan for the remaining term under the respective agreement or facility. Through September 30, 2006 we had not experienced any unreimbursed draws on our letters of credit.

c) We have letters of credit outstanding under various arrangements that do not provide for a committed capacity. Accordingly, the total credit capacity of these arrangements has been noted as zero.

We have used each of these facilities to support letters of credit that we issue to support our insurance programs, certain tax-exempt bond issuances, municipal and governmental waste management contracts, closure and post-closure obligations and disposal site or transfer station operating permits. These facilities require us to pay fees to the lenders and our obligation is generally to repay any draws that may occur on the letters of credit. We expect that similar facilities may continue to serve as a cost efficient source of letter of credit capacity in the future, and we continue to assess our financial assurance requirements to ensure that we have adequate letter of credit and surety bond capacity in advance of our business needs.

Canadian Credit Facility — In November 2005, Waste Management of Canada Corporation, one of our wholly-owned subsidiaries, entered into a three-year credit facility agreement. The agreement was entered into to facilitate WMI's repatriation of accumulated earnings and capital from its Canadian subsidiaries. As of September 30, 2006, we had $327 million of principal ($324 million net of discount) outstanding under this credit facility agreement. The advances have a weighted average effective interest rate of 4.5% and mature either three months or twelve months from the date of issuance. While we may elect to renew portions of our outstanding advances under the terms of the facility, we currently expect to repay our borrowings under the facility within one year with available cash. Accordingly, these borrowings are classified as current in our September 30, 2006 Condensed Consolidated Balance Sheet.

Senior notes — As of September 30, 2006, we had $5.1 billion of outstanding senior notes. The notes have various maturities, ranging from October 2006 to May 2032, and interest rates ranging from 5.00% to 8.75%. On October 15, 2006, $300 million of 7.0% senior notes matured and were repaid with available cash.

Tax-exempt bonds — We actively issue tax-exempt bonds as a means of accessing low-cost financing for capital expenditures. As of September 30, 2006, we had $2.4 billion of outstanding tax-exempt bonds, of which $92 million were issued during the nine months ended September 30, 2006. The proceeds from the issuance of tax-exempt bonds are deposited directly into a trust fund. Accordingly, the restricted funds provided by these financing activities are not included in "New borrowings" in our Consolidated Statements of Cash Flows. These funds may only be used for the specific purpose for which the money is raised, which is generally the construction of collection and disposal facilities and for the equipment necessary to provide waste management services. As we spend monies on the specific projects being financed, we are able to requisition cash from the trust funds. As discussed in the restricted trusts and escrow accounts section above, we have $120 million held in trust for future spending as of September 30, 2006. During the nine months ended September 30, 2006, we received $163 million from these funds for approved capital expenditures.

As of September 30, 2006, $613 million of our tax-exempt bonds are remarketed weekly by a remarketing agent to effectively maintain a variable yield. If the remarketing agent is unable to remarket the bonds, then the remarketing agent can put the bonds to us. These bonds are supported by letters of credit that were issued primarily under our $2.4 billion, five-year revolving credit facility that guarantee repayment of the bonds in the event the bonds are put to us. Accordingly, these obligations have been classified as long-term in our September 30, 2006 Condensed Consolidated Balance Sheet.

Additionally, we have $139 million of fixed rate tax-exempt bonds subject to repricing within the next twelve months, which is prior to their scheduled maturities. If the re-offering of the bonds is unsuccessful, then the bonds can be put to us, requiring immediate repayment. These bonds are not backed by letters of credit supported by our long-term facilities that would serve to guarantee repayment in the event of a failed re-offering and are, therefore, considered a current obligation. However, these bonds have been classified as long-term in our Condensed Consolidated Balance Sheet as of September 30, 2006. The classification of these obligations as long-term was based upon our intent to refinance the borrowings with other long-term financings in the event of a failed re-offering and our ability, in the event other sources of long-term financing are not available, to use our five-year revolving credit facility.

Tax-exempt project bonds — As of September 30, 2006, we had $383 million of outstanding tax-exempt project bonds. These debt instruments are primarily used by our Wheelabrator Group to finance the development of waste-to-energy facilities. The bonds generally require periodic principal installment payments. As of September 30, 2006, $46 million of these bonds are remarketed either daily or weekly by a remarketing agent to effectively maintain a variable yield. If the remarketing agent is unable to remarket the bonds, then the remarketing agent can put the bonds to us. Repayment of these bonds has been guaranteed with letters of credit issued under our five-year revolving credit facility. Accordingly, these variable rate obligations have been classified as long-term in our September 30, 2006 Condensed Consolidated Balance Sheet. Approximately $57 million of our tax-exempt project bonds will be repaid with available cash within the next twelve months and have been classified as current in our September 30, 2006 Condensed Consolidated Balance Sheet.

Capital leases and other debt — As of September 30, 2006, we had $422 million of other miscellaneous debt obligations. These debt balances include (i) capital leases and other obligations incurred in the normal course of our business, (ii) obligations of consolidated variable interest entities, and (iii) our remaining obligation associated with our initial investments in the synthetic fuel facilities discussed in the *Provision for (benefit from) income taxes* section above.

Interest rate swaps — We manage the interest rate risk of our debt portfolio principally by using interest rate derivatives to achieve a desired position of fixed and floating rate debt. As of September 30, 2006, the interest payments on $2.35 billion of our fixed rate debt have been swapped to variable rates, allowing us to maintain 65% of our debt at fixed interest rates and 35% at variable interest rates. Fair value hedge accounting for interest rate swap contracts increased the carrying value of debt instruments by $23 million at September 30, 2006 and by $47 million as of December 31, 2005. Interest rate swap agreements increased net interest expense by $3 million for the three months ended September 30, 2006 resulting in no net change in interest expense associated with interest rate swaps for the nine months ended September 30, 2006. Net interest expense was reduced by $8 million and $34 million for the three and nine months ended September 30, 2005, respectively, as a result of our interest rate swaps. The continued decline in the benefit recognized as a result of our interest rate swap agreements is largely attributable to the increase in short-term market interest rates. Our periodic interest obligations under our interest rate swap agreements are based on a spread from the three-month LIBOR, which has increased from 4.1% at September 30, 2005 to 5.4% at September 30, 2006.

Summary of Cash Flow Activity

The following is a summary of our cash flows for the nine months ended September 30, 2006 and 2005 (in millions):

	Nine Months Ended September 30,	
	2006	2005
Net cash provided by operating activities	$ 1,865	$ 1,726
Net cash used in investing activities	$ (569)	$ (638)
Net cash used in financing activities	$ (1,216)	$ (1,215)

Net Cash Provided by Operating Activities — Our operating cash flows continue to provide us with a significant source of liquidity for our capital expenditures, dividends and share repurchases. In general, the growth in our current period operating cash flow can be attributed to the increase in our operating income, partially offset by an increase in cash paid for income taxes.

The comparability of our operating cash flows for the periods presented is also affected by our adoption of SFAS No. 123(R) on January 1, 2006. SFAS No. 123(R) requires reductions in income taxes payable attributable to excess tax benefits associated with equity-based compensation to be included in cash flows from financing activities, which are discussed below. Prior to adopting SFAS No. 123(R), our excess tax benefits associated with equity-based compensation were included within cash flows from operating activities as a change in "Accounts payable and accrued liabilities." During the first nine months of 2005, these excess tax benefits improved our operating cash flows by approximately $10 million.

Tax audit settlements and related interest positively affected our net income for the nine months ended September 30, 2006 and 2005 by $148 million and $375 million, respectively. Net cash provided by operating activities for the nine months ended September 30, 2006 and 2005 includes cash refunds attributable to these tax audit settlements of $61 million and $71 million, respectively. The remaining impact of these settlements has been reflected as changes in our accounts payable and accrued liabilities for the related periods.

Net Cash Used in Investing Activities — The decrease in net cash used in investing activities is primarily due to (i) decreases in net cash outflows associated with purchases and sales of short-term investments and in acquisition spending and (ii) an increase in proceeds from divestitures of businesses and other sales of assets. The impact of these changes was partially offset by declines in funds received from restricted trust and escrow accounts and an increase in capital expenditures.

In the first nine months of 2006, net purchases of short-term investments resulted in cash outflows of $26 million, compared with net cash outflows of $170 million in the first nine months of 2005. The decrease in our net purchases of short-term investments is partially due to an increase in the utilization of our available cash to fund our common stock repurchases, which are discussed below.

Our spending on acquisitions decreased from $130 million during the nine months ended September 30, 2005 to $32 million in the first nine months of 2006. As we make progress on our divestiture program, we plan to increase our focus on accretive acquisitions and other investments that will contribute to improved future results of operations and enhance and expand our existing service offerings.

Proceeds from divestitures and other sales of assets, net of cash divested, were $198 million during the nine months ended September 30, 2006 compared with $158 million during the nine months ended September 30, 2005, an increase of $40 million. Approximately $89 million of our 2005 proceeds were related to the sale of one of our landfills in Ontario, Canada as required by a Divestiture Order from the Canadian Competition Tribunal. When excluding the cash proceeds generated by this transaction, proceeds from divestitures have increased by $129 million for the nine months ended September 30, 2006 when compared with the same period of the prior year. This increase is primarily a result of the execution of our plan to divest of certain under-performing and non-strategic operations. We expect that our divestiture program will continue to make significant contributions to our cash flows from investing activities over the next several quarters.

Net funds received from our restricted trust and escrow accounts, which are largely generated from the issuance of tax-exempt bonds for our capital needs, contributed $156 million to our investing activities during the first nine months of 2006 compared with $295 million in the first nine months of 2005. Due to a decline in new tax-exempt borrowings, we expect this trend to continue throughout the remainder of 2006.

We used $824 million during the nine months ended September 30, 2006 for capital expenditures, compared with $765 million during the comparable prior year period.

Net Cash Used in Financing Activities — While net cash used for financing activities was consistent year-over-year, there were significant fluctuations in the components of net cash used for financing activities. The most significant variances were related to increased common stock repurchases and cash dividend payments, which were largely offset by an increase in proceeds from the exercise of common stock options and warrants and a decline in net debt repayments.

Our 2005 and 2006 share repurchases and dividend payments have been made in accordance with a three-year capital allocation program that was approved by our Board of Directors. This capital allocation program authorizes up to $1.2 billion of combined share repurchases and dividend payments each year during 2005, 2006 and 2007. In June of 2006, the Board of Directors authorized up to $350 million of additional share repurchases in 2006, increasing the total of capital authorized for share repurchases and dividends in 2006 to $1.55 billion.

During the nine months ended September 30, 2006, we repurchased approximately 27.4 million shares of our common stock for $939 million under our capital allocation program. We paid approximately $5 million of the repurchase price in October 2006 when the transactions were settled. During the first nine months of 2005, we repurchased 20.5 million shares of our common stock for $583 million, of which $10 million was settled in cash in October 2005.

We paid an aggregate of $358 million in cash dividends during the first nine months of 2006 compared with an aggregate of $339 million in the comparable prior year period. The increase in dividend payments is due to a 10% increase in our per share dividend payment, which increased from a quarterly per share dividend of $0.20 in 2005 to a quarterly per share dividend of $0.22 in 2006. The impact of the year-over-year increase in the per share dividend has been partially offset by a reduction in the number of our outstanding shares as a result of our share repurchase program.

Share repurchases and dividend payments during the remainder of the year will be made within our capital allocation program at the discretion of our Board of Directors and management, and will depend on various factors, including our net earnings, the cash generated from our divestiture program, our financial condition and projected cash requirements.

The exercise of common stock options and warrants and the related excess tax benefits generated a total of $253 million of financing cash inflows during the nine months ended September 30, 2006, an increase of $185 million from the comparable prior year period. We believe the significant increase in stock option and warrant exercises in the first nine months of 2006 is due to the substantial increase in the market value of our common stock during 2006. The accelerated vesting of all outstanding stock options in December 2005 also increased the cash proceeds from stock option exercises because the acceleration made additional options available for exercise. As discussed above, the adoption of SFAS No. 123(R) on January 1, 2006 resulted in the classification of tax savings provided by equity-based compensation as a financing cash inflow rather than an operating cash inflow beginning in the first quarter of 2006. This change in accounting increased cash flows from financing activities by $34 million for the nine months ended September 30, 2006.

In the first nine months of 2006, net debt repayments were $118 million as compared with $260 million during the first nine months of 2005, a decline of $142 million. Debt repayments in both periods have been made based on the scheduled maturities of our debt obligations. Through September 30, 2006, our borrowings and debt repayments were largely related to our Canadian credit facility, which was established to finance our 2005 repatriation of funds from our Canadian subsidiaries. In October 2006, we repaid $300 million of our senior notes with available cash.

Off-Balance Sheet Arrangements

We are party to guarantee arrangements with unconsolidated entities as discussed in the *Guarantees* section of Note 9 to the Condensed Consolidated Financial Statements. Our third-party guarantee arrangements are generally established to support our financial assurance needs and landfill operations. These arrangements have not materially affected our financial position, results of operations or liquidity during the nine months ended September 30, 2006 nor are they expected to have a material impact on our future financial position, results of operations or liquidity.

Seasonal Trends and Inflation

Our operating revenues tend to be somewhat higher in the summer months, primarily due to the higher volume of construction and demolition waste. The volumes of industrial and residential waste in certain regions where we operate also tend to increase during the summer months. Our second and third quarter revenues and results of operations typically reflect these seasonal trends. Additionally, certain destructive weather conditions that tend to occur during the second half of the year can actually increase our revenues in the areas affected. However, for several reasons, including significant start-up costs, such revenue often generates comparatively lower margins. Certain weather conditions may actually result in the temporary suspension of our operations, which can significantly affect the operating results of the affected regions. The operating results of our first quarter also often reflect higher repair and maintenance expenses because we rely on the slower winter months, when electrical demand is generally lower, to perform scheduled maintenance at our waste-to-energy facilities.

While inflationary increases in costs, including the cost of fuel, have affected our operating margins in recent periods, we believe that inflation generally has not had, and in the near future is not expected to have, any material adverse effect on our results of operations. However, management’s estimates associated with inflation have had, and will continue to have, an impact on our accounting for landfill and environmental remediation liabilities.

Item 4. ***Controls and Procedures.***

Effectiveness of Controls and Procedures

We maintain a set of disclosure controls and procedures designed to ensure that information we are required to disclose in reports that we file or submit with the SEC is recorded, processed, summarized and reported within the time periods specified by the SEC. An evaluation was carried out under the supervision and with the participation of the Company's management, including the Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), of the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, the CEO and CFO have concluded that the Company's disclosure controls and procedures are effective in ensuring that we are able to collect, process and disclose the information we are required to disclose in the reports we file with the SEC within required time periods.

PART II.

Item 1. ***Legal Proceedings.***

Information regarding our legal proceedings can be found under the "Litigation" section of Note 9, *Commitments and Contingencies*, to the Condensed Consolidated Financial Statements.

Item 1A. ***Risk Factors.***

There have been no material changes from risk factors previously disclosed in our Form 10-K for the year ended December 31, 2005 in response to Item 1A to Part I of Form 10-K.

Item 2. ***Unregistered Sales of Equity Securities and Use of Proceeds.***

In October 2004, the Company announced that its Board of Directors approved a capital allocation program that included the authorization of up to $1.2 billion of stock repurchases and dividend payments annually for each of 2005, 2006 and 2007. All of the common stock repurchases made in 2006 have been pursuant to that program. In June 2006, our Board of Directors approved up to $350 million of additional share repurchases for 2006, increasing the amount of capital authorized for our share repurchases and dividends for the current year to $1.55 billion. The following table summarizes our third quarter 2006 share repurchase activity:

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased	Average Price Paid per Share(a)	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Maximum Dollar Value of Shares that May Yet be Purchased Under the Plans or Programs(b)
July 1 - 31	2,076,100	$ 34.46	2,076,100	$ 482 Million
August 1 - 31	5,750,000	$ 34.81	5,750,000	$ 282 Million
September 1 - 30	811,200	$ 35.07	811,200	$ 253 Million
Total	8,637,300	$ 34.75	8,637,300	

a) This amount represents the weighted average price paid per share and includes a per share commission paid for all repurchases.

b) For each period presented, the maximum dollar value of shares that may yet be purchased under the program has been provided as of the end of each respective period. This disclosure is required by the SEC; these amounts are not necessarily an indication of the amount we intend to repurchase during the remainder of the year. During the nine months ended September 30, 2006, we paid $358 million in cash dividends under the capital allocation program. The maximum dollar value of shares that may be purchased under the program included in the table above includes the effect of these dividend payments as if all payments had been made at the beginning of the earliest period presented. However, this amount does not include the impact of dividend payments we expect to make during the fourth quarter of 2006.

Item 6. ***Exhibits.***

Exhibit No.		Description
10.1	—	$2.4 Billion Revolving Credit Agreement by and among Waste Management, Inc. and Waste Management Holdings, Inc. and certain banks party thereto and Citibank, N.A. as Administrative Agent, JP Morgan Chase Bank, N.A. and Bank of America, N.A., as Syndication Agents and Barclays Bank PLC and Deutsche Bank Securities Inc. as Documentation Agents and J.P. Morgan Securities Inc. and Banc of America Securities LLC as Lead Arrangers and Bookrunners dated August 17, 2006
12	—	Computation of Ratio of Earnings to Fixed Charges
31.1	—	Certification Pursuant to Rule 15d — 14(a) under the Securities Exchange Act of 1934, as amended, of David P. Steiner, Chief Executive Officer
31.2	—	Certification Pursuant to Rule 15d — 14(a) under the Securities Exchange Act of 1934, as amended, of Robert G. Simpson, Senior Vice President and Chief Financial Officer
32.1	—	Certification Pursuant to 18 U.S.C. §1350 of David P. Steiner, Chief Executive Officer
32.2	—	Certification Pursuant to 18 U.S.C. §1350 of Robert G. Simpson, Senior Vice President and Chief Financial Officer

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WASTE MANAGEMENT, INC.

By: /s/ ROBERT G. SIMPSON

Robert G. Simpson
Senior Vice President and
Chief Financial Officer
(Principal Financial Officer)

WASTE MANAGEMENT, INC.

By: /s/ GREG A. ROBERTSON

Greg A. Robertson
Vice President and
Chief Accounting Officer
(Principal Accounting Officer)

Date: October 25, 2006

Index to Exhibits

Exhibit No.		Description
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Exhibit 10.1

$2,400,000,000

REVOLVING CREDIT AGREEMENT

dated as of August 17, 2006

by and among

WASTE MANAGEMENT, INC.
(the "Borrower")

and

WASTE MANAGEMENT HOLDINGS, INC.
(the "Guarantor")

and

Certain Banks

and

CITIBANK, N.A.,
as Administrative Agent

and

JPMORGAN CHASE BANK, N.A., and BANK OF AMERICA, N.A.,
as Syndication Agents

and

BARCLAYS BANK PLC and DEUTSCHE BANK SECURITIES INC.,
as Documentation Agents

and

J.P. MORGAN SECURITIES INC. and BANC OF AMERICA SECURITIES LLC,
as Lead Arrangers and Joint Bookrunners

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REVOLVING CREDIT AGREEMENT

This **REVOLVING CREDIT AGREEMENT** is made as of the 17th day of August, 2006, by and among **WASTE MANAGEMENT, INC.**, a Delaware corporation having its chief executive office at 1001 Fannin Street, Suite 4000, Houston, Texas 77002 (the "Borrower"), **WASTE MANAGEMENT HOLDINGS, INC.**, a wholly-owned Subsidiary of the Borrower (the "Guarantor"), certain financial institutions (the "Banks") and **CITIBANK, N.A.,** as Administrative Agent (in such capacity, the "Administrative Agent").

WHEREAS, the Borrower has requested certain financing arrangements and the Banks have agreed to provide such financing arrangements on the terms set forth herein;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, this Agreement will take effect on the Effective Date, on the following terms:

§1. DEFINITIONS AND RULES OF INTERPRETATION.

§1.1. Definitions. The following terms shall have the meanings set forth in this §1 or elsewhere in the provisions of this Agreement referred to below:

Absolute Competitive Bid Loan(s). Competitive Bid Loans bearing interest at a fixed rate per annum in accordance with §4.5(b)(v).

Accountants. See §7.4(a).

Administrative Agent. See Preamble.

Administrative Agent's Account. The account of the Administrative Agent maintained by the Administrative Agent at Citibank at Two Penns Way, Suite 200, New Castle, Delaware 19720, ABA# 021000089, Account No. 36852248, Account Name: NAIB Agency Medium Term Finance/Reference: Waste Management, Attention: Tara Wooster, or such other account as may from time to time be designated by the Administrative Agent to the Borrower and the Banks in writing.

Affected Bank. See §5.12.

Agreement. This Revolving Credit Agreement, including the Schedules and Exhibits hereto, as from time to time amended and supplemented in accordance with the terms hereof.

Applicable Base Rate. The applicable rate per annum of interest on the Base Rate Loans as set forth in the Pricing Table.

Applicable Eurodollar Rate. The applicable rate per annum of interest on the Eurodollar Loans shall be as set forth in the Pricing Table.

Applicable Facility Fee Rate. The applicable rate per annum with respect to the Facility Fee shall be as set forth in the Pricing Table.

Applicable L/C Rate. The applicable rate per annum on the Maximum Drawing Amount shall be as set forth in the Pricing Table.

Applicable Requirements. See §7.10.

Applicable Spot Rate. On any date, the quoted spot rate for conversion of Canadian Dollars to U.S. Dollars as published on Reuters page 1FED at approximately 10:00 a.m. New York time on such date, and as determined as provided in the definition of “U.S. Dollar Equivalent” herein.

Applicable Swing Line Rate. The annual rate of interest agreed upon from time to time by the Administrative Agent and the Borrower with respect to Swing Line Loans.

Approved Fund. Any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Bank or (b) a Bank Affiliate.

Assignment and Acceptance. See §20.

Balance Sheet Date. December 31, 2005.

Bank Affiliate. (a) With respect to any Bank, (i) a Person that directly, or indirectly through one or more intermediaries, possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Bank, whether through the ability to exercise voting power, by contract or otherwise or is controlled by or is under common control with such Bank (an “Affiliate”) or (ii) any entity (whether a corporation, partnership, trust or otherwise) that is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Bank or an Affiliate of such Bank and (b) with respect to any Bank that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Bank or by an Affiliate of such investment advisor.

Banks. See Preamble.

Base Rate. A fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the higher of:

(a) the rate of interest announced publicly by Citibank in New York City from time to time as Citibank’s base rate; or

(b) 0.50% per annum above the Federal Funds Rate in effect from time to time.

Each change in any interest rate provided for herein based upon the Base Rate resulting from a change in the Base Rate shall take effect at the time of such change in the Base Rate.

Base Rate Loans. Syndicated Loans bearing interest calculated by reference to the Base Rate.

Borrower. See Preamble.

Borrowing. (a) Syndicated Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, (b) a Competitive Bid Loan or group of Competitive Bids Loans of the same Type made on the same date and as to which a single Interest Period is in effect or (c) Swing Line Loans.

Business Day. Any day, other than a Saturday, Sunday or any day on which banking institutions in New York, New York are authorized by law to close, and, when used in connection with a Eurodollar Loan, a Eurodollar Business Day.

Canadian Dollars or C$. The lawful currency of Canada.

Canadian Dollar Letter of Credit. See §3.1(e).

Canadian Subsidiary. A Subsidiary that is organized under the laws of Canada or any province thereof.

Capitalized Leases or Capital Leases. Leases under which a Person is the lessee or obligor and the discounted future rental payment obligations under which are required to be capitalized on the consolidated balance sheet of the lessee or obligor in accordance with GAAP.

Cash Equivalents. Investments in (i) direct obligations of, or unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of less than one year, (ii) U.S. Dollar-denominated time deposits, certificates of deposit and banker’s acceptances of any Bank or any other bank whose short-term commercial paper rating from Standard & Poor’s is at least A-1 or from Moody’s is at least P-1 (each an “Approved Bank”) with maturities of not more than one year from the date of investment, (iii) commercial paper issued by, or guaranteed by, an Approved Bank or by the parent company of an Approved Bank, or issued by, or guaranteed by, any company with a short-term debt rating of at least A-1 by Standard & Poor’s and P-1 by Moody’s, in each case maturing within one year from the date of investment, (iv) repurchase agreements with a term of less than one year for underlying securities of the types described in clauses (ii) and (iii) entered into with an Approved Bank, (v) auction rate securities with an auction frequency of not more than 35 days, carrying a credit rating of at least AA by Standard & Poor’s or at least Aa from Moody’s; (vi) variable rate demand notes with a put option no longer than seven days from date of purchase to the extent backed by letters of credit issued by banks having a credit rating of at least A1 from Moody’s or P1 from Standard & Poor’s; (vii) municipal securities rated at least A1 by Moody’s or P-1 by Standard & Poor’s with a maturity of one year or less; (viii) any money market fund that meets the requirements of Rule 2a-7 (c) (2), (3) and (4) promulgated under the Investment Company Act of 1940, as amended; and (ix) any other fund or funds making substantially all of their Investments in Investments of the kinds described in clauses (i) through (vii) above.

CERCLA. See §6.15(a).

Certified or certified. With respect to the financial statements of any Person, such statements as audited by a firm of independent auditors, whose report expresses the opinion, without qualification, that such financial statements present fairly, in all material respects, the financial position of such Person.

CFO or CAO. See §7.4(b).

Citibank. Citibank, N.A.

Class. When used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Syndicated Loans, Competitive Bid Loans or Swing Line Loans.

Code. The Internal Revenue Code of 1986, as amended and in effect from time to time.

Commitment. With respect to each Bank, such Bank's commitment to make Syndicated Loans to, and to participate in the issuance, extension and renewal of Letters of Credit for the account of, the Borrower, determined by multiplying such Bank's Commitment Percentage by the Total Commitment.

Commitment Percentage. With respect to each Bank, the percentage initially set forth next to such Bank's name on Schedule 1 hereto, as the same may be adjusted in accordance with §20.

Competitive Bid Loan(s). A Borrowing hereunder consisting of one or more loans made by any of the participating Banks whose offer to make a Competitive Bid Loan as part of such Borrowing has been accepted by the Borrower under the auction bidding procedure described in §4 hereof.

Competitive Bid Loan Accounts. See §4.2(a).

Competitive Bid Margin. See §4.5(b)(iv).

Competitive Bid Quote. An offer by a Bank to make a Competitive Bid Loan in accordance with §4.5 hereof.

Competitive Bid Quote Request. See §4.3.

Competitive Bid Rate. See §4.5(b)(v).

Compliance Certificate. See §7.4(c).

Consolidated or consolidated. With reference to any term defined herein, shall mean that term as applied to the accounts of the Borrower, its Subsidiaries and all variable interest entities consolidated in accordance with GAAP.

Consolidated Earnings Before Interest and Taxes or EBIT. For any period, the Consolidated Net Income (or Deficit) of the Borrower on a consolidated basis plus, without duplication, the sum of (1) interest expense, (2) equity in losses (earnings) of unconsolidated entities, (3) income taxes, (4) non-cash writedowns or write-offs of assets, including non-cash losses on the sale of assets outside the ordinary course of business, (5) non-recurring charges for settlement or judgment costs with respect to the shareholder lawsuits and actions brought against the Borrower or the Guarantor related to, arising or resulting from, the restatements of financial statements or results, lowered expected earnings announcements occurring in 1998 and 1999, alleged misrepresentations, misstatements or omissions contained in, or the adequacy of, any disclosure documents filed with the Securities and Exchange Commission in 1998 and 1999, as further described in the Disclosure Documents (collectively, the “Shareholder Suits”), and (6) EBIT of the businesses acquired by the Borrower or any of its Subsidiaries (through asset purchases or otherwise) (each an “Acquired Business”) or the Subsidiaries acquired or formed since the beginning of such period (each a “New Subsidiary”) provided, that a statement identifying all such Acquired Businesses and the EBIT of such Acquired Businesses is delivered to the Banks with the Compliance Certificate for such period, all to the extent that each of items (1) through (5) was deducted in determining Consolidated Net Income (or Deficit) in the relevant period, minus non-cash extraordinary gains on the sale of assets outside the ordinary course of business to the extent included in Consolidated Net Income (or Deficit).

Consolidated Earnings Before Interest, Taxes, Depreciation and Amortization or EBITDA. For any period, EBIT plus (a) depreciation expense, and (b) amortization expense to the extent the same would be included in the calculation of Consolidated Net Income (or Deficit) for such period, determined in accordance with GAAP.

Consolidated Net Income (or Deficit). The consolidated net income (or deficit) of the Borrower, after deduction of all expenses, taxes, and other proper charges, determined in accordance with GAAP.

Consolidated Tangible Assets. Consolidated Total Assets less the sum of:

(a) the total book value of all assets of the Borrower on a consolidated basis properly classified as intangible assets under GAAP, including such items as goodwill, the purchase price of acquired assets in excess of the fair market value thereof, trademarks, trade names, service marks, customer lists, brand names, copyrights, patents and licenses, and rights with respect to the foregoing; plus

(b) all amounts representing any write-up in the book value of any assets of the Borrower on a consolidated basis resulting from a revaluation thereof subsequent to the Balance Sheet Date.

Consolidated Total Assets. All assets of the Borrower determined on a consolidated basis in accordance with GAAP.

Consolidated Total Interest Expense. For any period, the aggregate amount of interest expense required by GAAP to be paid or (without duplication) accrued during such period on all Indebtedness of the Borrower on a consolidated basis outstanding during all or any part of such period, including capitalized interest expense for such period.

Defaulting Bank. See §5.12.

Defaults. See §12.1.

Disclosure Documents. The Borrower's financial statements referred to in §6.4 and filings made by the Borrower or the Guarantor with the Securities and Exchange Commission that were publicly available prior to the Effective Date which were provided to the Banks.

Disposal or Disposed. See "Release".

Distribution. The declaration or payment of any dividend or other return on equity on or in respect of any shares of any class of capital stock, any partnership interests or any membership interests of any Person (other than dividends or other such returns payable solely in shares of capital stock, partnership interests or membership units of such Person, as the case may be); the purchase, redemption, or other retirement of any shares of any class of capital stock, partnership interests or membership units of such Person, directly or indirectly through a Subsidiary or otherwise; the return of equity capital by any Person to its shareholders, partners or members as such; or any other distribution on or in respect of any shares of any class of capital stock, partnership interest or membership unit of such Person.

Dollars or US$ or $ or U.S. Dollars. The lawful currency of the United States of America.

Drawdown Date. The date on which any Loan is made or is to be made, or any amount is paid by an Issuing Bank under a Letter of Credit.

EBIT. See definition of Consolidated Earnings Before Interest and Taxes.

EBITDA. See definition of Consolidated Earnings Before Interest, Taxes, Depreciation and Amortization.

Effective Date. The date on which the conditions precedent set forth in §10.1 hereof are satisfied.

Employee Benefit Plan. Any employee benefit plan within the meaning of §3(3) of ERISA maintained or contributed to by the Borrower, any of its Subsidiaries, or any ERISA Affiliate, other than a Multiemployer Plan.

Environmental Laws. See §6.15(a).

EPA. See §6.15(b).

ERISA. The Employee Retirement Income Security Act of 1974, as amended and in effect from time to time.

ERISA Affiliate. Any Person which is treated as a single employer with the Borrower or any of its Subsidiaries under §414 of the Code.

ERISA Reportable Event. A reportable event within the meaning of §4043 of ERISA and the regulations promulgated thereunder with respect to a Guaranteed Pension Plan as to which the requirement of notice has not been waived.

Eurocurrency Reserve Rate. For any day with respect to a Eurodollar Loan, the maximum rate (expressed as a decimal) at which the bank acting as Administrative Agent would be required to maintain reserves under Regulation D of the Board of Governors of the Federal Reserve System (or any successor or similar regulations relating to such reserve requirements) against "Eurocurrency Liabilities" (as that term is used in Regulation D), if such liabilities were outstanding. The Eurocurrency Reserve Rate shall be adjusted automatically on and as of the effective date of any change in the Eurocurrency Reserve Rate.

Eurodollar Business Day. Any day on which commercial banks are open for international business (including dealings in Dollar deposits) in London or such other eurodollar interbank market as may be selected by the Administrative Agent in its sole discretion acting in good faith.

Eurodollar Competitive Bid Loans. Competitive Bid Loans bearing interest calculated by reference to the Eurodollar Rate in accordance with §4.5(b)(iv).

Eurodollar Lending Office. Initially, the office of each Bank set forth in the administrative materials provided to the Administrative Agent; thereafter, upon notice to the Administrative Agent, such other office of such Bank that shall be making or maintaining Eurodollar Loans.

Eurodollar Loans. Syndicated Loans bearing interest calculated by reference to the Eurodollar Rate.

Eurodollar Rate. For any Interest Period with respect to a Eurodollar Loan, (i)(a) the rate of interest equal to the rate determined by the Administrative Agent at which Dollar deposits for such Interest Period are offered based on information presented on Page 3750 of the Dow Jones Market Service (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Administrative Agent from time to time) as of 11:00 a.m. (London time) two (2) Eurodollar Business Days prior to the first day of such Interest Period, or (b) if such rate is not shown at such place, the rate of interest equal to (i) the rate per annum at which the Administrative Agent's Eurodollar Lending Office is offered Dollar deposits at approximately 10:00 a.m. (New York time) two (2) Eurodollar Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where the eurodollar operations of such Eurodollar Lending Office are customarily conducted, for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to the amount of the Eurodollar Loan of the Administrative Agent to which such Interest Period applies, divided by (ii) a number equal to 1.00 minus the Eurocurrency Reserve Rate, if applicable.

Events of Default. See §12.1.

Existing Credit Agreement. The existing $2,400,000,000 Five-Year Revolving Credit Agreement dated as of October 15, 2004 of the Borrower, as amended.

Existing Letters of Credit. Those Letters of Credit that were issued under the Existing Credit Agreements and are outstanding as of the date hereof, and which are identified in Schedule 3.1.2 hereof.

Facility Fee. See §2.2.

Federal Funds Rate. For any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average of the quotations received by the Administrative Agent from three Federal funds brokers of recognized standing selected by the Administrative Agent.

Financial Affiliate. A subsidiary of the bank holding company controlling any Bank, which subsidiary is engaging in any of the activities permitted by §4(e) of the Bank Holding Company Act of 1956 (12 U.S.C. §1843).

Generally accepted accounting principles or GAAP. (i) When used in this Agreement, whether directly or indirectly through reference to a capitalized term used therein, means (A) principles that are consistent with the principles promulgated or adopted by the Financial Accounting Standards Board and its predecessors, in effect for the fiscal year ended on the Balance Sheet Date, and (B) to the extent consistent with such principles, the accounting practice of the Borrower reflected in its financial statements for the year ended on the Balance Sheet Date; provided, that with respect to any financial statements prepared after the Balance Sheet Date, such meaning in each of (A) and (B) shall include the application of Statement of Financial Accounting Standards No. 123 (revised 2004), Share Based Payment (“FAS 123(R)”); provided, further, that in each case referred to in this definition of “generally accepted accounting principles” a certified public accountant would, insofar as the use of such accounting principles is pertinent, be in a position to deliver an unqualified opinion (other than a qualification regarding changes in generally accepted accounting principles) as to financial statements in which such principles have been properly applied.

Guaranteed Obligations. See §28.1.

Guaranteed Pension Plan. Any employee pension benefit plan within the meaning of §3(2) of ERISA maintained or contributed to by the Borrower, its Subsidiaries or any ERISA Affiliate the benefits of which are guaranteed on termination in full or in part by the PBGC pursuant to Title IV of ERISA, other than a Multiemployer Plan.

Guarantor. See Preamble.

Guaranty. Any obligation, contingent or otherwise, of a Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guaranty shall not include endorsements for collection or deposit in the ordinary course of business.

Hazardous Substances. See §6.15(b).

Indebtedness. Collectively, without duplication, whether classified as Indebtedness, an Investment or otherwise on the obligor's balance sheet, (a) all indebtedness for borrowed money, (b) all obligations for the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business which either (i) are not overdue by more than ninety (90) days, or (ii) are being disputed in good faith and for which adequate reserves have been established in accordance with GAAP), (c) all obligations evidenced by notes, bonds, debentures or other similar debt instruments, (d) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations, liabilities and indebtedness under Capitalized Leases, (f) all obligations, liabilities or indebtedness arising from the making of a drawing under surety, performance bonds, or any other bonding arrangement, (g) Guaranties with respect to all Indebtedness of others referred to in clauses (a) through (f) above, and (h) all Indebtedness of others referred to in clauses (a) through (f) above secured or supported by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured or supported by) any Lien on the property or assets of the Borrower or any Subsidiary, even though the owner of the property has not assumed or become liable, contractually or otherwise, for the payment of such Indebtedness; provided that if a Permitted Receivables Transaction is outstanding and is accounted for as a sale of accounts receivable under generally accepted accounting principles, Indebtedness shall also include the additional Indebtedness, determined on a consolidated basis, which would have been outstanding had such Permitted Receivables Transaction been accounted for as a borrowing.

Interest Period. With respect to each Loan (a) initially, the period commencing on the Drawdown Date of such Loan and ending on the last day of one of the periods set forth below, as selected by the Borrower in accordance with this Agreement (i) for any Base Rate Loan or Swing Line Loan, the first day of the following month; (ii) for any Eurodollar Loan, 1, 2, 3, or 6 months; (iii) for any Absolute Competitive Bid Loan, from 7 through 180 days; and (iv) for any Eurodollar Competitive Bid Loan, 1, 2, 3, 4, 5, or 6 months; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Loan and ending on the last day of one of the periods set forth above, as selected by the Borrower in accordance with this Agreement or if such period has no numerically corresponding day, on the last Business Day of such period; provided that any Interest Period which would otherwise end on a day which is not a Business Day shall be deemed to end on the next succeeding Business Day; provided further that for any Interest Period for any Eurodollar Loan or Eurodollar Competitive Bid Loan, if such next succeeding Business Day falls in the next succeeding calendar month, such Interest Period shall be deemed to end on the next preceding Business Day; and provided further that no Interest Period shall extend beyond the Maturity Date.

Interim Balance Sheet Date. June 30, 2006.

Investments. All expenditures made by a Person and all liabilities incurred (contingently or otherwise) by a Person for the acquisition of stock of (other than the stock of Subsidiaries), or Indebtedness of, or for loans, advances, capital contributions or transfers of property to, or in respect of any Guaranties or other commitments as described under Indebtedness, or obligations of, any other Person, including without limitation, the funding of any captive insurance company (other than loans, advances, capital contributions or transfers of property to any Subsidiaries or variable interest entities consolidated in accordance with Financial Accounting Standards Board Intrepretation No. 46 Consolidation of Variable Interest Entities (revised December 2003) (“FIN 46-R”), or Guaranties with respect to Indebtedness of any Subsidiary or variable interest entities consolidated in accordance with FIN 46-R). In determining the aggregate amount of Investments outstanding at any particular time: (a) the amount of any Investment represented by a Guaranty shall be taken at not less than the principal amount of the obligations guaranteed and still outstanding; (b) there shall be included as an Investment all interest accrued with respect to Indebtedness constituting an Investment unless and until such interest is paid; (c) there shall be deducted in respect of each such Investment any amount received as a return of capital (but only by partial or full repurchase, redemption, retirement, repayment, liquidating dividend or liquidating distribution); (d) there shall not be deducted in respect of any Investment any amounts received as earnings on such Investment, whether as dividends, interest or otherwise, except that accrued interest included as provided in the foregoing clause (b) may be deducted when paid; and (e) there shall not be deducted from the aggregate amount of Investments any decrease in the value thereof.

Issuance Fee. See §3.6.

Issuing Banks. (i) the Banks listed on Schedule 3.1 hereto, and (ii) any other Bank that agrees (in its sole discretion) to act as Issuing Bank pursuant to an instrument in writing in form and substance satisfactory to such Bank, the Borrower and the Administrative Agent and signed by them (which instrument shall set forth the maximum aggregate face amount of all Letters of Credit of such Issuing Bank and shall, as to such maximum amount, automatically be deemed to supplement Schedule 3.1 hereto); provided, that in the case of any Existing Letter of Credit that was issued through an affiliate of an Issuing Bank, such Letter of Credit shall be deemed for purposes of §3.1(a) to have been issued by such Issuing Bank and the provisions of Section 3.1(g) shall apply.

Lead Arrangers. Banc of America Securities LLC and J.P. Morgan Securities Inc., as Lead Arrangers and Joint Bookrunners in connection with the credit facility provided herein.

Letter of Credit Applications. Letter of credit applications in such form or forms as may be agreed upon by the Borrower and the relevant Issuing Bank from time to time which are entered into pursuant to §3 hereof, specifically referencing this Agreement, as such Letter of Credit Applications may be amended, varied or supplemented from time to time; provided, however, in the event of any conflict or inconsistency between the terms of any Letter of Credit Application and this Agreement, the terms of this Agreement shall control.

Letter of Credit Fee. See §3.6.

Letter of Credit Participation. See §3.1(c).

Letter of Credit Request. See §3.1(a).

Letters of Credit. Letters of credit issued or to be issued by the Issuing Banks under §3 hereof for the account of the Borrower (including without limitation any Canadian Dollar Letters of Credit), and the Existing Letters of Credit.

Lien. With respect to any asset, (a) any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, encumbrance, charge, security interest, assignment, deposit arrangement or other restriction in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, Capital Lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

Loan Documents. This Agreement, the Letter of Credit Applications, the Letters of Credit and any documents, instruments or agreements executed in connection with any of the foregoing, each as amended, modified, supplemented, or replaced from time to time.

Loans. Collectively, the Syndicated Loans, the Swing Line Loans and the Competitive Bid Loans.

Majority Banks. At any date, Banks the aggregate amount of whose Commitments is greater than fifty percent (50%) of the Total Commitment; provided that in the event that the Total Commitment has been terminated, the Majority Banks shall be Banks holding greater than fifty percent (50%) of the aggregate outstanding principal amount of the Obligations on such date.

Material Adverse Effect. A material adverse effect on (a) the business, assets, operations, or financial condition of the Borrower and the Subsidiaries taken as a whole, (b) the ability of the Borrower or the Guarantor to perform any of its obligations under any Loan Document to which it is a party, or (c) the rights of, or remedies or benefits available to, the Administrative Agent or any Bank under any Loan Document.

Maturity Date. August 17, 2011.

Maximum Drawing Amount. At any time, the maximum aggregate amount from time to time that the beneficiaries may draw under outstanding Letters of Credit (using, in the case of Canadian Dollar Letters of Credit, the U.S. Dollar Equivalent of the aggregate undrawn face amount thereof on the relevant date) (plus, for purposes of computing amounts outstanding including under Sections 2.1(a), 2.2, 2.3.1(a), 2.6(a), 3.2(b), 4.1, 5.2 and 12.1, but without duplication, unpaid Reimbursement Obligations, if any).

Moody's. Moody's Investors Service, Inc.

Multiemployer Plan. Any multiemployer plan within the meaning of §3(37) of ERISA maintained or contributed to by the Borrower, any of its Subsidiaries, or any ERISA Affiliate.

New Lending Office. See §5.1(d).

Non-U.S. Bank. See §5.1(c).

Notes. Notes issued according to §2.4(e).

Obligations. All indebtedness, obligations and liabilities of the Borrower to any of the Banks and the Administrative Agent arising or incurred under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or Reimbursement Obligations incurred or the Letters of Credit, or any other instrument at any time evidencing any thereof, individually or collectively, existing on the date of this Agreement or arising thereafter, whether direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise.

PBGC. The Pension Benefit Guaranty Corporation created by §4002 of ERISA and any successor entity or entities having similar responsibilities.

Permitted Liens. Any of the following Liens:

(a) Liens for taxes not yet due or that are being contested in compliance with §7.8;

(b) carriers', warehousemen's, maritime, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are being contested in good faith by appropriate proceedings and for which adequate reserves with respect thereto have been set aside as required by GAAP;

(c) pledges and deposits made in the ordinary course of business in compliance with workmen's compensation, unemployment insurance and other social security laws or regulations;

(d) Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Leases), statutory obligations, surety and appeal bonds, suretyship, performance and landfill closure bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) zoning restrictions, easements, rights-of-way, restrictions on use of property and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of the Borrower or any of its Subsidiaries;

(f) the Liens on Schedule 1.1 hereto securing the obligations listed on such Schedule and any replacement Lien securing any renewal, extension or refunding of such obligations if the amount secured by such renewal, extension or refunding Lien shall not exceed the amount of the outstanding obligations secured by the Lien being replaced at the time of such renewal, extension or refunding (plus transaction costs, including premiums and fees, related to such renewal, extension or refunding) and if such replacement Lien shall be limited to substantially the same property that secured the Lien so replaced;

(g) legal or equitable encumbrances deemed to exist by reason of the existence of any litigation or other legal proceeding or arising out of a judgment or award with respect to which an appeal is being prosecuted in good faith by appropriate action and with respect to which adequate reserves are being maintained and, in the case of judgment liens, execution thereon is stayed;

(h) rights reserved or vested in any municipality or governmental, statutory or public authority to control or regulate any property of the Borrower or any Subsidiary, or to use such property in a manner that does not materially impair the use of such property for the purposes for which it is held by the Borrower or such Subsidiary;

(i) any obligations or duties affecting the property of the Borrower or any of its Subsidiaries to any municipality, governmental, statutory or public authority with respect to any franchise, grant, license or permit;

(j) Liens filed in connection with sales of receivables by any of the Subsidiaries (other than the Guarantor) to a wholly-owned special purpose financing Subsidiary for purposes of perfecting such sales, provided that no third party has any rights with respect to such Liens or any assets subject thereto;

(k) any interest or title of a lessor under any sale lease-back transaction entered into by the Borrower or any Subsidiary conveying only the assets so leased back to the extent the related Indebtedness is permitted under §8.1 hereof;

(l) Liens created or deemed to be created under Permitted Receivables Transactions at any time provided such Liens do not extend to any property or assets other than the trade receivables sold pursuant to such Permitted Receivables Transactions, interests in the goods or products (including returned goods and products), if any, relating to the sales giving rise to such trade receivables; any security interests or other Liens and property subject thereto (other than on any leases or related lease payment rights or receivables between the Borrower and any of its Subsidiaries, as lessors or sublessors) from time to time purporting to secure the payment by the obligors of such trade receivables (together with any financing statements signed by such obligors describing the collateral securing such trade receivables) pursuant to such Permitted Receivables Transactions; and

(m) Liens securing other Indebtedness, provided that the aggregate amount of all liabilities, including any Indebtedness, of the Borrower and its Subsidiaries secured by all Liens permitted in subsections (k), (1) and (m), when added (without duplication) to the aggregate amount of Indebtedness of the Borrower's Subsidiaries permitted under §8.1(b) and Indebtedness with respect to Permitted Receivables Transactions, shall not exceed 15% of Consolidated Tangible Assets at any time.

Permitted Receivables Transaction. Any sale or sales of, and/or securitization of, any accounts receivable of the Borrower and/or any of its Subsidiaries (the "Receivables") pursuant to which (a) the Borrower and its Subsidiaries realize aggregate net proceeds of not more than $750,000,000 at any one time outstanding, including, without limitation, any revolving purchase(s) of Receivables where the maximum aggregate uncollected purchase price (exclusive of any deferred purchase price) for such Receivables at any time outstanding does not exceed $750,000,000, and (b) which Receivables shall not be discounted more than 25%.

Person. Any individual, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, business, or other legal entity, and any government or any governmental agency or political subdivision thereof.

Pricing Table:

Level	Senior Public Debt Rating	Applicable Facility Fee Rate	Applicable L/C Rate	Applicable Base Rate	Applicable Eurodollar Rate
1	Greater than or equal to A- by Standard & Poor's or greater than or equal to A3 by Moody's	0.0800% per annum	0.1700% per annum	Base Rate per annum	Eurodollar Rate plus 0.1700% per annum
2	BBB+ by Standard & Poor's or Baa1 by Moody's	0.0900% per annum	0.2850% per annum	Base Rate per annum	Eurodollar Rate plus 0.2850% per annum

Level	Senior Public Debt Rating	Applicable Facility Fee Rate	Applicable L/C Rate	Applicable Base Rate	Applicable Eurodollar Rate
3	BBB by Standard & Poor's or Baa2 by Moody's	0.1000% per annum	0.4000% per annum	Base Rate per annum	Eurodollar Rate plus 0.4000% per annum
4	BBB- by Standard & Poor's or Baa3 by Moody's	0.1250% per annum	0.4750% per annum	Base Rate per annum	Eurodollar Rate plus 0.4750% per annum
5	Less than or equal to BB+ by Standard & Poor's or less than or equal to Ba1 by Moody's	0.1750% per annum	0.5750% per annum	Base Rate per annum	Eurodollar Rate plus 0.5750% per annum

The applicable rates charged for any day shall be determined by the higher Senior Public Debt Rating in effect as of that day, provided that if the higher Senior Public Debt Rating is more than one level higher than the lower Senior Public Debt Rating, the applicable rate shall be set at one level below the higher Senior Public Debt Rating.

RCRA. See §6.15(a).

Real Property. All real property heretofore, now, or hereafter owned, operated, or leased by the Borrower or any of its Subsidiaries.

Reimbursement Obligation. The Borrower's obligation to reimburse the applicable Issuing Bank and the Banks on account of any drawing under any Letter of Credit, all as provided in §3.2.

Release. Shall have the meaning specified in CERCLA and the term "Disposal" (or "Disposed") shall have the meaning specified in the RCRA and regulations promulgated thereunder; provided, that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that the laws of Canada or a state, province, territory or other political subdivision thereof wherein the property lies establish a meaning for "Release" or "Disposal" which is broader than specified in either CERCLA, or RCRA, such broader meaning shall apply to the Borrower's or any of its Subsidiaries' activities in that state, province, territory or political subdivision.

Replacement Bank. See §5.12.

Replacement Notice. See §5.12.

Senior Public Debt Rating. The ratings of the Borrower's public unsecured long-term senior debt, without third party credit enhancement, issued by Moody's and Standard & Poor's.

Shareholder Suits. See the definition of "Consolidated Earnings Before Interest and Taxes, or EBIT."

Significant Subsidiary. At any time, a Subsidiary that at such time meets the definition of "significant subsidiary" contained in Regulation S-X of the Securities and Exchange Commission as in effect on the date hereof, but as if each reference in said definition to the figure "10 percent" were a reference to the figure "3 percent".

Standard & Poor's. Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.

Subsidiary. Any corporation, association, trust, or other business entity of which the designated parent shall at any time own directly or indirectly through a Subsidiary or Subsidiaries at least a majority of the outstanding capital stock or other interest entitled to vote generally and whose financial results are required to be consolidated with the financial results of the designated parent in accordance with GAAP.

Swap Contracts. All obligations in respect of interest rate, currency or commodity exchange, forward, swap, or futures contracts or similar transactions or arrangements entered into to protect or hedge the Borrower and its Subsidiaries against interest rate, exchange rate or commodity price risks or exposure, or to lower or diversify their funding costs.

Swing Line Bank. Citibank.

Swing Line Loans. See §2.11(a).

Swing Line Settlement. The making or receiving of payments, in immediately available funds, by the Banks to or from the Administrative Agent in accordance with §2.11 hereof to the extent necessary to cause each Bank's actual share of the outstanding amount of the Syndicated Loans to be equal to such Bank's Commitment Percentage of the outstanding amount of such Syndicated Loans, in any case when, prior to such action, the actual share is not so equal.

Swing Line Settlement Amount. See §2.11(b).

Swing Line Settlement Date. See §2.11(b).

Swing Line Settling Bank. See §2.11(b).

Syndicated Loan Request. See §2.6(a).

Syndicated Loans. A Borrowing hereunder consisting of one or more loans made by the Banks to the Borrower under the procedures described in §2.1(a) and §2.11 hereof.

Terminated Plans. The Waste Management, Inc. Pension Plan and The Waste Management of Alameda County, Inc. Retirement Plan.

Total Commitment. Initially $2,400,000,000, as such amount may be increased or reduced in accordance with the terms hereof, or, if such Total Commitment has been terminated pursuant to §2.3.1 or §12.2 hereof, zero.

Total Debt. The sum, without duplication, of all (1) Indebtedness of the Borrower on a consolidated basis under subsections (a) through (h) of the definition of "Indebtedness" (provided, however, that Indebtedness with respect to Permitted Receivables Transactions shall not be included in such calculation), plus (2) non-contingent reimbursement obligations of the Borrower and its Subsidiaries with respect to drawings under any letters of credit.

Type. When used in reference to any Loan, refers to whether the rate of interest on such Loan is determined by reference to the Eurodollar Rate, the Base Rate or, in the case of a Competitive Bid Loan, whether it is a Eurodollar Competitive Bid Loan or Absolute Competitive Bid Loan.

U.S. Dollar Equivalent. With respect to any amount denominated in Canadian Dollars on any date, an equivalent amount in U.S. Dollars, computed as follows:

(i) for purposes of computing the Maximum Drawing Amount as of the date of each borrowing of Loans or the issuance of any Letter of Credit, the equivalent in U.S. Dollars of the aggregate unused face amount of all outstanding Canadian Dollar Letters of Credit, computed by the Administrative Agent on the basis of the Applicable Spot Rate as determined by the Administrative Agent at approximately 10:00 a.m. New York time on such date;

(ii) for purposes of computing the Maximum Drawing Amount in connection with the computation of Letter of Credit Fee payable under §3.6 hereof, the equivalent in U.S. Dollars of the aggregate unused face amount of all outstanding Canadian Dollar Letters of Credit, computed by the Administrative Agent on the basis of the Applicable Spot Rate as determined by the Administrative Agent at approximately 10:00 a.m. New York time on the relevant quarterly date referred to therein;

(iii) for purposes of computing the amount of Issuance Fee payable to any Issuing Bank, the equivalent in U.S. Dollars of the face amount of each relevant Canadian Dollar Letter of Credit, computed by such Issuing Bank on the basis of the Applicable Spot Rate as determined by such Issuing Bank at approximately 10:00 a.m. New York time on the date of issuance of such Letter of Credit;

(iv) for purposes of computing the amount in U.S. Dollars of any payment made by an Issuing Bank in Canadian Dollars in respect of a drawing under a Canadian Dollar Letter of Credit, the equivalent in U.S. Dollars of the amount of such payment, computed by such Issuing Bank on the basis of the Applicable Spot Rate as determined by such Issuing Bank at the time of such payment; and

(v) for purposes of determining the amount, if any, required to be prepaid on any date under §5.2 hereof, the equivalent in U.S. Dollars of the aggregate unused face amount of all Canadian Dollar Letters of Credit, computed by the Administrative Agent on the basis of the Applicable Spot Rate as determined by the Administrative Agent at approximately 10:00 a.m. New York time on such date.

§1.2. Rules of Interpretation.

(a) Unless otherwise noted, a reference to any document or agreement (including this Agreement) shall include such document or agreement as amended, modified or supplemented from time to time in accordance with its terms and the terms of this Agreement.

(b) The singular includes the plural and the plural includes the singular.

(c) A reference to any law includes any amendment or modification to such law.

(d) A reference to any Person includes its permitted successors and permitted assigns.

(e) Accounting terms capitalized but not otherwise defined herein have the meanings assigned to them by generally accepted accounting principles applied on a consistent basis by the accounting entity to which they refer.

(f) The words “include”, “includes” and “including” are not limiting.

(g) All terms not specifically defined herein or by generally accepted accounting principles, which terms are defined in the Uniform Commercial Code as in effect in the State of New York, have the meanings assigned to them therein.

(h) Reference to a particular “§” refers to that section of this Agreement unless otherwise indicated.

(i) The words “herein”, “hereof’, “hereunder” and words of like import shall refer to this Agreement as a whole and not to any particular section or subdivision of this Agreement.

§1.3. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a "Syndicated Loan") or by Type (e.g., a "Eurodollar Loan") or by Class and Type (e.g., a "Eurodollar Syndicated Loan").

§2. THE LOAN FACILITIES.

§2.1. Commitment to Lend.

(a) Subject to the terms and conditions set forth in this Agreement, each of the Banks severally agrees to lend to the Borrower and the Borrower may borrow, repay, and reborrow from time to time between the Effective Date and the Maturity Date, upon notice by the Borrower to the Administrative Agent given in accordance with this §2, its Commitment Percentage of the Syndicated Loans requested by the Borrower; provided that the sum of the outstanding principal amount of the Syndicated Loans (including the Swing Line Loans) and the Maximum Drawing Amount of outstanding Letters of Credit shall not exceed the Total Commitment minus the aggregate amount of Competitive Bid Loans outstanding at such time.

(b) On the date of each request for a Loan or Letter of Credit hereunder, the Borrower shall be deemed to have made a representation and warranty that the conditions set forth in §10 and §11, as the case may be, have been satisfied on the date of such request. Any unpaid Reimbursement Obligation shall be a Base Rate Loan, as set forth in §3.2(a).

§2.2. Facility Fee. The Borrower agrees to pay to the Administrative Agent for the account of the Banks a fee (the "Facility Fee") on the Total Commitment (whether or not utilized) equal to the Applicable Facility Fee Rate multiplied by the Total Commitment, provided that after the expiry or termination of the Total Commitment, the Facility Fee shall be computed on the sum of (A) the Maximum Drawing Amount of all Letters of Credit, if any, outstanding from time to time and (B) all Loans outstanding from time to time. The Facility Fee shall be payable for the period from and after the Effective Date quarterly in arrears on the first day of each calendar quarter for the immediately preceding calendar quarter with the first such payment commencing on October 1, 2006 and on the Maturity Date (or on the date of termination in full of the Total Commitment, if earlier) and on the date of termination of all Letters of Credit and payment in full of all Loans. The Facility Fee shall be distributed pro rata among the Banks in accordance with each Bank's Commitment Percentage.

§2.3. Reduction and Increase of Total Commitment.

§2.3.1. Reduction of Total Commitment.

(a) The Borrower shall have the right at any time and from time to time upon three (3) Business Days' prior written notice to the Administrative Agent to reduce by $25,000,000 or a greater amount, or terminate entirely, the Total Commitment, whereupon each Bank's Commitment shall be reduced pro rata in accordance with such Bank's Commitment Percentage of the amount specified in such notice or, as the case may be, terminated; provided that at no time may the Total Commitment be reduced to an amount less than the sum of (A) the Maximum Drawing Amount of all Letters of Credit, and (B) all Loans then outstanding.

(b) No reduction or termination of the Total Commitment once made may be revoked; the portion of the Total Commitment reduced or terminated may not be reinstated; and amounts in respect of such reduced or terminated portion may not be reborrowed.

(c) The Administrative Agent will notify the Banks promptly after receiving any notice delivered by the Borrower pursuant to this §2.3.1 and will distribute to each Bank a revised Schedule 1 to this Agreement.

§2.3.2. Increase of Total Commitment. Unless a Default or Event of Default has occurred and is continuing, the Borrower may request, subject to the approval of the Administrative Agent, that the Total Commitment be increased, provided that the Total Commitment shall not, except with the consent of the Majority Banks, in any event exceed $3,000,000,000 hereunder; provided, however, that (i) any Bank which is a party to this Agreement prior to such increase shall have the first option, and may elect, to fund its pro rata share of the increase, thereby increasing its Commitment hereunder, but no Bank shall have any obligation to do so, (ii) in the event that it becomes necessary to include a new Bank to provide additional funding under this §2.3.2, such new Bank must be reasonably acceptable to the Administrative Agent and the Borrower, and (iii) the Banks' Commitment Percentages shall be correspondingly adjusted, as necessary, to reflect any increase in the Total Commitment and Schedule 1 shall be amended to reflect such adjustments. Any such increase in the Total Commitment shall require, among other things, the satisfaction of such conditions precedent as the Administrative Agent may reasonably require, including, without limitation, the Administrative Agent's receipt of evidence of applicable corporate authorization and other corporate documentation from the Borrower and the Guarantor and the legal opinion of counsel to the Borrower and the Guarantor, each in form and substance satisfactory to the Administrative Agent and such Banks as are participating in such increase.

§2.4. Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the pro rata account of the Banks, the then unpaid principal amount of the Syndicated Loans on the Maturity Date, (ii) to the Administrative Agent for the account of the applicable Bank, the then unpaid principal amount of such Bank's Competitive Bid Loan on the last day of the Interest Period applicable to such Loan, and (iii) to the Swing Line Bank, for its account, the then unpaid principal amount of each Swing Line Loan on the earlier of the Maturity Date and the first date after such Swing Line Loan is made that is the 15th or last day of a calendar month and is at least two Business Days after such Swing Line Loan is made; provided that on each date that a Syndicated Loan or Competitive Bid Loan is made, the Borrower shall repay all Swing Line Loans then outstanding.

(b) Each Bank shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Bank resulting from each Loan made by such Bank, including the amounts of principal and interest payable and paid to such Bank from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Bank hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Banks and each Bank's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this §2.4 shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Bank or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Bank may request that any Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Bank a promissory note payable to the order of such Bank (or, if requested by Bank, to such Bank and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to §20) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

§2.5. Interest on Loans.

(a) The outstanding principal amount of the Syndicated Loans shall bear interest at the rate per annum equal to (i) the Applicable Base Rate on Base Rate Loans, (ii) the Applicable Eurodollar Rate on Eurodollar Loans and (iii) the Applicable Swing Line Rate on Swing Line Loans.

(b) Interest shall be payable (i) quarterly in arrears on the first Business Day of each quarter, with the first such payment commencing October 1, 2006, on Base Rate Loans, (ii) on the last day of the applicable Interest Period, and if such Interest Period is longer than three months, also on the last day of each three month period following the commencement of such Interest Period, on Eurodollar Loans, and (iii) on the Maturity Date for all Loans.

§2.6. Requests for Syndicated Loans.

(a) The Borrower shall give to the Administrative Agent written notice in the form of Exhibit A hereto (or telephonic notice confirmed in writing or a facsimile in the form of Exhibit A hereto) of each Syndicated Loan requested hereunder (a "Syndicated Loan Request") not later than (a) 11:00 a.m. (New York time) on the proposed Drawdown Date of any Base Rate Loan, or (b) 11:00 a.m. (New York time) three (3) Eurodollar Business Days prior to the proposed Drawdown Date of any Eurodollar Loan.

Each such Syndicated Loan Request shall specify (A) the principal amount of the Syndicated Loan requested, (B) the proposed Drawdown Date of such Syndicated Loan, (C) whether such Syndicated Loan requested is to be a Base Rate Loan or a Eurodollar Loan, and (D) the Interest Period for such Syndicated Loan, if a Eurodollar Loan. Each Syndicated Loan requested shall be in a minimum amount of $10,000,000. Each such Syndicated Loan Request shall reflect the Maximum Drawing Amount of all Letters of Credit outstanding and the amount of all Loans outstanding (including Competitive Bid Loans and Swing Line Loans). Syndicated Loan Requests made hereunder shall be irrevocable and binding on the Borrower, and shall obligate the Borrower to accept the Syndicated Loan requested from the Banks on the proposed Drawdown Date.

(b) Each of the representations and warranties made by the Borrower to the Banks or the Administrative Agent in this Agreement or any other Loan Document shall be true and correct in all material respects when made and shall, for all purposes of this Agreement, be deemed to be repeated by the Borrower on and as of the date of the submission of a Syndicated Loan Request, Competitive Bid Quote Request, or Letter of Credit Application and on and as of the Drawdown Date of any Loan or the date of issuance of any Letter of Credit (except to the extent (i) of changes resulting from transactions contemplated or permitted by this Agreement and the other Loan Documents, (ii) of changes occurring in the ordinary course of business that either individually or in the aggregate do not result in a Material Adverse Effect, or (iii) that such representations and warranties expressly relate only to an earlier date).

(c) The Administrative Agent shall promptly notify each Bank of each Syndicated Loan Request received by the Administrative Agent (i) on the proposed Drawdown Date of any Base Rate Loan, or (ii) three (3) Eurodollar Business Days prior to the proposed Drawdown Date of any Eurodollar Loan.

§2.7. Election of Eurodollar Rate; Notice of Election; Interest Periods; Minimum Amounts.

(a) At the Borrower’s option, so long as no Default or Event of Default has occurred and is then continuing, the Borrower may (i) elect to convert any Base Rate Loan or a portion thereof to a Eurodollar Loan, (ii) at the time of any Syndicated Loan Request, specify that such requested Loan shall be a Eurodollar Loan, or (iii) upon expiration of the applicable Interest Period, elect to maintain an existing Eurodollar Loan as such, provided that the Borrower give notice to the Administrative Agent pursuant to §2.7(b) hereof. Upon determining any Eurodollar Rate, the Administrative Agent shall forthwith provide notice thereof to the Borrower and the Banks, and each such notice to the Borrower shall be considered prima facie correct and binding, absent manifest error.

(b) Three (3) Eurodollar Business Days prior to the making of any Eurodollar Loan or the conversion of any Base Rate Loan to a Eurodollar Loan, or, in the case of an outstanding Eurodollar Loan, the expiration date of the applicable Interest Period, the Borrower shall give written, telex or facsimile notice (or telephonic notice promptly confirmed in a writing or a facsimile) received by the Administrative Agent not later than 11:00 a.m. (New York time) of its election pursuant to §2.7(a). Each such notice delivered to the Administrative Agent shall specify the aggregate principal amount of the Syndicated Loans to be borrowed or maintained as or converted to Eurodollar Loans and the requested duration of the Interest Period that will be applicable to such Eurodollar Loan, and shall be irrevocable and binding upon the Borrower. If the Borrower shall fail to give the Administrative Agent notice of its election hereunder together with all of the other information required by this §2.7(b) with respect to any Syndicated Loan, whether at the end of an Interest Period or otherwise, such Syndicated Loan shall be deemed a Base Rate Loan. The Administrative Agent shall promptly notify the Banks in writing (or by telephone confirmed in writing or by facsimile) of such election.

(c) Notwithstanding anything herein to the contrary, the Borrower may not specify an Interest Period that would extend beyond the Maturity Date.

(d) No conversion of Loans pursuant to this §2.7 may result in any Eurodollar Borrowing that is less than $5,000,000. In no event shall the Borrower have more than ten (10) different Interest Periods for Borrowings of Eurodollar Loans outstanding at any time.

(e) Subject to the terms and conditions of §5.8 hereof, if any Affected Bank demands compensation under §5.5(c) or (d) with respect to any Eurodollar Loan, the Borrower may at any time, upon at least three (3) Business Days' prior written notice to the applicable Administrative Agent, elect to convert such Eurodollar Loan into a Base Rate Loan (on which interest and principal shall be payable contemporaneously with the related Eurodollar Loans of the other Banks). Thereafter, and until such time as the Affected Bank notifies the Administrative Agent that the circumstances giving rise to the demand for compensation under §5.5(c) or (d) no longer exist, all requests for Eurodollar Loans from such Affected Bank shall be deemed to be requests for Base Rate Loans. Once the Affected Bank notifies the Administrative Agent that such circumstances no longer exist, the Borrower may elect that the principal amount of each such Loan converted hereunder shall again bear interest as Eurodollar Loans beginning on the first day of the next succeeding Interest Period applicable to the related Eurodollar Loans of the other Banks.

§2.8. Funds for Syndicated Loans. Not later than 1:00 p.m. (New York time) on the proposed Drawdown Date of Syndicated Loans, each of the Banks will make available to the Administrative Agent at the Administrative Agent's Account, in immediately available funds, the amount of its Commitment Percentage of the amount of the requested Loan. Upon receipt from each Bank of such amount, and upon receipt of the documents required by §10 and §11 and the satisfaction of the other conditions set forth therein, the Administrative Agent will make available to the Borrower the aggregate amount of such Syndicated Loans made available by the Banks. The failure or refusal of any Bank to make available to the Administrative Agent at the aforesaid time and place on any Drawdown Date the amount of its Commitment Percentage of the requested Syndicated Loan shall not relieve any other Bank from its several obligations hereunder to make available to the Administrative Agent the amount of such Bank's Commitment Percentage of the requested Loan.

§2.9. Maturity of the Loans and Reimbursement Obligations. The Borrower promises to pay on the Maturity Date, and there shall become absolutely due and payable on the Maturity Date, all of the Loans and unpaid Reimbursement Obligations outstanding on such date, together with any and all accrued and unpaid interest thereon and any fees and other amounts owing hereunder.

§2.10. Optional Prepayments or Repayments of Loans. Subject to the terms and conditions of §5.8, the Borrower shall have the right, at its election, to repay or prepay the outstanding amount of the Loans, as a whole or in part, at any time without penalty or premium. The Borrower shall give the Administrative Agent no later than 11:00 a.m. (New York time) (a) on the proposed date of prepayment or repayment of Base Rate Loans, and (b) three (3) Eurodollar Business Day prior to the proposed date of prepayment or repayment of all other Loans, written notice (or telephonic notice confirmed in writing or by facsimile) of any proposed prepayment or repayment pursuant to this §2.10, specifying the proposed date of prepayment or repayment of Loans and the principal amount to be paid. Notwithstanding the foregoing, the Borrower may not prepay any Competitive Bid Loans without the consent of the applicable Bank. The Administrative Agent shall promptly notify each Bank by written notice (or telephonic notice confirmed in writing or by facsimile) of such notice of payment.

§2.11. Swing Line Loans; Settlements.

(a) Notwithstanding the notice and minimum amount requirements set forth in §2.6 but otherwise in accordance with the terms and conditions of this Agreement, and solely for ease of administration of the Syndicated Loans, the Swing Line Bank may, but shall not be required to, fund Base Rate Loans made in accordance with the provisions of this Agreement ("Swing Line Loans").

At the discretion of the Swing Line Bank, Swing Line Loans may be in amounts less than $10,000,000 provided that the outstanding amount of Swing Line Loans advanced by the Swing Line Bank hereunder shall not exceed $100,000,000 at any time. Each Bank shall remain severally and unconditionally liable to fund its pro rata share (based upon each Bank's Commitment Percentage) of such Swing Line Loans on each Swing Line Settlement Date and, in the event the Swing Line Bank chooses not to fund any Swing Line Loans requested on any date, to fund its Commitment Percentage of the Base Rate Loans requested, subject to satisfaction of the provisions hereof relating to such Bank's Commitment to make the Base Rate Loans. Prior to each Swing Line Settlement, all payments or repayments of the principal of, and interest on, Swing Line Loans shall be credited to the account of the Swing Line Bank.

(b) The Banks shall effect Swing Line Settlements on (i) the Business Day immediately following any day which the Administrative Agent gives written notice to effect a Swing Line Settlement, (ii) the Business Day immediately following the Administrative Agent's becoming aware of the existence of any Default or Event of Default and (iii) the Maturity Date (each such date, a "Swing Line Settlement Date"). One (1) Business Day prior to each such Swing Line Settlement Date, the Administrative Agent shall give telephonic notice (followed promptly by written confirmation) to the

Banks of (A) the respective outstanding amount of Syndicated Loans made by each Bank as at the close of business on the prior day, (B) the amount that any Bank, as applicable (a "Swing Line Settling Bank"), shall pay to effect a Swing Line Settlement (a "Swing Line Settlement Amount") and (C) the portion (if any) of the aggregate Swing Line Settlement Amount to be paid to each Bank. A statement of the Administrative Agent submitted to the Banks with respect to any amounts owing hereunder shall be prima facie evidence of the amount due and owing. Each Swing Line Settling Bank shall, not later than 1:00 p.m. (New York time) on each Swing Line Settlement Date, effect a wire transfer of immediately available funds to the Administrative Agent at its Loan Office in the amount of such Bank's Swing Line Settlement Amount. The Administrative Agent shall, as promptly as practicable during normal business hours on each Swing Line Settlement Date, effect a wire transfer of immediately available funds to each Bank of the Swing Line Settlement Amount to be paid to such Bank. All funds advanced by any Bank as a Swing Line Settling Bank pursuant to this §2.11 (b) shall for all purposes be treated as a Base Rate Loan made by such Swing Line Settling Bank to the Borrower, and all funds received by any Bank pursuant to this §2.11 (b) shall for all purposes be treated as repayment of amounts owed by the Borrower with respect to Base Rate Loans made by such Bank.

(c) The Administrative Agent may (unless notified to the contrary by any Swing Line Settling Bank by 10:00 a.m. (New York time) on the Settlement Date) assume that each Swing Line Settling Bank has made available (or will make available by the time specified in §2.11(b)) to the Administrative Agent its Swing Line Settlement Amount, and the Administrative Agent may (but shall not be required to), in reliance upon such assumption, make available to each applicable Bank its share (if any) of the aggregate Swing Line Settlement Amount. If the Swing Line Settlement Amount of such Swing Line Settling Bank is made available to the Administrative Agent by such Swing Line Settling Bank on a date after such Swing Line Settlement Date, such Swing Line Settling Bank shall pay the Swing Line Bank on demand an amount equal to the product of (i) the average, computed for the period referred to in clause (iii) below, of the weighted average annual interest rate paid by the Swing Line Bank for federal funds acquired by the Swing Line Bank during each day included in such period times (ii) such Swing Line Settlement Amount times (iii) a fraction, the numerator of which is the number of days that elapse from and including such Swing Line Settlement Date to but not including the date on which such Swing Line Settlement Amount shall become immediately available to the Swing Line Bank, and the denominator of which is 365. Upon payment of such amount such Swing Line Settling Bank shall be deemed to have delivered its Swing Line Settlement Amount on the Swing Line Settlement Date and shall become entitled to interest payable by the Borrower with respect to such Swing Line Settling Bank's Swing Line Settlement Amount as if such share were delivered on the Swing Line Settlement Date. If such Swing Line Settlement Amount is not in fact made available to the Swing Line Bank by such Swing Line Settling Bank within three (3) Business Days of such Swing Line Settlement Date, the Swing Line Bank shall be entitled to recover such amount from the Borrower, with interest thereon at the Applicable Base Rate.

(d) After any Swing Line Settlement Date, any payment by the Borrower of Swing Line Loans hereunder shall be allocated among the Banks, in amounts determined so as to provide that after such application and the related Swing Line Settlement, the outstanding amount of Syndicated Loans of each Bank equals, as nearly as practicable, such Bank's Commitment Percentage of the aggregate amount of Syndicated Loans.

§3. LETTERS OF CREDIT.

§3.1. Letter of Credit Commitments.

(a) Subject to the terms and conditions hereof and the receipt by the Administrative Agent of a written notice in the form of Exhibit B hereto (a "Letter of Credit Request") reflecting the Maximum Drawing Amount of all Letters of Credit (including the requested Letter of Credit), and receipt by an Issuing Bank, with a copy to the Administrative Agent, of a Letter of Credit Application, such Issuing Bank, on behalf of the Banks and in reliance upon the representations and warranties of the Borrower contained herein and the agreement of the Banks contained in §3.1(c) hereof, agrees to issue standby Letters of Credit (including so-called "direct pay" standby Letters of Credit) for the account of the Borrower (which may, with such Issuing Bank's consent, incorporate automatic renewals for periods of up to twelve (12) months), in such form as may be requested from time to time by the Borrower and agreed to by such Issuing Bank; provided, however, that, after giving effect to such request, the aggregate Maximum Drawing Amount of all Letters of Credit issued at any time shall not exceed the Total Commitment minus the aggregate outstanding amount of the Loans; provided further, that no Letter of Credit shall have an expiration date later than the earlier of (i) eighteen (18) months after the date of issuance (which may incorporate automatic renewals for periods of up to twelve (12) months), or (ii) five (5) Business Days prior to the Maturity Date; and provided further, that the aggregate face amount of all Letters of Credit issued by any one Issuing Bank shall not at any time exceed the amount set forth opposite the name of such Issuing Bank on Schedule 3.1 hereto, as such amount may be increased (in the sole discretion of such Issuing Bank) or decreased (if so agreed by such Issuing Bank and the Borrower) by the execution and delivery by such Issuing Bank, the Borrower, the Guarantor and the Administrative Agent of an instrument in substantially the form of Schedule 3.1.1 hereto. Each Issuing Bank will promptly confirm to the Administrative Agent the issuance of each Letter of Credit specifying the face amount thereof, and the Administrative Agent will transmit such information to the Banks.

(b) Each Letter of Credit shall be denominated in Dollars or, in accordance with and subject to the terms of §3.1(e) hereof, in Canadian Dollars.

(c) Each Bank severally agrees that it shall be absolutely liable, without regard to the occurrence of any Default or Event of Default, the termination of the Total Commitment pursuant to §12.2, or any other condition precedent or circumstance whatsoever (other than as stated in the next sentence hereof), to the extent of such Bank's Commitment Percentage to reimburse each Issuing Bank on demand for the amount of each draft paid by such Issuing Bank under each Letter of Credit issued by such Issuing

Bank to the extent that such amount is not reimbursed by the Borrower pursuant to §3.2 (such agreement of a Bank being called herein the "Letter of Credit Participation" of such Bank). Each Bank agrees that its obligation to reimburse each Issuing Bank pursuant to this §3.1(c) shall not be affected in any way by any circumstance whatsoever other than the gross negligence or willful misconduct of such Issuing Bank, provided that the making of a payment under a Letter of Credit against documents that appear on their face to substantially comply with the terms and conditions of such Letter of Credit shall not be deemed to be gross negligence or willful misconduct.

(d) Each such reimbursement payment made by a Bank to an Issuing Bank shall be made to an account of such Issuing Bank in the United States of America and shall be treated as the purchase by such Bank of a participating interest in the applicable Reimbursement Obligation under §3.2 in an amount equal to such payment. Each Bank shall share in accordance with its participating interest in any interest which accrues pursuant to §3.2.

(e) (i) The Borrower shall be entitled to request that one or more Letters of Credit be denominated in Canadian Dollars for the account of any Canadian Subsidiary of the Borrower (each a "Canadian Dollar Letter of Credit"); provided that (i) the aggregate undrawn face amount of all Canadian Dollar Letters of Credit may not exceed C$200,000,000 at any time and (ii) each Canadian Dollar Letter of Credit shall provide for payment of any drawing thereunder on a date not earlier than three Business Days after the relevant Issuing Bank determines that the documents submitted in connection with such drawing appear on their face to substantially comply with the terms and conditions of such Letter of Credit.

(ii) The Letter of Credit Application in respect of each Canadian Dollar Letter of Credit shall be signed by the Borrower; provided that nothing therein shall be deemed to alter the obligations of the Borrower under this Agreement in respect of any drawing under any such Letter of Credit.

(iii) If an Issuing Bank makes a payment in Canadian Dollars pursuant to a Canadian Dollar Letter of Credit, the amount of such payment shall, for all purposes of this Agreement (but without prejudice to the terms of such Letter of Credit), immediately be deemed converted into the U.S. Dollar Equivalent thereof and shall for all purposes hereof be deemed to have been made in U.S. Dollars in said amount.

(f) As of the Effective Date, the Existing Letters of Credit shall automatically be deemed to be Letters of Credit for all purposes of this Agreement, having the respective face amounts specified in Schedule 3.1.2 hereof.

(g) The parties acknowledge and agree that (a) certain of the Existing Letters of Credit have been issued by Affiliates of Issuing Banks identified in Schedule 3.1.2 hereof, and that (b) an Issuing Bank may hereafter comply with the provisions of §3.1 in respect of the issuance of Canadian Dollar Letters of Credit by arranging for an Affiliate of such Issuing Bank organized under the laws of Canada to issue such Canadian Dollar Letter of Credit (each Letter of Credit issued by an Affiliate of an Issuing Bank as provided herein being herein referred to as a “Bank Affiliate Letter of Credit”), provided that such Issuing Bank shall, prior to such issuance, have notified the Administrative Agent and the Borrower of the identity of such Affiliate. The parties agree that (1) each Bank Affiliate Letter of Credit is and shall be a “Letter of Credit” for all purposes of this Agreement; (2) each reference in the definition of “Reimbursement Obligation” and in §3.2, §3.3 and §3.4 to an Issuing Bank shall be deemed to include the issuer of each such Bank Affiliate Letter of Credit; (3) notwithstanding the foregoing, the issuance, extension or renewal of each Letter of Credit shall remain subject to the conditions and requirements of §3.1 and §11, and each provision of this Agreement, including without limitation the last sentence of §3.1(a) and §3.5, requiring the giving of a notice hereunder by or to an Issuing Bank shall be deemed to refer to such Issuing Bank and not to such Affiliate; and (4) the obligations of the Banks, the Borrower and the Guarantor to each Issuing Bank shall, in the case of each Bank Affiliate Letter of Credit, inure to the benefit of the Affiliate issuing or having issued such Bank Affiliate Letter of Credit and be enforceable by such Affiliate and/or by such Issuing Bank on behalf of such Affiliate. Each Canadian Dollar Letter of Credit issued by a Canadian Affiliate of an Issuing Bank shall be issued on a Business Day which is not a day on which banking institutions in Toronto and Montreal, Canada are authorized by law to close.

§3.2. Reimbursement Obligation of the Borrower. In order to induce the Issuing Banks to issue, extend and renew each Letter of Credit, the Borrower hereby agrees to reimburse or pay to each Issuing Bank, with respect to each Letter of Credit issued, extended or renewed by such Issuing Bank hereunder, as follows:

(a) if any draft presented under any Letter of Credit is honored by such Issuing Bank or such Issuing Bank otherwise makes payment with respect thereto, the sum of (i) the amount paid by such Issuing Bank under or with respect to such Letter of Credit (except that in the case of a payment in Canadian Dollars, it shall reimburse or pay the U.S. Dollar Equivalent thereof), and (ii) the amount of any taxes, fees, charges or other costs and expenses whatsoever incurred by such Issuing Bank in connection with any payment made by such Issuing Bank under, or with respect to, such Letter of Credit; provided, however, if the Borrower does not reimburse such Issuing Bank on the Drawdown Date, such amount shall, provided that no Event of Default under §§12.1(g) or 12.1(h) has occurred, become automatically a Syndicated Loan which is a Base Rate Loan advanced hereunder in an amount equal to such sum; and

(b) upon the Maturity Date or the acceleration of the Reimbursement Obligations with respect to all Letters of Credit in accordance with §12, an amount equal to the then Maximum Drawing Amount of all outstanding Letters of Credit shall be paid by the Borrower to the Administrative Agent to be held as cash collateral for the applicable Reimbursement Obligations, and the Borrower hereby grants to the Administrative Agent a security interest therein.

§3.3. Obligations Absolute. The Borrower’s obligations under this §3 shall be absolute and unconditional under any and all circumstances and irrespective of the occurrence of any Default or Event of Default or any condition precedent whatsoever or any setoff, counterclaim or defense to payment which the Borrower may have or have had against any

Issuing Bank, any Bank or any beneficiary of a Letter of Credit, and the Borrower expressly waives any such rights that it may have with respect thereto. The Borrower further agrees with each Issuing Bank and the Banks that such Issuing Bank and the Banks (i) shall not be responsible for, and the Borrower's Reimbursement Obligations under §3.2 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, fraudulent or forged (unless due to the willful misconduct of such Issuing Bank or any other Bank), or any dispute between or among the Borrower and the beneficiary of any Letter of Credit or any financing institution or other party to which any Letter of Credit may be transferred or any claims or defenses whatsoever of the Borrower against the beneficiary of any Letter of Credit or any such transferee, and (ii) shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit except to the extent of their own willful misconduct. The Borrower agrees that any action taken or omitted by any Issuing Bank or any Bank in good faith under or in connection with any Letter of Credit and the related drafts and documents shall be binding upon the Borrower and shall not result in any liability on the part of such Issuing Bank or any Bank (or their respective affiliates) to the Borrower. Nothing herein shall constitute a waiver by the Borrower of any of its rights against any beneficiary of a Letter of Credit.

§3.4. Reliance by the Issuing Banks. To the extent not inconsistent with §3.3, each Issuing Bank shall be entitled to rely, and shall be fully protected in relying, upon any Letter of Credit, draft, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, telex or teletype message, statement, order or other document believed by such Issuing Bank in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel, independent accountants and other experts selected by such Issuing Bank.

§3.5. Notice Regarding Letters of Credit. One (1) Business Day prior to the issuance of any Letter of Credit or any amendment, extension or termination thereof, the applicable Issuing Bank shall notify the Administrative Agent of the terms of such Letter of Credit, amendment, extension or termination. In the case of any such issuance, amendment or extension, the Administrative Agent will promptly notify such Issuing Bank whether such issuance, amendment or extension is permissible under the limitation set forth in the proviso to §2.1(a). On the day of any drawing under any Letter of Credit, such Issuing Bank shall notify the Administrative Agent of such drawing, specifying the amount thereof, and on the day of any payment under any Letter of Credit, such Issuing Bank shall notify the Administrative Agent of such payment, specifying the amount thereof and, in the case of a payment under a Canadian Dollar Letter of Credit, the U.S. Dollar Equivalent thereof.

§3.6. Letter of Credit Fee; Issuance Fee. The Borrower shall pay a fee (the "Letter of Credit Fee") equal to the Applicable L/C Rate on the Maximum Drawing Amount to the Administrative Agent for the account of the Banks, to be shared pro rata by the Banks in accordance with their respective Commitment Percentages. The Letter of Credit Fee shall be payable quarterly in arrears on the third Business Day of each calendar quarter for the quarter just ended, with the first such payment being due on October 4, 2006, and on the Maturity Date. In addition, an issuing fee (the "Issuance Fee") with respect to each Letter of Credit to be agreed upon annually between the Borrower and each Issuing Bank shall be payable by the Borrower to such Issuing Bank for its account.

§4. COMPETITIVE BID LOANS.

§4.1. The Competitive Bid Option. In addition to the Syndicated Loans made pursuant to §2 hereof, the Borrower may request Competitive Bid Loans pursuant to the terms of this §4. The Banks may, but shall have no obligation to, make offers for Competitive Bid Loans and the Borrower may, but shall have no obligation to, accept such offers in the manner set forth in this §4. Notwithstanding any other provision herein to the contrary, at no time shall the aggregate principal amount of Competitive Bid Loans outstanding at any time exceed the Total Commitment minus the sum of (a) the aggregate outstanding principal amount of Syndicated Loans (including the Swing Loans) plus (b) the Maximum Drawing Amount of Letters of Credit, outstanding at such time.

§4.2. Competitive Bid Loan Accounts; Competitive Bid Loans.

(a) The obligation of the Borrower to repay the outstanding principal amount of any and all Competitive Bid Loans, plus interest at the applicable rate accrued thereon, shall be evidenced by this Agreement and by individual loan accounts (the "Competitive Bid Loan Accounts" and individually, a "Competitive Bid Loan Account") maintained by the Administrative Agent on its books for each of the Banks, it being the intention of the parties hereto that, except as provided for in paragraph (b) of this §4.2, the Borrower's obligations with respect to Competitive Bid Loans are to be evidenced only as stated herein and not by separate promissory notes.

(b) Any Bank may at any time, and from time to time, request that any Competitive Bid Loans outstanding to such Bank be evidenced by a promissory note of the Borrower in the form approved by the Administrative Agent, dated as of the Effective Date and completed with appropriate insertions.

(c) The Borrower irrevocably authorizes the Administrative Agent to make or cause to be made, in connection with a Drawdown Date of any Competitive Bid Loan or at the time of receipt of any payment of principal on the applicable Bank's Competitive Bid Loan Account, an appropriate notation on the Administrative Agent's records, reflecting the making of the Competitive Bid Loan, or the receipt of such payment (as the case may be). The outstanding amount of the Competitive Bid Loans set forth on the Administrative Agent's records, shall be prima facie evidence of the principal amount thereof owing and unpaid to such Bank, but the failure to record, or any error in so recording, any such amount shall not limit or otherwise affect the obligations of the Borrower hereunder to make payments of principal of or interest on any Competitive Bid Loan when due.

§4.3. Competitive Bid Quote Request; Invitation for Competitive Bid Quotes.

(a) When the Borrower wishes to request offers to make Competitive Bid Loans under this §4, it shall transmit to the Administrative Agent by telex or facsimile a

Competitive Bid Quote Request substantially in the form of Exhibit E hereto (a "Competitive Bid Quote Request") so as to be received no later than 1:00 p.m. (New York time) (x) five (5) Eurodollar Business Days prior to the requested Drawdown Date in the case of a Eurodollar Competitive Bid Loan or (y) one (1) Business Day prior to the requested Drawdown Date in the case of an Absolute Competitive Bid Loan, specifying:

(i) the requested Drawdown Date (which must be a Eurodollar Business Day in the case of a Eurodollar Competitive Bid Loan or a Business Day in the case of an Absolute Competitive Bid Loan);

(ii) the aggregate amount of such Competitive Bid Loans, which shall be $10,000,000 or larger multiple of $1,000,000;

(iii) the duration of the Interest Period(s) applicable thereto, subject to the provisions of the definition of Interest Period; and

(iv) whether the Competitive Bid Quotes requested are for Eurodollar Competitive Bid Loans or Absolute Competitive Bid Loans.

The Borrower may request offers to make Competitive Bid Loans for more than one Interest Period in a single Competitive Bid Quote Request. No new Competitive Bid Quote Request shall be given until the Borrower has notified the Administrative Agent of its acceptance or non-acceptance of the Competitive Bid Quotes relating to any outstanding Competitive Bid Quote Request.

(b) Promptly upon receipt of a Competitive Bid Quote Request, the Administrative Agent shall send to the Banks by telecopy or facsimile transmission an Invitation for Competitive Bid Quotes substantially in the form of Exhibit F hereto, which shall constitute an invitation by the Borrower to each Bank to submit Competitive Bid Quotes in accordance with this §4.

§4.4. Alternative Manner of Procedure. If, after receipt by the Administrative Agent and each of the Banks of a Competitive Bid Quote Request from the Borrower in accordance with §4.3, the Administrative Agent or any Bank shall be unable to complete any procedure of the auction process described in §§4.5 through 4.6 (inclusive) due to the inability of such Person to transmit or receive communications through the means specified therein, such Person may rely on telephonic notice for the transmission or receipt of such communications. In any case where such Person shall rely on telephone transmission or receipt, any communication made by telephone shall, as soon as possible thereafter, be followed by written confirmation thereof.

§4.5. Submission and Contents of Competitive Bid Quotes.

(a) Each Bank may, but shall be under no obligation to, submit a Competitive Bid Quote containing an offer or offers to make Competitive Bid Loans in response to any Competitive Bid Quote Request. Each Competitive Bid Quote must comply with the requirements of this §4.5 and must be submitted to the Administrative Agent by telex or facsimile transmission at its offices as specified in or pursuant to §22 not later than (x)

2:00 p.m. (New York time) on the fourth Eurodollar Business Day prior to the proposed Drawdown Date, in the case of a Eurodollar Competitive Bid Loan or (y) 10:00 a.m. (New York time) on the proposed Drawdown Date, in the case of an Absolute Competitive Bid Loan; provided that Competitive Bid Quotes may be submitted by the Administrative Agent in its capacity as a Bank only if it submits its Competitive Bid Quote to the Borrower not later than (x) one hour prior to the deadline for the other Banks, in the case of a Eurodollar Competitive Bid Loan or (y) 15 minutes prior to the deadline for the other Banks, in the case of an Absolute Competitive Bid Loan. Subject to the provisions of §§10 and 11 hereof, any Competitive Bid Quote so made shall be irrevocable except with the written consent of the Administrative Agent given on the instructions of the Borrower.

(b) Each Competitive Bid Quote shall be in substantially the form of Exhibit G hereto and shall in any case specify:

(i) the proposed Drawdown Date;

(ii) the principal amount of the Competitive Bid Loan for which each proposal is being made, which principal amount (w) may be greater than or less than the Commitment of the quoting Bank, (x) must be $5,000,000 or a larger multiple of $1,000,000, (y) may not exceed the aggregate principal amount of Competitive Bid Loans for which offers were requested and (z) may be subject to an aggregate limitation as to the principal amount of Competitive Bid Loans for which offers being made by such quoting Bank may be accepted;

(iii) the Interest Period(s) for which Competitive Bid Quotes are being submitted;

(iv) in the case of a Eurodollar Competitive Bid Loan, the margin above or below the applicable Eurodollar Rate (the "Competitive Bid Margin") offered for each such Competitive Bid Loan, expressed as a percentage (specified to the nearest 1/10,000th of 1%) to be added to or subtracted from such Eurodollar Rate;

(v) in the case of an Absolute Competitive Bid Loan, the rate of interest per annum (specified to the nearest 1/10,000th of 1%) (the "Competitive Bid Rate") offered for each such Absolute Competitive Bid Loan; and

(vi) the identity of the quoting Bank.

A Competitive Bid Quote may include up to five separate offers by the quoting Bank with respect to each Interest Period specified in the related Competitive Bid Quote Request.

(c) Any Competitive Bid Quote shall be disregarded if it:

(i) is not substantially in the form of Exhibit G hereto;

(ii) contains qualifying, conditional or similar language;

(iii) proposes terms other than or in addition to those set forth in the applicable Invitation for Competitive Bid Quotes; or

(iv) arrives after the time set forth in §4.5(a) hereof.

§4.6. Notice to Borrower. The Administrative Agent shall promptly notify the Borrower of the terms (x) of any Competitive Bid Quote submitted by a Bank that is in accordance with §4.5 and (y) of any Competitive Bid Quote that amends, modifies or is otherwise inconsistent with a previous Competitive Bid Quote submitted by such Bank with respect to the same Competitive Bid Quote Request. Any such subsequent Competitive Bid Quote shall be disregarded by the Administrative Agent unless such subsequent Competitive Bid Quote is submitted solely to correct a manifest error in such former Competitive Bid Quote. The Administrative Agent's notice to the Borrower shall specify (A) the aggregate principal amount of Competitive Bid Loans for which offers have been received for each Interest Period specified in the related Competitive Bid Quote Request, (B) the respective principal amounts and Competitive Bid Margins or Competitive Bid Rates, as the case may be, so offered, and the identity of the respective Banks submitting such offers, and (C) if applicable, limitations on the aggregate principal amount of Competitive Bid Loans for which offers in any single Competitive Bid Quote may be accepted.

§4.7. Acceptance and Notice by Borrower and Administrative Agent. Not later than 11:00 a.m. (New York time) on (x) the third Eurodollar Business Day prior to the proposed Drawdown Date, in the case of a Eurodollar Competitive Bid Loan or (y) the proposed Drawdown Date, in the case of an Absolute Competitive Bid Loan, the Borrower shall notify the Administrative Agent of its acceptance or non-acceptance of each Competitive Bid Quote in substantially the form of Exhibit H hereto. The Borrower may accept any Competitive Bid Quote in whole or in part; provided that:

(i) the aggregate principal amount of each Competitive Bid Loan may not exceed the applicable amount set forth in the related Competitive Bid Quote Request;

(ii) acceptance of offers may only be made on the basis of ascending Competitive Bid Margins or Competitive Bid Rates, as the case may be, and

(iii) the Borrower may not accept any offer that is described in subsection 4.5(c) or that otherwise fails to comply with the requirements of this Agreement.

The Administrative Agent shall promptly notify each Bank which submitted a Competitive Bid Quote of the Borrower's acceptance or non-acceptance thereof. At the request of any Bank which submitted a Competitive Bid Quote and with the consent of the Borrower, the Administrative Agent will promptly notify all Banks which submitted Competitive Bid Quotes of (a) the aggregate principal amount of, and (b) the range of Competitive Bid Rates or Competitive Bid Margins of, the accepted Competitive Bid Loans for each requested Interest Period.

§4.8. Allocation by Administrative Agent. If offers are made by two or more Banks with the same Competitive Bid Margin or Competitive Bid Rate, as the case may be, for a greater aggregate principal amount than the amount in respect of which offers are accepted for the related Interest Period, the principal amount of Competitive Bid Loans in respect of which such offers are accepted shall be allocated by the Administrative Agent among such Banks as nearly as possible (in such multiples, not less than $1,000,000, as the Administrative Agent may deem appropriate) in proportion to the aggregate principal amounts of such offers. Determination by the Administrative Agent of the amounts of Competitive Bid Loans shall be conclusive in the absence of manifest error.

§4.9. Funding of Competitive Bid Loans. If, on or prior to the Drawdown Date of any Competitive Bid Loan, the Total Commitment has not terminated in full and if, on such Drawdown Date, the applicable conditions of §§10 and 11 hereof are satisfied, the Bank or Banks whose offers the Borrower has accepted will fund each Competitive Bid Loan so accepted. Such Bank or Banks will make such Competitive Bid Loans by crediting the Administrative Agent for further credit to the Borrower's specified account with the Administrative Agent, in immediately available funds not later than 1:00 p.m. (New York time) on such Drawdown Date.

§4.10. Funding Losses. If, after acceptance of any Competitive Bid Quote pursuant to §4, the Borrower (i) fails to borrow any Competitive Bid Loan so accepted on the date specified therefor, or (ii) repays the outstanding amount of the Competitive Bid Loan prior to the last day of the Interest Period relating thereto, the Borrower shall indemnify the Bank making such Competitive Bid Quote or funding such Competitive Bid Loan against any loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Bank to fund or maintain such unborrowed Competitive Bid Loans, including, without limitation compensation as provided in §5.8.

§4.11. Repayment of Competitive Bid Loans; Interest. The principal of each Competitive Bid Loan shall become absolutely due and payable by the Borrower on the last day of the Interest Period relating thereto, and the Borrower hereby absolutely and unconditionally promises to pay to the Administrative Agent for the account of the relevant Banks at or before 1:00 p.m. (New York time) on the last day of the Interest Periods relating thereto the principal amount of all such Competitive Bid Loans, plus interest thereon at the applicable rates. The Competitive Bid Loans shall bear interest at the rate per annum specified in the applicable Competitive Bid Quotes. Interest on the Competitive Bid Loans shall be payable (a) on the last day of the applicable Interest Periods, and if any such Interest Period is longer than three months, also on the last day of the third month following the commencement of such Interest Period, and (b) on the Maturity Date for all Loans. Subject to the terms of this Agreement, the Borrower may make Competitive Bid Quote Requests with respect to new Borrowings of any amounts so repaid prior to the Maturity Date.

§5. PROVISIONS RELATING TO ALL LOANS AND LETTERS OF CREDIT.

§5.1. Payments.

(a) All payments of principal, interest, Reimbursement Obligations, fees (other than the Issuance Fee) and any other amounts due hereunder or under any of the other Loan Documents shall be made to the Administrative Agent at the Administrative Agent's Account in immediately available funds by 11:00 a.m. (New York time) on any due date. Subject to the provisions of §29, if a payment is received by the Administrative Agent at or before 1:00 p.m. (New York time) on any Business Day, the Administrative Agent shall on the same Business Day transfer in immediately available funds, as applicable, to (1) each of the Banks, their pro rata portion of such payment in accordance with their respective Commitment Percentages, in the case of payments with respect to Syndicated Loans and Letters of Credit, (2) the Swing Line Bank in the case of payments with respect to Swing Line Loans, and (3) the appropriate Bank(s), in the case of payments with respect to Competitive Bid Loans. If such payment is received by the Administrative Agent after 1:00 p.m. (New York time) on any Business Day, such transfer shall be made by the Administrative Agent to the applicable Bank(s) on the next Business Day.

(b) All payments by the Borrower and the Guarantor hereunder and under any of the other Loan Documents shall be made without recoupment, setoff or counterclaim and free and clear of and without deduction for any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, compulsory loans, restrictions or conditions of any nature now or hereafter imposed or levied by any jurisdiction or any political subdivision thereof or taxing or other authority therein unless the Borrower or the Guarantor is compelled by law to make such deduction or withholding. If any such obligation is imposed upon the Borrower or the Guarantor with respect to any amount payable by it hereunder or under any of the other Loan Documents, the Borrower or the Guarantor, as the case may be, will pay to the Administrative Agent, for the account of the Banks or (as the case may be) the Administrative Agent, on the date on which such amount is due and payable hereunder or under such other Loan Document, such additional amount in Dollars as shall be necessary to enable the Banks or the Administrative Agent to receive the same net amount which the Banks or the Administrative Agent would have received on such due date had no such obligation been imposed upon the Borrower or the Guarantor. The Borrower and the Guarantor will deliver promptly to the Administrative Agent certificates or other valid vouchers for all taxes or other charges deducted from or paid with respect to payments made by it hereunder or under such other Loan Document.

(c) Each Bank that is not incorporated or organized under the laws of the United States of America or a state thereof or the District of Columbia (a "Non-U.S. Bank") agrees that, prior to the first date on which any payment is due to it hereunder, it will deliver to the Borrower and the Administrative Agent two duly completed copies of United States Internal Revenue Service Form W-8BEN or W-8ECI or successor applicable form, as the case may be, certifying in each case that such Non-U.S. Bank is entitled to receive payments under this Agreement, without deduction or withholding of any United States federal income taxes. Each Non-U.S. Bank that so delivers a Form W-8BEN or W-8ECI pursuant to the preceding sentence further undertakes to deliver to each of the Borrower and the Administrative Agent two further copies of Form W-8BEN or W-8ECI or successor applicable form, or other manner of certification, as the case may be, on or before the date that any such letter or form expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower, and such extensions or renewals thereof as may reasonably be requested by the Borrower, certifying in the case of a Form W-8BEN or W-8ECI that such Non-U.S. Bank is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes, unless in any such case an event (including, without limitation, any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would otherwise be required which renders all such forms inapplicable or which would prevent such Non-U.S. Bank from duly completing and delivering any such form with respect to it and such Non-U.S. Bank advises the Borrower that it is not capable of receiving payments without any deduction or withholding of United States federal income tax.

(d) The Borrower shall not be required to pay any additional amounts to any Non-U.S. Bank in respect of United States Federal withholding tax pursuant to §17 to the extent that (i) the obligation to withhold amounts with respect to United States Federal withholding tax existed on the date such Non-U.S. Bank became a party to this Agreement or, with respect to payments to a different lending office designated by the Non-U.S. Bank as its applicable lending office (a "New Lending Office"), the date such Non-U.S. Bank designated such New Lending Office with respect to a Loan; provided, however, that this clause (i) shall not apply to any transferee or New Lending Office as a result of an assignment, transfer or designation made at the request of the Borrower; and provided further, however, that this clause (i) shall not apply to the extent the indemnity payment or additional amounts any transferee, or Bank through a New Lending Office, would be entitled to receive without regard to this clause (i) do not exceed the indemnity payment or additional amounts that the Person making the assignment or transfer to such transferee, or Bank making the designation of such New Lending Office, would have been entitled to receive in the absence of such assignment, transfer or designation; or (ii) the obligation to pay such additional amounts would not have arisen but for a failure by such Non-U.S. Bank to comply with the provisions of paragraph (b) above.

(e) Notwithstanding the foregoing, each Bank agrees to use reasonable efforts (consistent with legal and regulatory restrictions) to change its lending office to avoid or to minimize any amounts otherwise payable under §17 in each case solely if such change can be made in a manner so that such Bank, in its sole determination, suffers no legal, economic or regulatory disadvantage.

§5.2. Mandatory Repayments of the Loans. If at any time (including without limitation by reason of fluctuation in the rate of exchange between the Canadian Dollar and the U.S. Dollar) the sum of the outstanding principal amount of the Loans plus the Maximum Drawing Amount of all outstanding Letters of Credit exceeds the Total Commitment, whether by reduction of the Total Commitment or otherwise, then the Borrower shall immediately pay the amount of such excess to the Administrative Agent, (i) for application to the Loans, first to Syndicated Loans, then to Competitive Bid Loans, subject to §5.8, or (ii) if no Loans shall be outstanding, to be held by the Administrative Agent for the benefit of the Banks as collateral security for such excess Maximum Drawing Amount and the Borrower hereby grants a security interest in such amount to the Administrative Agent for the benefit of the

Banks; provided, however, that if the amount of cash collateral held by the Administrative Agent pursuant to this §5.2(a) exceeds the Maximum Drawing Amount required to be collateralized from time to time, the Administrative Agent shall return such excess to the Borrower.

§5.3. Computations. Except as otherwise expressly provided herein, all computations of interest, Facility Fees, Letter of Credit Fees or other fees shall be based on a 360-day year and paid for the actual number of days elapsed, except that computations based on the Base Rate shall be based on a 365 or 366, as applicable, day year and paid for the actual number of days elapsed. Whenever a payment hereunder or under any of the other Loan Documents becomes due on a day that is not a Business Day, the due date for such payment shall be extended to the next succeeding Business Day, and interest shall accrue during such extension; provided that for any Interest Period for any Eurodollar Loan if such next succeeding Business Day falls in the next succeeding calendar month or after the Maturity Date, it shall be deemed to end on the next preceding Business Day.

§5.4. Illegality; Inability to Determine Eurodollar Rate. Notwithstanding any other provision of this Agreement (other than §5.10), if (a) the introduction of, any change in, or any change in the interpretation of, any law or regulation applicable to any Bank or the Administrative Agent shall make it unlawful, or any central bank or other governmental authority having jurisdiction thereof shall assert that it is unlawful, for any Bank or the Administrative Agent to perform its obligations in respect of any Eurodollar Loans, or (b) if the Majority Banks or the Administrative Agent, as applicable, shall reasonably determine with respect to Eurodollar Loans that (i) by reason of circumstances affecting any Eurodollar interbank market, adequate and reasonable methods do not exist for ascertaining the Eurodollar Rate which would otherwise be applicable during any Interest Period, or (ii) deposits of Dollars in the relevant amount for the relevant Interest Period are not available to such Banks or the Administrative Agent in any Eurodollar interbank market, or (iii) the Eurodollar Rate does not or will not accurately reflect the cost to such Banks or the Administrative Agent of obtaining or maintaining the Eurodollar Loans during any Interest Period, then such Banks (through the Administrative Agent) or the Administrative Agent shall promptly give telephonic, telex or cable notice of such determination to the Borrower (which notice shall be conclusive and binding upon the Borrower). Upon such notification, the obligation of the Banks and the Administrative Agent to make Eurodollar Loans shall be suspended until the Banks or the Administrative Agent, as the case may be, determine that such circumstances no longer exist, and to the extent permitted by law the outstanding Eurodollar Loans shall continue to bear interest at the applicable rate based on the Eurodollar Rate until the end of the applicable Interest Period, and thereafter shall be deemed converted to Base Rate Loans in equal principal amounts to such former Eurodollar Loans.

§5.5. Additional Costs, Etc. If any present or future applicable law (which expression, as used herein, includes statutes, rules and regulations thereunder and interpretations thereof by any competent court or by any governmental or other regulatory body or official charged with the administration or the interpretation thereof and requests, directives, instructions and notices at any time or from time to time hereafter made upon or otherwise issued to any Bank by any central bank or other fiscal, monetary or other authority, whether or not having the force of law) shall:

(a) subject such Bank to any tax, levy, impost, duty, charge, fee, deduction or withholding of any nature with respect to this Agreement, the other Loan Documents, such Bank's Commitment or the Loans (other than taxes based upon or measured by the income or profits of such Bank imposed by the jurisdiction of its incorporation or organization, or the location of its lending office); or

(b) materially change the basis of taxation (except for changes in taxes on income or profits of such Bank imposed by the jurisdiction of its incorporation or organization, or the location of its lending office) of payments to such Bank of the principal or of the interest on any Loans or any other amounts payable to such Bank under this Agreement or the other Loan Documents; or

(c) except as provided in §5.6 or as otherwise reflected in the Base Rate, the Eurodollar Rate, or the applicable rate for Competitive Bid Loans, impose or increase or render applicable (other than to the extent specifically provided for elsewhere in this Agreement) any special deposit, reserve, assessment, liquidity, capital adequacy or other similar requirements (whether or not having the force of law) against assets held by, or deposits in or for the account of, or loans by, or commitments of, an office of any Bank with respect to this Agreement, the other Loan Documents, such Bank's Commitment or the Loans; or

(d) impose on such Bank any other conditions or requirements with respect to this Agreement, the other Loan Documents, the Loans, such Bank's Commitment or any class of loans or commitments of which any of the Loans or such Bank's Commitment forms a part, and the result of any of the foregoing is:

(i) to increase the cost to such Bank of making, funding, issuing, renewing, extending or maintaining the Loans or such Bank's Commitment or issuing or participating in Letters of Credit;

(ii) to reduce the amount of principal, interest or other amount payable to such Bank hereunder on account of such Bank's Commitment, the Loans or the Reimbursement Obligations; or

(iii) to require such Bank to make any payment or to forego any interest or other sum payable hereunder, the amount of which payment or foregone interest or other sum is calculated by reference to the gross amount of any sum receivable or deemed received by such Bank from the Borrower hereunder,

then, and in each such case, the Borrower will, upon demand made by such Bank at any time and from time to time as often as the occasion therefor may arise (which demand shall be accompanied by a statement setting forth the basis of such demand which shall be conclusive absent manifest error), pay such reasonable additional amounts as will be sufficient to compensate such Bank for such additional costs, reduction, payment or foregone interest or other sum; provided that the determination and allocation of amounts, if any, claimed by any Bank under this Section 5.5 are made on a reasonable basis in a manner consistent with such Bank's treatment of customers of such Bank that such Bank considers, in its reasonable discretion, to be similar to the Borrower and having generally similar provisions in their agreements with such Bank.

§5.6. Capital Adequacy. If any Bank shall have determined that, after the date hereof, (a) the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change in any such law, rule, or regulation, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, or (b) compliance by such Bank or the Administrative Agent or any corporation controlling such Bank or the Administrative Agent with any law, governmental rule, regulation, policy, guideline or directive (whether or not having the force of law) of any such entity regarding capital adequacy, has or would have the effect of reducing the rate of return on capital of such Bank (or any corporation controlling such Bank) as a consequence of such Bank's obligations hereunder to a level below that which such Bank (or any corporation controlling such Bank) could have achieved but for such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy) by an amount deemed by such Bank to be material, then from time to time, within 15 days after demand by such Bank, the Borrower shall pay to such Bank such additional amount or amounts as will, in such Bank's reasonable determination, fairly compensate such Bank (or any corporation controlling such Bank) for such reduction. Each Bank shall allocate such cost increases among its customers in good faith and on an equitable basis.

§5.7. Certificate. A certificate setting forth the additional amounts payable pursuant to §5.5 or §5.6 and a reasonable explanation of such amounts which are due, submitted by any Bank to the Borrower, shall be conclusive, absent manifest error, that such amounts are due and owing; provided that no Bank shall be entitled to additional amounts with respect to events or circumstances occurring more than one hundred and twenty (120) days prior to the delivery of such certificate.

§5.8. Eurodollar and Competitive Bid Indemnity. The Borrower agrees to indemnify the Banks and the Administrative Agent and to hold them harmless from and against any reasonable loss, cost or expense that any such Bank and the Administrative Agent may sustain or incur as a consequence of (a) the default by the Borrower in payment of the principal amount of or any interest on any Eurodollar Loans or Competitive Bid Loans as and when due and payable, including any such loss or expense arising from interest or fees payable by any Bank or the Administrative Agent to lenders of funds obtained by it in order to maintain its Eurodollar Loans or Competitive Bid Loans, (b) the default by the Borrower in making a Borrowing of a Eurodollar Loan or Competitive Bid Loan or conversion of a Eurodollar Loan or a prepayment of a Eurodollar or Competitive Bid Loan after the Borrower has given (or is deemed to have given) a Syndicated Loan Request, a notice pursuant to §2.7 or a Notice of Acceptance/Rejection of Competitive Bid Quote(s), or a notice pursuant to §2.10, and (c) the making of any payment of a Eurodollar Loan or Competitive Bid Loan, or the making of any conversion of any Eurodollar Loan to a Base Rate Loan, on a day that is not the last day of the applicable Interest Period with respect thereto. Such loss, cost, or reasonable expense shall include an amount equal to the excess, if any, as reasonably determined by each Bank of (i) its cost of obtaining the funds for (A) the Eurodollar Loan being paid, prepaid, converted, not converted, reallocated, or not borrowed, as the case may be (based on the Eurodollar Rate), or (B) the Competitive Bid Loan being paid, prepaid, or not borrowed, as the case may be (based on the applicable interest rate) for the period from the date of such payment, prepayment, conversion, or failure to borrow or convert, as the case may be, to the last day of the Interest Period for such Loan (or, in the case of a failure to borrow, the Interest Period for the Loan which would have commenced on the date of such failure to borrow) over (ii) the amount of interest (as reasonably determined by such Bank) that would be realized by such Bank in reemploying the funds so paid, prepaid, converted, or not borrowed, converted, or prepaid for such period or Interest Period, as the case may be, which determinations shall be conclusive absent manifest error.

§5.9. Interest on Overdue Amounts. Overdue principal and (to the extent permitted by applicable law) interest on the Loans and all other overdue amounts payable hereunder or under any of the other Loan Documents shall bear interest compounded monthly and payable on demand at a rate per annum equal to the Applicable Base Rate plus 2% per annum, until such amount shall be paid in full (after as well as before judgment).

§5.10. Interest Limitation. Notwithstanding any other term of this Agreement, any other Loan Document or any other document referred to herein or therein, the maximum amount of interest which may be charged to or collected from any Person liable hereunder by any Bank shall be absolutely limited to, and shall in no event exceed, the maximum amount of interest which could lawfully be charged or collected by such Bank under applicable laws (including, to the extent applicable, the provisions of §5197 of the Revised Statutes of the United States of America, as amended, and 12 U.S.C. §85, as amended, and without prejudice to the first sentence of §26 hereof).

§5.11. Reasonable Efforts to Mitigate. Each Bank agrees that as promptly as practicable after it becomes aware of the occurrence of an event or the existence of a condition that would cause it to be affected under §§5.4, 5.5 or 5.6, such Bank will give notice thereof to the Borrower, with a copy to the Administrative Agent and, to the extent so requested by the Borrower and not inconsistent with such Bank's internal policies, such Bank shall use reasonable efforts and take such actions as are reasonably appropriate if as a result thereof the additional moneys which would otherwise be required to be paid to such Bank pursuant to such sections would be materially reduced, or the illegality or other adverse circumstances which would otherwise require a conversion of such Loans or result in the inability to make such Loans pursuant to such sections would cease to exist, and in each case if, as determined by such Bank in its sole discretion, the taking of such actions would not adversely affect such Loans or such Bank or otherwise be disadvantageous to such Bank.

§5.12. Replacement of Banks. If any Bank (an "Affected Bank") (1) makes demand upon the Borrower for (or if the Borrower is otherwise required to pay) amounts pursuant to §§5.5 or 5.6, (ii) is unable to make or maintain Eurodollar Loans as a result of a condition described in §5.4 or (iii) defaults in its obligation to make Loans or to participate in Letters of Credit in accordance with the terms of this Agreement (such Bank being referred to as a "Defaulting Bank"), the Borrower may, within 90 days of receipt of such demand, notice (or the occurrence of such other event causing the Borrower to be required to pay such compensation or causing §5.4 to be applicable), or default, as the case may be, by notice (a “Replacement Notice”) in writing to the Administrative Agent and such Affected Bank (A) request the Affected Bank to cooperate with the Borrower in obtaining a replacement bank satisfactory to the Administrative Agent and the Borrower (the “Replacement Bank”) as provided herein, but none of such Banks shall be under an obligation to find a Replacement Bank; (B) request the non-Affected Banks to acquire and assume all of the Affected Bank’s Loans and Commitment, and to participate in Letters of Credit as provided herein, but none of such Banks shall be under an obligation to do so; or (C) designate a Replacement Bank reasonably satisfactory to the Administrative Agent. If any satisfactory Replacement Bank shall be obtained, and/or any of the non-Affected Banks shall agree to acquire and assume all of the Affected Bank’s Loans and Commitment, and to participate in Letters of Credit, then such Affected Bank shall, so long as no Event of Default shall have occurred and be continuing, assign, in accordance with §20, all of its Commitment, Loans, and other rights and obligations under this Agreement and all other Loan Documents to such Replacement Bank or non-Affected Banks, as the case may be, in exchange for payment of the principal amount so assigned and all interest and fees accrued on the amount so assigned, plus all other Obligations then due and payable to the Affected Bank; provided, however, that (x) such assignment shall be without recourse, representation or warranty and shall be on terms and conditions reasonably satisfactory to such Affected Bank and such Replacement Bank and/or non-Affected Banks, as the case may be, and (y) prior to any such assignment, the Borrower shall have paid to such Affected Bank all amounts properly demanded and unreimbursed under §§5.5, 5.6 and 5.8. Upon the effective date of such assignment, such Replacement Bank shall become a “Bank” for all purposes under this Agreement and the other Loan Documents.

§5.13. Advances by Administrative Agent. Unless the Administrative Agent shall have been notified in writing by any Bank prior to a borrowing hereunder that such Bank will not make the amount that would constitute its allocable share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Bank is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the borrowing date therefor, such Bank shall pay to the Administrative Agent, on demand, such amount with interest thereon at a rate equal to the daily average Federal Funds Rate for the period until such Bank makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Bank with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error. If such Bank’s Commitment Percentage of such borrowing is not made available to the Administrative Agent by such Bank within three Business Days of such borrowing date, the Administrative Agent shall be entitled to recover such amount with interest thereon at the rate per annum applicable to such Loan hereunder, on demand, from the Borrower.

§6. <u>REPRESENTATIONS AND WARRANTIES</u>. The Borrower (and the Guarantor, where applicable) represents and warrants to the Banks that:

§6.1. Corporate Authority.

(a) Incorporation; Good Standing. The Borrower and each of its Significant Subsidiaries (i) is duly organized, validly existing and in good standing under the laws of its respective jurisdiction of formation, (ii) has all requisite corporate power to own its property and conduct its business as now conducted and as presently contemplated, and (iii) is in good standing and is duly authorized to do business in each jurisdiction in which its property or business as presently conducted or contemplated makes such qualification necessary, except where a failure to be so qualified could not reasonably be expected to have a Material Adverse Effect.

(b) Authorization. The execution, delivery and performance of its Loan Documents and the transactions contemplated hereby and thereby (i) are within the corporate authority of the Borrower and the Guarantor, (ii) have been duly authorized by all necessary corporate proceedings on the part of each of the Borrower and the Guarantor, (iii) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which any of the Borrower or the Guarantor or any of their Subsidiaries is subject, (iv) do not contravene any judgment, order, writ, injunction, license or permit applicable to the Borrower, the Guarantor or any of their Subsidiaries so as to have a Material Adverse Effect, and (v) do not conflict with any provision of the corporate charter or bylaws of the Borrower, the Guarantor or any Significant Subsidiary or any agreement or other instrument binding upon the Borrower, the Guarantor or any of their Significant Subsidiaries, except for those conflicts with any such agreement or instrument which could not reasonably be expected to have a Material Adverse Effect.

(c) Enforceability. The execution, delivery and performance of the Loan Documents by the Borrower and the Guarantor will result in valid and legally binding obligations of the Borrower and the Guarantor enforceable against them in accordance with the respective terms and provisions hereof and thereof, except as enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights generally and general principles of equity.

§6.2. Governmental and Other Approvals. The execution, delivery and performance of the Loan Documents by the Borrower and the Guarantor and the consummation by the Borrower and the Guarantor of the transactions contemplated hereby and thereby do not require any approval or consent of, or filing with, any governmental agency or authority or other third party other than those already obtained and those required after the date hereof in connection with the Borrower's performance of the covenants contained in §§7, 8 and 9 hereof.

§6.3. Title to Properties; Leases. The Borrower and its Subsidiaries own all of the assets reflected in the consolidated balance sheet as at the Interim Balance Sheet Date or acquired since that date (except property and assets operated under Capital Leases or sold or otherwise disposed of in the ordinary course of business since that date), subject to no Liens except Permitted Liens.

§6.4. Financial Statements; Solvency.

(a) There have been furnished to the Banks consolidated balance sheets of the Borrower dated the Balance Sheet Date and consolidated statements of operations for the fiscal periods then ended, certified by the Accountants. In addition, there have been furnished to the Banks consolidated balance sheets of the Borrower and its Subsidiaries dated the Interim Balance Sheet Date and the related consolidated statements of operations for the fiscal quarter ending on the Interim Balance Sheet Date. All said balance sheets and statements of operations have been prepared in accordance with GAAP (but, in the case of any of such financial statements which are unaudited, only to the extent GAAP is applicable to interim unaudited reports), and fairly present, in all material respects, the financial condition of the Borrower on a consolidated basis as at the close of business on the dates thereof and the results of operations for the periods then ended, subject, in the case of unaudited interim financial statements, to changes resulting from audit and normal year-end adjustments and to the absence of complete footnotes. There are no contingent liabilities of the Borrower and its Subsidiaries involving material amounts, known to the officers of the Borrower or the Guarantor, which have not been disclosed in said balance sheets and the related notes thereto or otherwise in writing to the Banks.

(b) The Borrower on a consolidated basis (both before and after giving effect to the transactions contemplated by this Agreement) is solvent (i.e., it has assets having a fair value in excess of the amount required to pay its probable liabilities on its existing debts as they become absolute and matured) and has, and expects to have, the ability to pay its debts from time to time incurred in connection therewith as such debts mature.

§6.5. No Material Changes, Etc. Since the Balance Sheet Date, there have been no material adverse changes in the consolidated financial condition, business, assets or liabilities (contingent or otherwise) of the Borrower and its Subsidiaries, taken as a whole, other than changes in the ordinary course of business which have not had a Material Adverse Effect.

§6.6. Franchises, Patents, Copyrights, Etc. The Borrower and each of its Subsidiaries possess all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of their business substantially as now conducted (other than those the absence of which would not have a Material Adverse Effect) without known conflict with any rights of others other than a conflict which would not have a Material Adverse Effect.

§6.7. Litigation. Except as set forth on Schedule 6.7 or in the Disclosure Documents, there are no actions, suits, proceedings or investigations of any kind pending or, to the knowledge of the Borrower, threatened against the Borrower or any of its Subsidiaries before any court, tribunal or administrative agency or board which, either in any case or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

§6.8. No Materially Adverse Contracts, Etc. Neither the Borrower nor any of its Subsidiaries is subject to any charter, corporate or other legal restriction, or any judgment, decree, order, rule or regulation which in the judgment of the Borrower's or such Subsidiary's officers has or could reasonably be expected in the future to have a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries is a party to any contract or agreement which in the judgment of the Borrower's or its Subsidiary's officers has or could reasonably be expected to have any Material Adverse Effect, except as otherwise reflected in adequate reserves as required by GAAP.

§6.9. Compliance With Other Instruments, Laws, Etc. Neither the Borrower nor any of its Subsidiaries is (a) violating any provision of its charter documents or bylaws or (b) violating any agreement or instrument to which any of them may be subject or by which any of them or any of their properties may be bound or any decree, order, judgment, or any statute, license, rule or regulation, in a manner which could (in the case of such agreements or such instruments) reasonably be expected to result in a Material Adverse Effect.

§6.10. Tax Status. The Borrower and its Subsidiaries have filed all federal, state, provincial and territorial income and all other tax returns, reports and declarations (or obtained extensions with respect thereto) required by applicable law to be filed by them (unless and only to the extent that the Borrower or such Subsidiary has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes as required by GAAP); and have paid all taxes and other governmental assessments and charges (other than taxes, assessments and other governmental charges imposed by jurisdictions other than the United States, Canada or any political subdivision thereof which in the aggregate are not material to the financial condition, business or assets of the Borrower or such Subsidiary on an individual basis or of the Borrower on a consolidated basis) that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith; and, as required by GAAP, have set aside on their books provisions reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. Except to the extent contested in the manner permitted in the preceding sentence, there are no unpaid taxes in any material amount claimed by the taxing authority of any jurisdiction to be due and owing by the Borrower or any Subsidiary, nor do the officers of the Borrower or any of its Subsidiaries know of any basis for any such claim.

§6.11. No Event of Default. No Default or Event of Default has occurred hereunder and is continuing.

§6.12. Investment Company Act. Neither the Borrower nor any of its Subsidiaries is a "registered investment company", or an "affiliated company" or a "principal underwriter" of a "registered investment company", as such terms are defined in the Investment Company Act of 1940.

§6.13. Absence of Financing Statements, Etc. Except as permitted by §8.1 of this Agreement, there is no Indebtedness senior to the Obligations, and except for Permitted Liens, there are no Liens, or any effective financing statement, security agreement, chattel mortgage, real estate mortgage or other document filed or recorded with any filing records, registry, or other public office, which purports to cover, affect or give notice of any present or possible future Lien on any assets or property of the Borrower or any of its Subsidiaries or right thereunder.

§6.14. Employee Benefit Plans.

§6.14.1. In General. Each Employee Benefit Plan has been maintained and operated in compliance with the provisions of ERISA and, to the extent applicable, the Code, including but not limited to the provisions thereunder respecting prohibited transactions. Promptly upon the request of any Bank or the Administrative Agent, the Borrower will furnish to the Administrative Agent the most recently completed annual report, Form 5500, with all required attachments, and actuarial statement required to be submitted under §103(d) of ERISA, with respect to each Guaranteed Pension Plan.

§6.14.2. Terminability of Welfare Plans. Under each Employee Benefit Plan which is an employee welfare benefit plan within the meaning of §3(1) or §3(2)(B) of ERISA, no benefits are due unless the event giving rise to the benefit entitlement occurs prior to plan termination (except as required by Title 1, Part 6 of ERISA). The Borrower or an ERISA Affiliate, as appropriate, may terminate each such Plan at any time (or at any time subsequent to the expiration of any applicable bargaining agreement) in the discretion of the Borrower or such ERISA Affiliate without material liability to any Person.

§6.14.3. Guaranteed Pension Plans. Each contribution required to be made to a Guaranteed Pension Plan, whether required to be made to avoid the incurrence of an accumulated funding deficiency, the notice or lien provisions of §302(f) of ERISA, or otherwise, has been timely made. No waiver of an accumulated funding deficiency or extension of amortization periods has been received with respect to any Guaranteed Pension Plan. No liability to the PBGC (other than required insurance premiums, all of which have been paid) has been incurred by the Borrower or any ERISA Affiliate with respect to any Guaranteed Pension Plan (other than Terminated Plans) and there has not been any ERISA Reportable Event, or any other event or condition which presents a material risk of termination of any Guaranteed Pension Plan by the PBGC. Other than with respect to the Terminated Plans, based on the latest valuation of each Guaranteed Pension Plan (which in each case occurred within twelve months of the date of this representation), and on the actuarial methods and assumptions employed for that valuation, the aggregate benefit liabilities of all such Guaranteed Pension Plans within the meaning of §4001 of ERISA did not exceed the aggregate value of the assets of all such Guaranteed Pension Plans, disregarding for this purpose the benefit liabilities and assets of any Guaranteed Pension Plan with assets in excess of benefit liabilities.

§6.14.4. Multiemployer Plans. Neither the Borrower nor any ERISA Affiliate has incurred any material liability (including secondary liability) to any Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan under §4201 of ERISA or as a result of a sale of assets described in §4204 of ERISA. Neither the Borrower nor any ERISA Affiliate has been notified that any Multiemployer Plan is in reorganization or insolvent under and within the meaning of §4241 or §4245 of ERISA or that any Multiemployer Plan intends to terminate or has been terminated under §4041A of ERISA.

§6.15. Environmental Compliance. The Borrower and its Subsidiaries have taken all steps that they have deemed reasonably necessary to investigate the past and present condition and usage of the Real Property and the operations conducted by the Borrower and its Subsidiaries and, based upon such diligent investigation, have determined that, except as set forth on Schedule 6.15 or in the Disclosure Documents:

(a) Neither the Borrower, its Significant Subsidiaries, nor any operator of their properties, is in violation, or alleged violation, of any judgment, decree, order, law, permit, license, rule or regulation pertaining to environmental matters, including without limitation, those arising under the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Federal Clean Water Act, the Federal Clean Air Act, the Toxic Substances Control Act, or any applicable international, federal, state, provincial, territorial or local statute, regulation, ordinance, order or decree relating to health, safety, waste transportation or disposal, or the environment (the "Environmental Laws"), which violation, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) Except with respect to any such matters that could not reasonably be expected to have a Material Adverse Effect, neither the Borrower nor any of its Significant Subsidiaries has received notice from any third party including, without limitation: any federal, state, provincial, territorial or local governmental authority, (i) that any one of them has been identified by the United States Environmental Protection Agency ("EPA") as a potentially responsible party under CERCLA with respect to a site listed on the National Priorities List, 40 C.F.R. Part 300 Appendix B; (ii) that any hazardous waste, as defined by 42 U.S.C. §6903(5), any hazardous substances as defined by 42 U.S.C. §9601(14), any pollutant or contaminant as defined by 42 U.S.C. §9601(33) or any toxic substance, oil or hazardous materials or other chemicals or substances regulated by any Environmental Laws, excluding household hazardous waste ("Hazardous Substances"), which any one of them has generated, transported or disposed of, has been found at any site at which a federal, state, provincial, territorial or local agency or other third party has conducted or has ordered that the Borrower or any of its Significant Subsidiaries conduct a remedial investigation, removal or other response action pursuant to any Environmental Law; or (iii) that it is or shall be a named party to any claim, action, cause of action, complaint, legal or administrative proceeding arising out of any third party's incurrence of costs, expenses, losses or damages of any kind whatsoever in connection with the Release of Hazardous Substances.

(c) Except for those occurrences or situations that could not reasonably be expected to have a Material Adverse Effect, (i) no portion of the Real Property or other assets of the Borrower and its Significant Subsidiaries has been used for the handling, processing, storage or disposal of Hazardous Substances except in accordance with applicable Environmental Laws; (ii) in the course of any activities conducted by the Borrower, its Significant Subsidiaries, or operators of the Real Property or other assets of the Borrower and its Significant Subsidiaries, no Hazardous Substances have been generated or are being used on such properties except in accordance with applicable Environmental Laws; (iii) there have been no unpermitted Releases or threatened Releases of Hazardous Substances on, upon, into or from the Real Property or other assets of the Borrower or its Significant Subsidiaries; and (iv) any Hazardous Substances that have been generated on the Real Property or other assets of the Borrower or its Significant Subsidiaries have been transported offsite only by carriers having an identification number issued by the EPA, treated or disposed of only by treatment or disposal facilities maintaining valid permits as required under applicable Environmental Laws, which transporters and facilities have been and are, to the Borrower's knowledge, operating in compliance with such permits and applicable Environmental Laws.

§6.16. Disclosure. No representation or warranty made by the Borrower or the Guarantor in this Agreement or in any agreement, instrument, document, certificate, or financial statement furnished to the Banks or the Administrative Agent by or on behalf of or at the request of the Borrower and the Guarantor in connection with any of the transactions contemplated by the Loan Documents contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein, taken as a whole, not misleading in light of the circumstances in which they are made.

§6.17. Permits and Governmental Authority. All permits (other than those the absence of which could not reasonably be expected to have a Material Adverse Effect) required for the construction and operation of all landfills currently owned or operated by the Borrower or any of its Significant Subsidiaries have been obtained and remain in full force and effect and are not subject to any appeals or further proceedings or to any unsatisfied conditions that may allow material modification or revocation. Neither the Borrower nor any of its Subsidiaries, nor, to the knowledge of the Borrower, the holder of such permits is in violation of any such permits, except for any violation which could not reasonably be expected to have a Material Adverse Effect.

§7. <u>AFFIRMATIVE COVENANTS OF THE BORROWER</u>. The Borrower agrees that, so long as any Obligation or Letter of Credit is outstanding or the Banks have any obligation to make Loans or any Issuing Bank has any obligation to issue, extend or renew any Letter of Credit hereunder, or the Banks have any obligations to reimburse any Issuing Bank for drawings honored under any Letter of Credit, it shall, and shall cause its Subsidiaries to, comply with the following covenants:

§7.1. Punctual Payment. The Borrower will duly and punctually pay or cause to be paid the principal of and interest on the Loans, all Reimbursement Obligations, fees and other amounts provided for in this Agreement and the other Loan Documents, all in accordance with the terms of this Agreement and such other Loan Documents.

§7.2. Maintenance of U.S. Office. The Borrower will maintain its chief executive offices at Houston, Texas, or at such other place in the United States of America as the Borrower shall designate upon 30 days' prior written notice to the Administrative Agent.

§7.3. Records and Accounts. The Borrower will, and will cause each of its Subsidiaries to, keep true and accurate records and books of account in which full, true and correct entries will be made in accordance with GAAP and with the requirements of all regulatory authorities and maintain adequate accounts and reserves for all taxes (including income taxes), depreciation, depletion, obsolescence and amortization of its properties, all other contingencies, and all other proper reserves.

§7.4. Financial Statements, Certificates and Information. The Borrower will deliver to the Banks:

(a) as soon as practicable, but, in any event not later than 100 days after the end of each fiscal year of the Borrower, the consolidated balance sheet of the Borrower as at the end of such year, consolidated statements of cash flows, and the related consolidated statements of operations, each setting forth in comparative form the figures for the previous fiscal year, all such consolidated financial statements to be in reasonable detail, prepared in accordance with GAAP and, with respect to the consolidated financial statements, certified by Ernst & Young LLP or by other nationally recognized independent auditors selected by the Borrower and reasonably satisfactory to the Administrative Agent (the "Accountants"). In addition, simultaneously therewith, the Borrower shall provide the Banks with a written statement from such Accountants to the effect that they have read a copy of this Agreement, and that, in making the examination necessary to said certification, they have obtained no knowledge of any Default or Event of Default, or, if such Accountants shall have obtained knowledge of any then existing Default or Event of Default they shall disclose in such statement any such Default or Event of Default;

(b) as soon as practicable, but in any event not later than 60 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, copies of the consolidated balance sheet and statement of operations of the Borrower as at the end of such quarter, subject to year-end adjustments, and the related consolidated statement of cash flows, all in reasonable detail and prepared in accordance with GAAP (to the extent GAAP is applicable to interim unaudited financial statements) with a certification by the principal financial or accounting officer of the Borrower (the "CFO or the CAO") that the consolidated financial statements are prepared in accordance with GAAP (to the extent GAAP is applicable to interim unaudited financial statements) and fairly present, in all material respects, the consolidated financial condition of the Borrower as at the close of business on the date thereof and the results of operations for the period then ended, subject to year-end adjustments and the exclusion of detailed footnotes;

(c) simultaneously with the delivery of the financial statements referred to in (a) and (b) above, a certificate in the form of Exhibit C hereto (the "Compliance Certificate") signed by the CFO or the CAO or the Borrower's corporate treasurer, stating that the Borrower and its Subsidiaries are in compliance with the covenants contained in §§7, 8 and 9 hereof as of the end of the applicable period and setting forth in reasonable detail computations evidencing such compliance with respect to the covenants contained in §9 hereof and that no Default or Event of Default exists, provided that if the Borrower shall at the time of issuance of such Compliance Certificate or at any other time obtain knowledge of any Default or Event of Default, the Borrower shall include in such certificate or otherwise deliver forthwith to the Banks a certificate specifying the nature and period of existence thereof and what action the Borrower proposes to take with respect thereto;

(d) promptly following the filing or mailing thereof, copies of all material of a financial nature filed with the Securities and Exchange Commission or sent to the Borrower's and its Subsidiaries' stockholders generally; and

(e) from time to time such other financial data and other information as any of the Banks may reasonably request through the Administrative Agent.

The Borrower hereby authorizes each Bank to disclose any information obtained pursuant to this Agreement to all appropriate governmental regulatory authorities where required by law; provided, however, this authorization shall not be deemed to be a waiver of any rights to object to the disclosure by the Banks of any such information which the Borrower has or may have under the federal Right to Financial Privacy Act of 1978, as in effect from time to time, except as to matters specifically permitted therein.

§7.5. Existence and Conduct of Business. The Borrower will, and will cause each Significant Subsidiary to, do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights and franchises; and effect and maintain its foreign qualifications (except where the failure of the Borrower or any Significant Subsidiary to remain so qualified could not reasonably be expected to have a Material Adverse Effect), licensing, domestication or authorization, except as any of the foregoing may be terminated by its Board of Directors in the exercise of its reasonable judgment; provided that such termination could not reasonably be expected to have a Material Adverse Effect. The Borrower will not, and will cause its Subsidiaries not to, become obligated under any contract or binding arrangement which, at the time it was entered into, could reasonably be expected to have a Material Adverse Effect. The Borrower will, and will cause each Subsidiary to, continue to engage primarily in any of the businesses now conducted by the Borrower and its Subsidiaries and in related, complementary or supplemental businesses, and any additional businesses acquired pursuant to the terms of §8.4(a) hereunder.

§7.6. Maintenance of Properties. The Borrower will, and will cause its Significant Subsidiaries to, cause all material properties used or useful in the conduct of their businesses to be maintained and kept in good condition, repair and working order (ordinary wear and tear excepted) and supplied with all necessary equipment and cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Borrower and its Significant Subsidiaries may be necessary so that the businesses carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this section shall prevent the Borrower or any of its Subsidiaries from discontinuing the operation and maintenance of any of its properties if such discontinuance is, in the judgment of the Borrower or such Subsidiary, desirable in the conduct of its or their business and which could not reasonably be expected to have a Material Adverse Effect.

§7.7. Insurance. The Borrower will, and will cause its Subsidiaries to, maintain insurance of the kinds, covering the risks (other than risks arising out of or in any way connected with personal liability of any officers and directors thereof) and in the relative proportionate amounts usually carried by reasonable and prudent companies conducting businesses similar to that of the Borrower and its Subsidiaries, in amounts substantially similar to the existing coverage maintained by the Borrower and its Subsidiaries. Such insurance shall be with financially sound and reputable insurance companies (including captive insurance companies), funds or underwriters, or may be pursuant to self-insurance plans. In addition, the Borrower will furnish from time to time, upon the Administrative Agent's request, a summary of the insurance coverage of the Borrower and its Subsidiaries, which summary shall be in form and substance satisfactory to the Administrative Agent and, if requested by the Administrative Agent, will furnish to the Administrative Agent copies of the applicable policies.

§7.8. Taxes. The Borrower will, and will cause its Subsidiaries to, duly pay and discharge, or cause to be paid and discharged, before the same shall become overdue, all taxes, assessments and other governmental charges imposed upon it and its real properties, sales and activities, or any part thereof, or upon the income or profits therefrom, as well as all claims for labor, materials, or supplies, which if unpaid might by law become a Lien upon any of its property; provided, however, that any such tax, assessment, charge, levy or claim need not be paid if the failure to do so (either individually, or in the aggregate for all such failures) could not reasonably be expected to have a Material Adverse Effect and the validity or amount thereof shall currently be contested in good faith by appropriate proceedings and if the Borrower or such Subsidiary shall have set aside on its books adequate reserves with respect thereto as required by GAAP; and provided, further, that the Borrower or such Subsidiary will pay all such taxes, assessments, charges, levies or claims prior to the foreclosure on any Lien which may have attached as security therefor.

§7.9. Inspection of Properties, Books and Contracts. The Borrower will, and will cause its Significant Subsidiaries to, permit the Administrative Agent or any Bank or any of their designated representatives, upon reasonable notice, to visit and inspect any of the properties of the Borrower and its Significant Subsidiaries, to examine the books of account of the Borrower and its Significant Subsidiaries, or contracts (and to make copies thereof and extracts therefrom), and to discuss the affairs, finances and accounts of the Borrower and its Significant Subsidiaries with, and to be advised as to the same by, their officers, all at such times and intervals as may be reasonably requested.

§7.10. Compliance with Laws, Contracts, Licenses and Permits; Maintenance of Material Licenses and Permits. The Borrower will, and will cause each Subsidiary to, (i) comply with the provisions of its charter documents and by-laws; (ii) comply with all agreements and instruments by which it or any of its properties may be bound except where noncompliance could not reasonably be expected to have a Material Adverse Effect; (iii) comply with all applicable laws and regulations (including Environmental Laws), decrees, orders, judgments, licenses and permits, including, without limitation, all environmental permits ("Applicable Requirements"), except where noncompliance with such Applicable Requirements could not reasonably be expected to have a Material Adverse Effect; (iv) maintain all operating permits for all landfills now owned or hereafter acquired, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (v) dispose of hazardous waste only at licensed disposal facilities operating, to the Borrower's knowledge, in compliance with Environmental Laws, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. If at any time any authorization, consent, approval, permit or license from any officer, agency or instrumentality of any government shall become necessary or required in order that the Borrower or any Significant Subsidiary may fulfill any of its obligations hereunder or under any other Loan Document, the Borrower will immediately take or cause to be taken all reasonable steps within the power of the Borrower or such Significant Subsidiary to obtain such authorization, consent, approval, permit or license and furnish the Banks with evidence thereof.

§7.11. Environmental Indemnification. The Borrower covenants and agrees that it will indemnify and hold the Banks, the Issuing Banks and the Administrative Agent and their respective affiliates, and each of the representatives, agents and officers of each of the foregoing, harmless from and against any and all claims, expense, damage, loss or liability incurred by the Banks, the Issuing Banks or the Administrative Agent (including all reasonable costs of legal representation incurred by the Banks, the Issuing Banks or the Administrative Agent) relating to (a) any Release or threatened Release of Hazardous Substances on the Real Property; (b) any violation of any Environmental Laws or Applicable Requirements with respect to conditions at the Real Property or other assets of the Borrower or its Subsidiaries, or the operations conducted thereon; or (c) the investigation or remediation of offsite locations at which the Borrower, any of its Subsidiaries, or their predecessors are alleged to have directly or indirectly Disposed of Hazardous Substances. It is expressly acknowledged by the Borrower that this covenant of indemnification shall survive the payment of the Loans and Reimbursement Obligations and satisfaction of all other Obligations hereunder and shall inure to the benefit of the Banks, the Issuing Banks, the Administrative Agent and their affiliates, successors and assigns.

§7.12. Further Assurances. The Borrower and the Guarantor will cooperate with the Administrative Agent and execute such further instruments and documents as the Administrative Agent shall reasonably request to carry out to the Majority Banks' satisfaction the transactions contemplated by this Agreement.

§7.13. Notice of Potential Claims or Litigation. The Borrower shall deliver to the Banks written notice of the initiation of any action, claim, complaint, investigation or any other notice of dispute or litigation against the Borrower or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect, or which questions the validity or enforceability of any Loan Document, together with a copy of each such complaint or other notice received by the Borrower or any of its Subsidiaries if requested by the Administrative Agent within 30 days of receipt thereof or of the determination that such action could reasonably be expected to have a Material Adverse Effect, whichever occurs later (and the Borrower will make such determination in each case as promptly as practicable).

§7.14. Notice of Certain Events Concerning Environmental Claims. The Borrower will promptly, and in any event within ten (10) Business Days of the Borrower's obtaining knowledge thereof, notify the Banks in writing of any of the following events:

(i) the Borrower's or any Significant Subsidiary's obtaining knowledge of any violation of any Environmental Law regarding the Real Property or the Borrower's or any Subsidiary's operations which violation could reasonably be expected to have a Material Adverse Effect;

(ii) the Borrower's or any Significant Subsidiary's obtaining knowledge of any potential or known Release, or threat of Release, of any Hazardous Substance at, from, or into the Real Property which could reasonably be expected to have a Material Adverse Effect;

(iii) the Borrower's or any Significant Subsidiary's receipt of any notice of any material violation of any Environmental Law or of any Release or threatened Release of Hazardous Substances, including a notice or claim of liability or potential responsibility from any third party (including any federal, state, provincial, territorial or local governmental officials) and including notice of any formal inquiry, proceeding, demand, investigation or other action with regard to (A) the Borrower's, any Significant Subsidiary's or any Person's operation of the Real Property, (B) contamination on, from, or into the Real Property, or (C) investigation or remediation of offsite locations at which the Borrower, any Significant Subsidiary, or its predecessors are alleged to have directly or indirectly Disposed of Hazardous Substances, if any thereof could reasonably be expected to have a Material Adverse Effect; or

(iv) the Borrower's or any Significant Subsidiary's obtaining knowledge that any expense or loss has been incurred by any governmental authority in connection with the assessment, containment, removal or remediation of any Hazardous Substances with respect to which the Borrower or any Significant Subsidiary has been alleged to be liable by such governmental authority or for which a Lien may be imposed on the Real Property by such governmental authority, if any thereof could reasonably be expected to have a Material Adverse Effect.

§7.15. Notice of Default. The Borrower will promptly notify the Banks in writing of the occurrence of any Default or Event of Default. If any Person shall give any notice or take any other action in respect of a claimed default (whether or not constituting an Event of Default) under this Agreement or any other note, evidence of indebtedness, indenture or other obligation evidencing indebtedness in excess of $75,000,000 as to which the Borrower or any of its Significant Subsidiaries is a party or obligor, whether as principal or surety, the Borrower shall promptly upon obtaining actual knowledge thereof give written notice thereof to the Banks, describing the notice of action and the nature of the claimed default.

§7.16. Use of Proceeds. The proceeds of the Loans shall be used for general corporate purposes, to provide working capital, to backstop commercial paper, to provide letters of credit and to refinance existing Indebtedness of the Borrower and its Subsidiaries. No proceeds of the Loans shall be used in any way that will violate Regulations U or X of the Board of Governors of the Federal Reserve System.

§7.17. Certain Transactions. Except as disclosed in the Disclosure Documents prior to the Effective Date, and except for arm's length transactions pursuant to which the Borrower or any Subsidiary makes payments in the ordinary course of business, none of the officers, directors, or employees or any other affiliate of the Borrower or any Subsidiary are presently or shall be a party to any transaction with the Borrower or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Borrower or any Subsidiary, any corporation, partnership, trust or other entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner.

§8. NEGATIVE COVENANTS OF THE BORROWER. The Borrower agrees that, so long as any Obligation or Letter of Credit is outstanding or the Banks have any obligation to make Loans or any Issuing Bank has any obligation to issue, extend or renew any Letter of Credit hereunder, or the Banks have any obligation to reimburse any Issuing Bank for drawings honored under any Letter of Credit, it shall, and shall cause its Subsidiaries to, comply with the following covenants:

§8.1. Restrictions on Indebtedness. The Borrower will not permit any of its Subsidiaries to create, incur, assume, or be or remain liable, contingently or otherwise, with respect to any Indebtedness, or become or be responsible in any manner (whether by agreement to purchase any obligations, stock, assets, goods or services, or to supply or advance any funds, assets, goods or services or otherwise) with respect to any Indebtedness of any other Person (other than the Borrower or any of its Subsidiaries), other than:

(a) Indebtedness of the Borrower's Subsidiaries listed in Schedule 8.1(a) and any extension, renewal or refinancing of such Indebtedness, provided that the terms and conditions of any such extensions, renewals or refinancings do not increase the relative priority of the original Indebtedness and provided, further, that such extended, renewed or refinanced Indebtedness does not in the aggregate exceed the Dollar amount of the original Indebtedness; and

(b) Other Indebtedness of the Borrower's Subsidiaries (other than of the Guarantor) provided that the aggregate amount of all such Indebtedness under this §8.1(b), when added (without duplication) to the aggregate outstanding amount of secured Indebtedness of the Borrower and its Subsidiaries under subsections (k), (l) and (m) of the definition of "Permitted Liens" and Indebtedness with respect to Permitted Receivables Transactions, shall not exceed 15% of Consolidated Tangible Assets at any time.

§8.2. Restrictions on Liens. The Borrower will not, and will cause its Subsidiaries not to, create or incur or suffer to be created or incurred or to exist any Lien of any kind upon any property or assets of any character, whether now owned or hereafter acquired, or upon the income or profits therefrom; or transfer any of such property or assets or the income or profits therefrom for the purpose of subjecting the same to the payment of Indebtedness or performance of any other obligation in priority to payment of its general creditors; or acquire, or agree or have an option to acquire, any property or assets upon conditional sale or other title retention or purchase money security agreement, device or arrangement; or suffer to exist for a period of more than 30 days after the same shall have been incurred any Indebtedness or claim or demand against it which if unpaid might by law or upon bankruptcy or insolvency, or otherwise, be given any priority whatsoever over its general creditors; or sell, assign, pledge or otherwise transfer any accounts, contract rights, general intangibles or chattel paper, with or without recourse, except for Permitted Liens.

The Borrower and the Guarantor covenant and agree that if either of them or any of their Subsidiaries shall create or incur any Lien upon any of their respective properties or assets, whether now owned or hereafter acquired, other than Permitted Liens (unless prior written consent shall have been obtained from the Banks), the Borrower and the Guarantor will make or cause to be made effective provision whereby the Obligations and the Guaranteed Obligations will be secured by such Lien equally and ratably with any and all other Indebtedness thereby secured so long as such other Indebtedness shall be so secured; provided that the covenants of the Borrower and the Guarantor contained in this sentence shall only be in effect for so long as the Borrower or the Guarantor shall be similarly obligated under any other Indebtedness; provided, further, that an Event of Default shall occur for so long as such other Indebtedness becomes secured notwithstanding any actions taken by the Borrower or the Guarantor to ratably secure the Obligations and the Guaranteed Obligations hereunder.

§8.3. Restrictions on Investments. Except to the extent provided in §8.4, neither the Borrower nor any Subsidiary may make or permit to exist or to remain outstanding any Investment, other than Investments in Cash Equivalents unless both before and after giving effect thereto (i) the Borrower and its Subsidiaries are in compliance with the covenants set forth in §§7, 8 and 9 hereof and (ii) there does not exist a Default or Event of Default and no Default or Event of Default would be created by the making of such Investment; provided that the aggregate amount of all Investments (excluding Investments in Cash Equivalents), does not exceed 15% of Consolidated Tangible Assets; and provided further that the ability of the Subsidiaries of the Borrower to incur any Indebtedness in connection with any Investment permitted by this §8.3 shall be governed by §8.1.

§8.4. Mergers, Consolidations, Sales.

(a) Neither the Borrower nor any Subsidiary shall be a party to any merger, consolidation or exchange of stock unless the Borrower shall be the surviving entity with respect to any such transaction to which the Borrower is a party and the Guarantor shall be the survivor of any merger with any other Subsidiary or a Subsidiary shall be the surviving entity (and continue to be a Subsidiary) with respect to any such transactions to which one or more Subsidiaries is a party (and the conditions set forth below are satisfied), or purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or any partnership, membership or joint venture or other interest in, any other Person except as otherwise provided in §8.3 or this §8.4. Notwithstanding the foregoing, the Borrower and its Subsidiaries may purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or joint venture or other interest in, any Person if the following conditions have been met: (i) the proposed transaction will not otherwise create a Default or an Event of Default hereunder; and (ii) the business to be acquired predominantly involves (A) the collection, transfer, hauling, disposal or recycling of solid waste or thermal soil remediation, or (B) other lines of businesses currently engaged in, or related, associated, complementary or supplementary thereto, whether from an operational, business, financial, technical or administrative standpoint;

provided that the Borrower or its Subsidiaries may purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or any partnership, membership or joint venture or other interest in, any Persons in unrelated businesses, not to exceed a total aggregate amount of $400,000,000 during the term of this Agreement. Notwithstanding anything herein to the contrary, the ability of the Subsidiaries of the Borrower to incur any Indebtedness in connection with any transaction permitted pursuant to this §8.4 shall be governed by §8.1.

(b) Neither the Borrower nor any Subsidiary shall sell, transfer, convey or lease any assets or group of assets, including the sale or transfer of any property owned by the Borrower or any Subsidiary in order then or thereafter to lease such property or lease other property which the Borrower or such Subsidiary intends to use for substantially the same purpose as the property being sold or transferred, or sell or assign, with or without recourse, any receivables, except (i) transfers of real or personal property among Subsidiaries of the Borrower, (ii) so long as no Default or Event of Default has occurred and is continuing, or would result therefrom, sales of assets or pursuant to a sale-leaseback transaction; provided that any net cash proceeds from any such sale or sale-leaseback shall, within 180 days, either be used to pay down outstanding Loans under this Agreement or be reinvested by such Person in assets of the business of the Borrower and its Subsidiaries, used for working capital, invested in Investments in accordance with the provisions of §8.3 or used for other general corporate purposes, (iii) sales of accounts receivable (and contract rights, general intangibles or chattel paper related thereto) more than sixty (60) days past due sold or assigned in the ordinary course of collecting past due accounts, or (iv) pursuant to a Permitted Receivables Transaction.

§8.5. Restricted Distributions and Redemptions. Neither the Borrower nor any of its Subsidiaries will (a) declare or pay any Distributions, or (b) redeem, convert, retire or otherwise acquire shares of any class of its capital stock (other than in connection with a merger permitted by §8.4 hereof or conversion into another form of equity of any preferred shares of the Borrower existing as of the Effective Date pursuant to the terms thereof), unless at the time of such Distribution or redemption no Default or Event of Default exists or would be created hereunder. Notwithstanding the above, any Subsidiary may make Distributions to the Borrower and the Borrower agrees that neither the Borrower nor any Significant Subsidiary will enter into any agreement restricting Distributions from such Significant Subsidiary to the Borrower.

§8.6. Employee Benefit Plans. None of the Borrower, any of its Subsidiaries, or any ERISA Affiliate will:

(a) engage in any “prohibited transaction” within the meaning of §406 of ERISA or §4975 of the Code which could result in a material liability for the Borrower on a consolidated basis; or

(b) permit any Guaranteed Pension Plan to incur an “accumulated funding deficiency”, as such term is defined in §302 of ERISA, whether or not such deficiency is or may be waived; or

(c) fail to contribute to any Guaranteed Pension Plan to an extent which, or terminate any Guaranteed Pension Plan in a manner which, could result in the imposition of a lien or encumbrance on the assets of the Borrower or the Guarantor pursuant to §302(f) or §4068 of ERISA; or

(d) permit or take any action which would result in the aggregate benefit liabilities (within the meaning of §4001 of ERISA), other than with respect to the Terminated Plans, of all Guaranteed Pension Plans exceeding the value of the aggregate assets of such Guaranteed Pension Plans, disregarding for this purpose the benefit liabilities and assets of any such Guaranteed Pension Plan with assets in excess of benefit liabilities.

The Borrower and its Subsidiaries will (i) promptly upon the request of any Bank or the Administrative Agent, furnish to the Banks a copy of the most recent actuarial statement required to be submitted under §103(d) of ERISA and Annual Report, Form 5500, with all required attachments, in respect of each Guaranteed Pension Plan, and (ii) promptly upon receipt or dispatch, furnish to the Banks any notice, report or demand sent or received in respect of a Guaranteed Pension Plan under §§302, 4041, 4042, 4043, 4063, 4065, 4066 and 4068 of ERISA, or in respect of a Multiemployer Plan, under §§4041A, 4202, 4219, 4242 or 4245 of ERISA.

§9. FINANCIAL COVENANTS OF THE BORROWER. The Borrower agrees that, so long as any Obligation or Letter of Credit is outstanding or the Banks have any obligation to make Loans or any Issuing Bank has any obligation to issue, extend or renew any Letter of Credit hereunder, or the Banks have any obligation to reimburse any Issuing Bank for drawings honored under any Letter of Credit, it shall comply with the following covenants:

§9.1. Interest Coverage Ratio. As of the end of any fiscal quarter of the Borrower, the Borrower will not permit the ratio of (a) EBIT for the four fiscal quarters then ending to (b) Consolidated Total Interest Expense for such period to be less than 2.75:1.00.

§9.2. Total Debt to EBITDA. As of the end of any fiscal quarter of the Borrower, the Borrower will not permit the ratio of (a) Total Debt to (b) EBITDA for the four fiscal quarters then ending to exceed 3.50:1.00.

§10. CONDITIONS PRECEDENT.

§10.1. Conditions To Effectiveness. The effectiveness of this Agreement and the obligations of the Banks to make any Loans and of any Issuing Bank to issue Letters of Credit and of the Banks to participate in Letters of Credit and otherwise be bound by the terms of this Agreement shall be subject to the satisfaction of each of the following conditions precedent on or before September 15, 2006:

§10.1.1. Corporate Action. All corporate action necessary for the valid execution, delivery and performance by the Borrower and the Guarantor of the Loan Documents shall have been duly and effectively taken, and evidence thereof certified by authorized officers of the Borrower and the Guarantor and satisfactory to the Administrative Agent shall have been provided to the Banks.

§10.1.2. Loan Documents, Etc. Each of the Loan Documents and other documents listed on the closing agenda shall have been duly and properly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect in a form satisfactory to the Majority Banks.

§10.1.3. Certified Copies of Charter Documents. The Banks shall have received from each of the Borrower and the Guarantor, certified by a duly authorized officer of such Person to be true and complete on the Effective Date, (a) its charter or other incorporation documents, (b) its by-laws and (c) good standing certificates and foreign qualifications.

§10.1.4. Incumbency Certificate. The Banks shall have received an incumbency certificate, dated as of the Effective Date, signed by duly authorized officers of the Borrower and the Guarantor giving the name and bearing a specimen signature of each individual who shall be authorized: (a) to sign the Loan Documents on behalf of the Borrower and the Guarantor; (b) to make Syndicated Loan Requests and Letter of Credit Requests; (c) to make Competitive Bid Quote Requests; and (d) to give notices and to take other action on the Borrower’s or the Guarantor’s behalf under the Loan Documents.

§10.1.5. Certificates of Insurance. The Administrative Agent shall have received a certificate of insurance from an independent insurance broker dated as of the Effective Date, or within 15 days prior thereto, identifying insurers, types of insurance, insurance limits, and policy terms, and otherwise describing the insurance coverage of the Borrower and its Subsidiaries.

§10.1.6. Opinion of Counsel. The Banks shall have received a favorable legal opinion from the Vice President and Assistant General Counsel of the Borrower and the Guarantor addressed to the Banks, dated the Effective Date, in form and substance satisfactory to the Administrative Agent, and a favorable legal opinion of Milbank, Tweed, Hadley & McCloy LLP, special New York counsel to the Administrative Agent, dated the Effective Date, as to the validity and binding effect of this Agreement.

§10.1.7. Satisfactory Financial Condition. Other than as disclosed in the Disclosure Documents, no material adverse change shall have occurred in the financial condition, results of operations, business, properties or prospects of the Borrower and its Subsidiaries, taken as a whole, since the Balance Sheet Date.

§10.1.8. Payment of Closing Fees. The Borrower shall have paid the agreed-upon closing fees to the Administrative Agent.

§10.1.9. Termination of Existing Credit Agreement. The Existing Credit Agreement shall be paid in full and terminated.

§10.1.10. Closing Certificate. The Borrower shall have delivered to the Administrative Agent a certificate, dated as of the Effective Date, stating that, as of such date (a) the representations and warranties set forth herein and in the other

Loan Documents are true and correct, and (b) no Default or Event of Default has occurred and is continuing.

§11. <u>CONDITIONS TO ALL LOANS</u>. The obligations of the Banks to make or continue for an additional Interest Period in accordance with §2.7 any Loan and the obligation of any Issuing Bank to issue, extend, or renew any Letter of Credit at the time of and subsequent to the Effective Date is subject to the following conditions precedent:

§11.1. Representations True. The Borrower shall have certified to the Administrative Agent and the Banks that each of the representations and warranties of the Borrower and the Guarantor (as applicable) contained in this Agreement or in any document or instrument delivered pursuant to or in connection with this Agreement, other than the representation and warranty in §6.5 hereof, is true as of the date as of which they were made and shall also be true at and as of the time of the making of such Loan or the issuance, extension, or renewal of any Letter of Credit, as applicable, with the same effect as if made at and as of that time (except to the extent of changes resulting from transactions contemplated or permitted by this Agreement and changes occurring in the ordinary course of business which either individually or in the aggregate do not result in a Material Adverse Effect, and to the extent that such representations and warranties relate expressly and solely to an earlier date).

§11.2. Performance; No Event of Default. The Borrower shall have performed and complied with all terms and conditions herein required to be performed or complied with by it prior to or at the time of the making of any Loan or the issuance, extension or renewal of any Letter of Credit, and at the time of the making of any Loan or the issuance, renewal or extension of any Letter of Credit there shall exist no Default or Event of Default or condition which would result in a Default or an Event of Default upon consummation of such Loan or issuance, extension, or renewal of any Letter of Credit, as applicable. Each request for a Loan or for issuance, extension or renewal of a Letter of Credit shall constitute certification by the Borrower that the condition specified in this §11.2 will be duly satisfied on the date of such Loan or Letter of Credit issuance, extension or renewal.

§11.3. Proceedings and Documents. All proceedings in connection with the transactions contemplated by this Agreement shall have been taken and all documents incident thereto shall have been delivered to the Banks as of the date of the making of any extension of credit in substance and in form satisfactory to the Banks, including without limitation a Syndicated Loan Request or a Letter of Credit Request and the Banks shall have received all information and such counterpart originals or certified or other copies of such documents as the Banks may reasonably request.

§12. <u>EVENTS OF DEFAULT; ACCELERATION; TERMINATION OF COMMITMENT</u>.

§12.1. Events of Default and Acceleration. If any of the following events (“Events of Default” or, if the giving of notice or the lapse of time or both is required, then, prior to such notice and/or lapse of time, “Defaults”) shall occur:

(a) if the Borrower shall fail to pay any principal of the Loans when the same shall become due and payable, whether at the stated date of maturity or any accelerated date of maturity or at any other date fixed for payment;

(b) if the Borrower shall fail to pay any interest or fees or other amounts owing hereunder (other than those specified in subsection (a) above) within five (5) Business Days after the same shall become due and payable whether at the Maturity Date or any accelerated date of maturity or at any other date fixed for payment;

(c) if the Borrower shall fail to comply with any of the covenants contained in §§7.4, 7.5, 7.15, 7.16, 8 and 9 hereof;

(d) if the Borrower shall fail to perform any term, covenant or agreement contained herein or in any of the other Loan Documents (other than those specified in subsections (a), (b), and (c) above) and such failure shall not be remedied within 30 days after written notice of such failure shall have been given to the Borrower by the Administrative Agent or any of the Banks;

(e) if any representation or warranty contained in this Agreement or in any document or instrument delivered pursuant to or in connection with this Agreement shall prove to have been false in any material respect upon the date when made or repeated;

(f) if the Borrower or any of its Subsidiaries shall fail to pay when due, or within any applicable period of grace, any Indebtedness or obligations under Swap Contracts in an aggregate amount greater than $75,000,000, or fail to observe or perform any material term, covenant or agreement contained in any one or more agreements by which it is bound, evidencing or securing any Indebtedness or obligations under Swap Contracts in an aggregate amount greater than $75,000,000 for such period of time as would permit, or would have permitted (assuming the giving of appropriate notice if required) the holder or holders thereof or of any obligations issued thereunder to accelerate the maturity thereof or terminate its commitment with respect thereto;

(g) if the Borrower, the Guarantor or any Significant Subsidiary makes an assignment for the benefit of creditors, or admits in writing its inability to pay or generally fails to pay its debts as they mature or become due, or petitions or applies for the appointment of a trustee or other custodian, liquidator or receiver of the Borrower, the Guarantor or any Significant Subsidiary, or of any substantial part of the assets of the Borrower, the Guarantor or any Significant Subsidiary or commences any case or other proceeding relating to the Borrower, the Guarantor or any Significant Subsidiary under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law of any jurisdiction, now or hereafter in effect, or takes any action to authorize or in furtherance of any of the foregoing, or if any such petition or application is filed or any such case or other proceeding is commenced against the Borrower, the Guarantor or any Significant Subsidiary or the Borrower, the Guarantor or any Significant Subsidiary indicates its approval thereof, consent thereto or acquiescence therein;

(h) if a decree or order is entered appointing any such trustee, custodian, liquidator or receiver or adjudicating the Borrower or the Guarantor or any Significant Subsidiary bankrupt or insolvent, or approving a petition in any such case or other proceeding, or a decree or order for relief is entered in respect of the Borrower or the Guarantor or any Significant Subsidiary in an involuntary case under federal bankruptcy laws of any jurisdiction as now or hereafter constituted;

(i) if there shall remain in force, undischarged, unsatisfied and unstayed, for more than thirty days, whether or not consecutive, any final judgment against the Borrower or any Subsidiary which, with other outstanding final judgments against the Borrower and its Subsidiaries, exceeds in the aggregate $50,000,000 after taking into account any undisputed insurance coverage;

(j) if, with respect to any Guaranteed Pension Plan, an ERISA Reportable Event shall have occurred and the Banks shall have determined in their reasonable discretion that such event reasonably could be expected to result in liability of the Borrower or any Subsidiary to the PBGC or such Plan in an aggregate amount exceeding $50,000,000 and such event in the circumstances occurring reasonably could constitute grounds for the partial or complete termination of such Plan by the PBGC or for the appointment by the appropriate United States District Court of a trustee to administer such Plan; or a trustee shall have been appointed by the appropriate United States District Court to administer such Plan; or the PBGC shall have instituted proceedings to terminate such Plan;

(k) if any of the Loan Documents shall be cancelled, terminated, revoked or rescinded otherwise than in accordance with the terms thereof or with the express prior written agreement, consent or approval of the Banks, or any action at law, suit or in equity or other legal proceeding to cancel, revoke or rescind any of the Loan Documents shall be commenced by or on behalf of the Borrower, the Guarantor, or any of their respective stockholders, or any court or any other governmental or regulatory authority or agency of competent jurisdiction shall make a determination that, or issue a judgment, order, decree or ruling to the effect that, any one or more of the Loan Documents is illegal, invalid or unenforceable in accordance with the terms thereof; or

(l) if any person or group of persons (within the meaning of Section 13 or 14 of the Securities Exchange Act of 1934, as amended) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under said Act) of 25% or more of the outstanding shares of common voting stock of the Borrower; or during any period of twelve consecutive calendar months, individuals who were directors of the Borrower on the first day of such period (together with any new directors whose election by such board or whose nomination for election by the shareholders of the Borrower was approved by a vote of a majority of the directors still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) shall cease to constitute a majority of the board of directors of the Borrower;

then, and in any such event, so long as the same may be continuing, the Administrative Agent may, and upon the request of the Majority Banks shall, by notice in writing to the Borrower, declare all amounts owing with respect to this Agreement and the other Loan Documents and all Reimbursement Obligations to be, and they shall thereupon forthwith become, immediately due and payable without presentment, demand, protest, notice of intent to accelerate, notice of acceleration to the extent permitted by law or other notice of any kind, all of which are hereby expressly waived by the Borrower; provided that in the event of any Event of Default specified in §12.1(g) or 12.1(h) with respect to the Borrower or the Guarantor, all such amounts shall become immediately due and payable automatically and without any requirement of notice from the Administrative Agent or any Bank. Upon demand by the Majority Banks after the occurrence of any Event of Default, the Borrower shall immediately provide to the Administrative Agent cash in an amount equal to the aggregate Maximum Drawing Amount to be held by the Administrative Agent as collateral security for the Reimbursement Obligations.

§12.2. Termination of Commitments. If any Event of Default pursuant to §§ 12.1(g) or 12.1(h) hereof shall occur with respect to the Borrower or the Guarantor, any unused portion of the Total Commitment hereunder shall forthwith terminate and the Banks and the Issuing Banks shall be relieved of all obligations to make Loans or to issue, extend or renew Letters of Credit hereunder; or if any other Event of Default shall occur, the Majority Banks may by notice to the Borrower terminate the unused portion of the Total Commitment hereunder, and, upon such notice being given, such unused portion of the Total Commitment hereunder shall terminate immediately and the Banks and the Issuing Banks shall be relieved of all further obligations to make Loans or to issue, extend or renew Letters of Credit hereunder. No termination of any portion of the Total Commitment hereunder shall relieve the Borrower of any of its existing Obligations to the Banks, the Issuing Banks or the Administrative Agent hereunder or elsewhere.

§12.3. Remedies. In case any one or more of the Events of Default shall have occurred and be continuing, and whether or not the Banks shall have accelerated the maturity of the Loans and other Obligations pursuant to §12.1, each Bank, upon notice to the other Banks, if owed any amount with respect to the Loans or the Reimbursement Obligations, may proceed to protect and enforce its rights by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations to such Bank are evidenced, including, without limitation, as permitted by applicable law the obtaining of the ex parte appointment of a receiver, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any legal or equitable right of such Bank, any recovery being subject to the terms of §29 hereof. No remedy herein conferred upon any Bank or the Administrative Agent or the holder of any Note is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of law.

§13. SETOFF. During the continuance of an Event of Default, any deposits or other sums credited by or due from any Bank to the Borrower and any securities or other property of the Borrower in the possession of such Bank may be applied to or set off against the payment of the

Obligations and any and all other liabilities, direct, or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, of the Borrower to the Banks or the Administrative Agent. Any amounts set off with respect to the Obligations shall be distributed ratably in accordance with §29 among all of the Banks by the Bank setting off such amounts. If any Bank fails to share such setoff ratably, the Administrative Agent shall have the right to withhold such Bank's share of the Borrower's payments until each of the Banks shall have, in the aggregate, received a pro rata repayment.

§14. EXPENSES. Whether or not the transactions contemplated herein shall be consummated, the Borrower hereby promises to reimburse the Administrative Agent and the Lead Arrangers for all reasonable out-of-pocket fees and disbursements (including all reasonable attorneys' fees) incurred or expended in connection with the syndication, preparation, filing or recording, or interpretation of this Agreement, the other Loan Documents, or any amendment, modification, approval, consent or waiver hereof or thereof. The Borrower further promises to reimburse the Administrative Agent and the Banks for all reasonable out-of-pocket fees and disbursements (including all reasonable legal fees and the allocable cost of in-house attorneys' fees) incurred or expended in connection with the enforcement of any Obligations or the satisfaction of any indebtedness of the Borrower hereunder or under any other Loan Document, or in connection with any litigation, proceeding or dispute hereunder in any way related to the credit hereunder. The Borrower also promises to pay the Administrative Agent all reasonable out-of-pocket fees and disbursements, incurred or expended in connection with the Competitive Bid Loan procedure under §4 hereof.

§15. THE AGENTS.

§15.1. Authorization and Action. Each Bank hereby irrevocably appoints Citibank as Administrative Agent hereunder and authorizes Citibank to take such action as Administrative Agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. As to any matters not expressly provided for by this Agreement and the other Loan Documents, the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Majority Banks (or, when expressly required hereby, all of the Banks), and such instructions shall be binding upon all Banks; provided, however, that the Administrative Agent shall not be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to this Agreement or the other Loan Documents or applicable law.

§15.2. Administrative Agent's Reliance, Etc. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable to any of the Banks for any action taken or omitted to be taken by it or them under or in connection with this Agreement or the other Loan Documents, except for its or their own gross negligence or willful misconduct. Without limitation of the generality of the foregoing, the Administrative Agent: (i) may consult with legal counsel (including counsel for the Borrower), independent public accountants and other experts selected by it and shall not be liable to the Banks for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (ii) makes no warranty or representation to any Bank and shall not be responsible to any Bank for any statements, warranties or representations (whether written or oral) made in or in connection with this Agreement or the other Loan Documents; (iii) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Loan Documents on the part of the Borrower or the Guarantor or to inspect the property (including the books and records) of the Borrower or the Guarantor or any of their Subsidiaries, and shall not be deemed to have knowledge or notice of any Default or Event of Default unless and until it shall have received, at its office specified in §22, a notice describing the same and entitled "Notice of Default"; (iv) shall not be responsible to any Bank for the due execution (other than its own), legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any related agreement, instrument or document furnished pursuant hereto; and (v) shall incur no liability to the Banks under or in respect of this Agreement by acting upon any notice, consent, certificate or other instrument or writing (which may be by telecopier, telegram, cable or telex) reasonably believed by it to be genuine and signed or sent by the proper party or parties.

§15.3. Citibank and Affiliates. With respect to its Commitment, Citibank shall have the same rights and powers under this Agreement and under the other Loan Documents as any other Bank and may exercise the same as though it were not the Administrative Agent, and the term "Bank" or "Banks" shall, unless otherwise expressly indicated, include Citibank in its individual capacity. Citibank and its Affiliates may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with, the Borrower, the Guarantor, any of their Subsidiaries and any Person who may do business with or own securities of the Borrower, the Guarantor, or any such Subsidiary, all as if Citibank were not the Administrative Agent and without any duty to account therefor to the Banks.

§15.4. Bank Credit Decision. Each Bank acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Bank and based on the financial statements referred to in §6.4 and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and the other Loan Documents. Each Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Bank and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents.

§15.5. Indemnification. The Banks agree to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower), ratably according to the respective amounts of their Commitments as most recently in effect at the time such indemnity is sought, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or the other Loan Documents or any action taken or omitted by the Administrative Agent under this Agreement or the other Loan Documents, provided that no Bank shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful misconduct. Without limiting the foregoing, each Bank agrees to reimburse the Administrative Agent promptly upon demand for its ratable share as aforesaid of any out of pocket expenses (including counsel fees) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement and the other Loan Documents, to the extent that the Administrative Agent is not reimbursed for such expenses by the Borrower.

§15.6. Successor Administrative Agent. The Administrative Agent may resign at any time by giving written notice thereof to the Banks and the Borrower and may be removed at any time with or without cause by the Majority Banks. Upon any such resignation or removal, the Majority Banks shall have the right to appoint a successor Administrative Agent that, unless a Default or Event of Default shall have occurred and then be continuing, is reasonably acceptable to the Borrower. If no successor Administrative Agent shall have been so appointed by the Majority Banks, and shall have accepted such appointment, within 30 days after the retiring Administrative Agent's giving of notice of resignation or the Majority Banks' removal of the retiring Administrative Agent, then the retiring Administrative Agent may, on behalf of the Banks, appoint a successor Administrative Agent, which shall be a commercial bank organized under the laws of the United States of America or of any State thereof and having total assets of at least $1,000,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. After any retiring Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this §15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement.

§15.7. Lead Arrangers, Etc. The parties identified on the cover hereof as Lead Arrangers and Joint Bookrunners and Documentation Agents shall have no obligations or liabilities under this Agreement and the other Loan Documents.

§15.8. Documents. The Administrative Agent will forward to each Bank, promptly after receipt thereof, a copy of each notice or other document furnished to the Administrative Agent for such Bank hereunder; provided, however, that, notwithstanding the foregoing, the Administrative Agent may furnish to the Banks a monthly summary with respect to Letters of Credit issued hereunder in lieu of copies of the related Letter of Credit Applications.

§15.9. Action by the Banks, Consents, Amendments, Waivers, Etc. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Bank in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Banks hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower or the Guarantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, any Bank or the Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) Except as otherwise provided in §3.1(a) hereof with respect to Schedule 3.1, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Majority Banks or by the Borrower and the Administrative Agent with the consent of the Majority Banks; provided that no such agreement shall (i) increase the Commitment of any Bank without the written consent of such Bank, (ii) reduce the principal amount of any Loan or Reimbursement Obligations, or reduce the rate of interest on the Loans or reduce any fees payable hereunder, without the written consent of each Bank affected thereby; (iii) postpone the date of any payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Bank affected thereby; (iv) release the Borrower from its Obligations or the Guarantor from its Guaranteed Obligations hereunder without the written consent of each Bank; (v) modify §29(a) or any other provision of this Agreement providing for pro rata payments to or by the Banks; or (vi) change any of the provisions of this §15.9 or any provision of this Agreement requiring action by all the Banks, or the percentage of Banks constituting "Majority Banks", without the written consent of each Bank; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or any Issuing Bank hereunder without the prior written consent of the Administrative Agent or the Issuing Banks, as the case may be.

§16. INDEMNIFICATION. The Borrower agrees to indemnify and hold harmless the Banks, the Issuing Banks, the Lead Arrangers and the Administrative Agent and their affiliates, as well as their and their affiliates' shareholders, directors, agents, officers, subsidiaries and affiliates, from and against all damages, losses, settlement payments, obligations, liabilities, claims, suits, penalties, assessments, citations, directives, demands, judgments, actions or causes of action, whether statutorily created or under the common law, and reasonable costs and expenses incurred, suffered, sustained or required to be paid by an indemnified party by reason of or resulting from the transactions contemplated hereby, except any of the foregoing which result from the gross negligence or willful misconduct of such indemnified party as determined by a court of competent jurisdiction. In any investigation, enforcement matter, proceeding or litigation, or the preparation therefor, the Banks, the Issuing Banks, the Lead Arrangers and the Administrative Agent shall be entitled to select their own counsel and, in addition to the foregoing indemnity, the Borrower agrees to pay promptly the reasonable fees and expenses of such counsel (including the non-duplicative allocated cost of internal counsel), and settlement costs. In the event of the commencement of any such proceeding or litigation against the Banks or Administrative Agent by third parties, the Borrower shall be entitled to participate in such proceeding or litigation with counsel of their choice at their expense. The covenants of this §16 shall survive payment or satisfaction of payment of amounts owing with respect to any Note or the Loans and satisfaction of all the Obligations hereunder and under the Loan Documents, **IT BEING THE INTENT OF THE PARTIES HERETO THAT**

ALL SUCH INDEMNIFIED PARTIES SHALL BE INDEMNIFIED FOR THEIR ORDINARY SOLE OR CONTRIBUTORY NEGLIGENCE. NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY IN RESPECT OF ANY INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES.

§17. WITHHOLDING TAXES. The Borrower hereby agrees that:

(a) Any and all payments made by the Borrower hereunder shall be made free and clear of, and without deduction for, any and all present or future taxes, levies, fees, duties, imposts, deductions, charges or withholdings of any nature whatsoever, excluding, in the case of each of the Administrative Agent and each of the Banks (including, without limitation, the Issuing Banks), (i) taxes imposed on, or measured by, its net income or profits, (ii) franchise taxes imposed on it, (iii) taxes imposed by any jurisdiction as a direct consequence of it, or any of its affiliates, having a present or former connection with such jurisdiction, including, without limitation, being organized, existing or qualified to do business, doing business or maintaining a permanent establishment or office in such jurisdiction, and (iv) taxes imposed by reason of its failure to comply with any applicable certification, identification, information, documentation or other reporting requirement (all such non-excluded taxes being hereinafter referred to as "Indemnifiable Taxes"). In the event that any withholding or deduction from any payment to be made by the Borrower hereunder is required in respect of any Indemnifiable Taxes pursuant to any applicable law, or governmental rule or regulation, then the Borrower will (i) direct to the relevant taxing authority the full amount required to be so withheld or deducted, (ii) forward to the Administrative Agent for delivery to the applicable Bank an official receipt or other documentation satisfactory to the Administrative Agent and the applicable Bank evidencing such payment to such taxing authority, and (iii) direct to the Administrative Agent for the account of the relevant Banks such additional amount or amounts as is necessary to ensure that the net amount actually received by each relevant Bank will equal the full amount such Bank would have received had no such withholding or deduction (including any Indemnifiable Taxes on such additional amounts) been required. Moreover, if any Indemnifiable Taxes are directly asserted against the Administrative Agent or any Bank with respect to any payment received by the Administrative Agent or such Bank by reason of the Borrower's failure to properly deduct and withhold such Indemnifiable Taxes from such payment, the Administrative Agent or such Bank may pay such Indemnifiable Taxes and the Borrower will promptly pay all such additional amounts (including any penalties, interest or reasonable expenses) as is necessary in order that the net amount received by such Person after the payment of such Indemnifiable Taxes (including any Indemnifiable Taxes on such additional amount) shall equal the amount such Person would have received had not such Indemnifiable Taxes been asserted; provided that the Administrative Agent or such Bank, as the case may be, agrees to use commercially reasonable efforts, at the expense of the Borrower, to contest or otherwise challenge such Indemnifiable Taxes if the Administrative Agent or such Bank, as applicable, determines in good faith that a reasonable basis exists to do so. Any such payment shall be made promptly after the receipt by the Borrower from the Administrative Agent or such Bank, as the case may be, of a written statement setting forth in reasonable detail the amount of the Indemnifiable Taxes and the basis of the claim.

(b) The Borrower shall pay any present or future stamp or documentary taxes or any other excise or any other similar levies which arise from any payment made hereunder or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any other Loan Document (“Other Taxes”).

(c) The Borrower hereby indemnifies and holds harmless the Administrative Agent and each Bank for the full amount of Indemnifiable Taxes or Other Taxes (including, without limitation, any Indemnifiable Taxes or Other Taxes imposed on amounts payable under this §17) paid by the Administrative Agent or such Bank, as the case may be, and any liability (including penalties, interest and reasonable expenses) arising therefrom or with respect thereto, by reason of the Borrower’s failure to properly deduct and withhold Indemnifiable Taxes pursuant to paragraph (a) above or to properly pay Other Taxes pursuant to paragraph (b) above. Any indemnification payment from the Borrower under the preceding sentence shall be made promptly after receipt by the Borrower from the Administrative Agent or Bank of a written statement setting forth in reasonable detail the amount of such Indemnifiable Taxes or such Other Taxes, as the case may be, and the basis of the claim.

(d) If the Borrower pays any amount under this §17 to the Administrative Agent or any Bank and such payee knowingly receives a refund or tax credit in respect of any taxes with respect to which such amount was paid, the Administrative Agent or such Bank, as the case may be, shall remit to the Borrower, promptly following the receipt thereof by such payee, an amount equal to the amount determined by such payee to be equal to the amount of any net reduction in taxes actually obtained by such payee and determined by it to be allocable to such refund or credit; provided, that the decision as to whether or not to claim any such refund or credit, and as to the amount and allocation of any such refund or credit so claimed, shall be made by each such payee in its sole and absolute discretion; and provided, further, that nothing herein shall be deemed to obligate any Bank or the Administrative Agent to disclose to the Borrower or the Guarantor its tax returns or any information regarding its tax affairs.

(e) In the event any taxing authority notifies the Borrower or the Guarantor that any of them has improperly failed to deduct or withhold any taxes (other than Indemnifiable Taxes) from a payment made hereunder to the Administrative Agent or any Bank, the Borrower shall timely and fully pay such taxes to such taxing authority.

(f) The Administrative Agent or the Banks shall, upon the request of the Borrower, take reasonable measures to avoid or mitigate the amount of Indemnifiable Taxes required to be deducted or withheld from any payment made hereunder if such measures can be taken without such Person in its sole judgment suffering any legal, regulatory or economic disadvantage.

(g) Without prejudice to the survival of any other agreement of the parties hereunder, the agreements and obligations of the Borrower contained in this §17 shall survive the payment in full of the Obligations.

§18. TREATMENT OF CERTAIN CONFIDENTIAL INFORMATION.

§18.1. Confidentiality. Each of the Banks and the Administrative Agent agrees, on behalf of itself and each of its affiliates, directors, officers, employees and representatives, to use reasonable precautions to keep confidential, in accordance with their customary procedures for handling confidential information of the same nature and in accordance with safe and sound banking practices, any non-public information supplied to it by the Borrower or any of its Subsidiaries pursuant to this Agreement that is identified by such Person as being confidential at the time the same is delivered to the Banks or the Administrative Agent, provided that nothing herein shall limit the disclosure of any such information (a) after such information shall have become public other than through a violation of this §18, or becomes available to any of the Banks or the Administrative Agent on a nonconfidential basis from a source other than the Borrower, (b) to the extent required by statute, rule, regulation or judicial process, (c) to counsel for any of the Banks or the Administrative Agent, (d) to bank examiners or any other regulatory authority having jurisdiction over any Bank or any of its affiliates or the Administrative Agent, or to auditors or accountants, (e) to the Administrative Agent, any Bank or any Financial Affiliate, (f) in connection with any litigation to which any one or more of the Banks, the Administrative Agent or any Financial Affiliate is a party, or in connection with the enforcement of rights or remedies hereunder or under any other Loan Document, (g) to an affiliate of any Bank or the Administrative Agent, (h) to any actual or prospective assignee or participant or any actual or prospective counterparty (or its advisors) to any swap or derivative transactions referenced to credit or other risks or events arising under this Agreement or any other Loan Document so long as such assignee, participant or counterparty, as the case may be, agrees to be bound by the provisions of §18.1, or (i) with the consent of the Borrower.

§18.2. Prior Notification. Unless specifically prohibited by applicable law or court order, each of the Banks and the Administrative Agent shall, prior to disclosure thereof, notify the Borrower of any request for disclosure of any such non-public information by any governmental agency or representative thereof (other than any such request in connection with an examination of the financial condition of such Bank by such governmental agency) or pursuant to legal process.

§18.3. Other. In no event shall any Bank or the Administrative Agent be obligated or required to return any materials furnished to it or any Financial Affiliate by the Borrower or any of its Subsidiaries. The obligations of each Bank under this §18 shall supersede and replace the obligations of such Bank under any confidentiality letter in respect of this financing signed and delivered by such Bank to the Borrower prior to the date hereof and shall be binding upon any assignee of, or purchaser of any participation in, any interest in any of the Loans or Reimbursement Obligations from any Bank.

§19. SURVIVAL OF COVENANTS, ETC. Unless otherwise stated herein, all covenants, agreements, representations and warranties made herein, in the other Loan Documents or in any documents or other papers delivered by or on behalf of the Borrower or the Guarantor pursuant hereto shall be deemed to have been relied upon by the Banks, the Issuing Banks and the Administrative Agent, notwithstanding any investigation heretofore or hereafter made by them, and shall survive the making by the Banks of the Loans and the issuance, extension or renewal of any Letters of Credit by any Issuing Bank, as herein contemplated, and shall continue in full force and effect so long as any amount due under this Agreement, any Obligation, or any Letter of Credit remains outstanding and unpaid or any Bank has any obligation to make any Loans or any Issuing Bank has any obligation to issue, extend, or renew any Letters of Credit hereunder. All statements contained in any certificate or other paper delivered by or on behalf of the Borrower pursuant hereto or in connection with the transactions contemplated hereby shall constitute representations and warranties by the Borrower hereunder.

§20. ASSIGNMENT AND PARTICIPATION. It is understood and agreed that each Bank shall have the right to assign at any time all or a portion of its Commitment Percentage and interests in the risk relating to the Loans, outstanding Letters of Credit and its Commitment hereunder in an amount equal to or greater than $5,000,000 (or, if a Bank's Commitment is less than $5,000,000, in a minimum amount equal to such Bank's Commitment; provided that prior to any Commitment reductions pursuant to §2.3.1, such Bank's Commitment was at least $5,000,000) to additional banks, other financial institutions or Bank Affiliates with the prior written approval of the Administrative Agent and each Issuing Bank and, so long as no Event of Default has occurred and is continuing, the consent of the Borrower (provided that the Borrower's consent shall not be required in the case of an assignment to a Bank Affiliate or to an Approved Fund), which approvals shall not be unreasonably withheld. Any Bank may at any time, and from time to time, assign to any branch, lending office, or Bank Affiliate all or any part of its rights and obligations under the Loan Documents by notice to the Administrative Agent and the Borrower. It is further agreed that each bank or other financial institution which executes and delivers to the Administrative Agent and the Borrower hereunder an Assignment and Acceptance substantially in the form of Exhibit D hereto (an "Assignment and Acceptance") together with an assignment fee in the amount of $3,500 payable by the assigning Bank to the Administrative Agent, shall, on the date specified in such Assignment and Acceptance, become a party to this Agreement and the other Loan Documents for all purposes of this Agreement and the other Loan Documents, and its portion of the Commitment, the Loans and Letters of Credit shall be as set forth in such Assignment and Acceptance. The Bank assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except for indemnity rights arising out of the period prior to such assignment) and be released from its obligations under this Agreement and the other Loan Documents. Upon the execution and delivery of such Assignment and Acceptance (a) to the extent applicable, the Borrower shall issue Notes (and replacement Notes) or the Administrative Agent shall make appropriate entries on the applicable loan account(s) to reflect such assignment of Loan(s); and (b) this Agreement and Schedule 1 shall be deemed to be appropriately amended to reflect (i) the status of the bank, financial institution or Bank Affiliate as a party hereto and (ii) the status and rights of the Banks hereunder.

Each Bank shall also have the right to grant participations to one or more banks, other financial institutions or Bank Affiliates in its Commitment, the Loans and outstanding Letters of Credit. The documents evidencing any such participation shall limit such participating bank's, financial institution's or Bank Affiliate's, voting rights with respect to this Agreement to the matters set forth in §15.9(b)(i) – (v); and each such participant shall be entitled to the benefit of §5.5 hereof to the extent of its participation, subject to the limitations set forth therein.

Notwithstanding the foregoing, no assignment or participation shall operate to increase the Total Commitment hereunder or otherwise alter the substantive terms of this Agreement, and no Bank which retains a Commitment hereunder shall have a Commitment of less than

$5,000,000, except as a result of reductions in the Total Commitment pursuant to §2.3 hereof.

Anything contained in this §20 to the contrary notwithstanding, any Bank may at any time pledge all or any portion of its interest and rights under this Agreement (including all or any portion of its Notes) to any of the twelve Federal Reserve Banks organized under §4 of the Federal Reserve Act, 12 U.S.C. §341. No such pledge or the enforcement thereof shall release the pledgor Bank from its obligations hereunder or under any of the other Loan Documents.

The Borrower agrees that in addition to disclosures made in accordance with standard and customary banking practices any Bank may disclose information obtained by such Bank pursuant to this Agreement to assignees or participants and potential assignees or participants hereunder; provided that such assignees or participants or potential assignees or participants shall agree to be bound by §18 hereof.

§21. PARTIES IN INTEREST. All the terms of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto and thereto; provided, that neither the Borrower nor the Guarantor shall assign or transfer its rights or obligations hereunder or thereunder without the prior written consent of each of the Banks.

§22. NOTICES, ETC. (a) Subject to clauses (b) and (c) of this §22, all notices and other communications made or required to be given pursuant to this Agreement or the other Loan Documents shall be in writing and shall be delivered in hand, mailed by registered or certified United States first class mail, postage prepaid, or sent by telegraph, telex or facsimile and confirmed by letter, addressed as follows:

(i) if to the Borrower or the Guarantor, at 1001 Fannin Street, Suite 4000, Houston, Texas 77002, Attention: Treasurer, facsimile number (713) 942-1580, with a copy to Attention: General Counsel, facsimile number (713) 209-9710; or

(ii) if to the Administrative Agent, at 2 Penns Way, Suite 110, New Castle, Delaware 19720, Attention: Tara Wooster, facsimile number (212) 994-0961; or

(iii) if to any Bank, at the last address provided to the Administrative Agent;

or such other address for notice as shall have last been furnished in writing to the Person giving the notice.

Any such notice or demand shall be deemed to have been duly given or made and to have become effective (a) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer, (b) if sent by registered or certified first-class mail, postage prepaid, seven Business Days after the posting thereof, and (c) if sent by telex, facsimile, or cable, at the time of the dispatch thereof, if in normal business hours in the country of receipt, or otherwise at the opening of business on the following Business Day.

(b) The Borrower hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to this Agreement and the other Loan Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to a request for a new, or a conversion of an existing, Borrowing or other extension of credit (including any election of an interest rate or Interest Period relating thereto), (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any Default or Event of Default under this Agreement or (iv) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded communications being referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format acceptable to the Administrative Agent to oploanswebadmin@citigroup.com. In addition, the Borrower agrees to continue to provide the Communications to the Administrative Agent in the manner specified in this Agreement but only to the extent requested by the Administrative Agent.

(c) The Borrower further agrees that the Administrative Agent may make the Communications available to the Banks by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "Platform").

(d) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, AN WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE AGENT PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, "AGENT PARTIES") HAVE ANY LIABILITY TO THE BORROWER, ANY BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY AGENT PARTY IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH AGENT PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

(e) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of this Agreement. Each Bank agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the

Communications to such Bank for purposes of this Agreement. Each Bank agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Bank's e-mail address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such e-mail address.

(f) Nothing herein shall prejudice the right of the Administrative Agent or any Bank to give any notice or other communication pursuant to this Agreement in any other manner specified herein.

§23. MISCELLANEOUS. The rights and remedies herein expressed are cumulative and not exclusive of any other rights which the Banks, the Issuing Banks or the Administrative Agent would otherwise have. The captions in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof. This Agreement and any amendment hereof may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument. In proving this Agreement it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought. This Agreement, to the extent signed and delivered by means of a facsimile machine, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto, each other party hereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto shall raise the use of a facsimile machine to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation of a contract and each party forever waives such defense.

§24. CONSENTS, ETC. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated, except as provided in this §24, subject to the provisions of §15.9. No waiver shall extend to or affect any obligation not expressly waived or impair any right consequent thereon. Except as otherwise expressly provided in this Agreement, any consent or approval required or permitted by this Agreement to be given by the Banks may be given, and any term of this Agreement or of any other instrument related hereto or mentioned herein may be amended, and the performance or observance by the Borrower or the Guarantor of any terms of this Agreement or such other instrument or the continuance of any Default or Event of Default may be waived (either generally or in a particular instance and either retroactively or prospectively) with, but only with, the written consent of the Borrower and the Majority Banks. To the extent permitted by law, no course of dealing or delay or omission on the part of any of the Banks, the Issuing Banks or the Administrative Agent in exercising any right shall operate as a waiver thereof or otherwise be prejudicial thereto. No notice to or demand upon the Borrower or the Guarantor shall entitle the Borrower to other or further notice or demand in similar or other circumstances.

§25. WAIVER OF JURY TRIAL. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, THE NOTES OR ANY OF THE OTHER LOAN DOCUMENTS, ANY RIGHTS OR

OBLIGATIONS HEREUNDER OR THEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. EXCEPT AS PROHIBITED BY LAW, THE BORROWER AND THE GUARANTOR HEREBY WAIVE ANY RIGHT EITHER OF THEM MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION REFERRED TO IN THE PRECEDING SENTENCE ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER AND THE GUARANTOR EACH (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY BANK, ANY ISSUING BANK, THE ADMINISTRATIVE AGENT OR ANY AGENT HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH BANK, SUCH ISSUING BANK, THE ADMINISTRATIVE AGENT OR SUCH AGENT WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND (B) ACKNOWLEDGES THAT THE ADMINISTRATIVE AGENT, THE BANKS, AND THE ISSUING BANKS HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BECAUSE OF, AMONG OTHER THINGS, THE BORROWER'S AND THE GUARANTOR'S WAIVERS AND CERTIFICATIONS CONTAINED HEREIN.

§26. GOVERNING LAW; SUBMISSION TO JURISDICTION. THIS AGREEMENT AND EACH OF THE OTHER LOAN DOCUMENTS ARE CONTRACTS UNDER THE LAWS OF THE STATE OF NEW YORK AND SHALL, PURSUANT TO NEW YORK GENERAL OBLIGATIONS LAW §5-1401, BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK. THE BORROWER AND THE GUARANTOR CONSENT AND AGREE THAT ANY SUIT FOR THE ENFORCEMENT OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR ANY FEDERAL COURT SITTING THEREIN AND CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF SUCH COURT AND SERVICE OF PROCESS IN ANY SUCH SUIT BEING MADE UPON THE BORROWER IN ACCORDANCE WITH LAW AT THE ADDRESS SPECIFIED IN §22. THE BORROWER AND THE GUARANTOR HEREBY WAIVE ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH SUIT OR ANY SUCH COURT OR THAT SUCH SUIT IS BROUGHT IN AN INCONVENIENT FORUM.

§27. SEVERABILITY. The provisions of this Agreement are severable and if any one clause or provision hereof shall be held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

§28. GUARANTY.

§28.1. Guaranty. For value received and hereby acknowledged and as an inducement to the Banks and the Issuing Banks to make the Loans available to the Borrower, and issue, extend or renew Letters of Credit for the account of the Borrower, the Guarantor hereby unconditionally and irrevocably guarantees (a) the full punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all Obligations of the Borrower now or hereafter existing whether for principal, interest, fees, expenses or otherwise, and (b) the strict performance and observance by the Borrower of all agreements, warranties and covenants applicable to the Borrower in the Loan Documents and (c) the obligations of the Borrower under the Loan Documents (such Obligations collectively being hereafter referred to as the "Guaranteed Obligations").

§28.2. Guaranty Absolute. The Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms hereof, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of any Bank, any Issuing Bank or the Administrative Agent with respect thereto. The liability of the Guarantor under the guaranty granted under this Agreement with regard to the Guaranteed Obligations shall be absolute and unconditional irrespective of:

(a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other amendment or waiver of or any consent to departure from this Agreement or any other Loan Document (with regard to such Guaranteed Obligations);

(b) any release or amendment or waiver of or consent to departure from any other guaranty for all or any of its Guaranteed Obligations;

(c) any change in ownership of the Borrower;

(d) any acceptance of any partial payment(s) from the Borrower or the Guarantor; or

(e) any other circumstance whatsoever which might otherwise constitute a defense available to, or a discharge of, a guarantor or surety or the Borrower in respect of its Obligations under any Loan Document.

The guaranty under this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Obligation is rescinded or must otherwise be returned by the Banks, the Issuing Banks or the Administrative Agent upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise, all as though such payment had not been made.

§28.3. Effectiveness; Enforcement. The guaranty under this Agreement shall be effective and shall be deemed to be made with respect to each Loan and each Letter of Credit as of the time it is made, issued or extended, or becomes a Letter of Credit under this Agreement, as applicable. No invalidity, irregularity or unenforceability by reason of any bankruptcy or similar law, or any law or order of any government or agency thereof purporting to reduce, amend or otherwise affect any liability of the Borrower, and no defect in or insufficiency or want of powers of the Borrower or irregular or improperly recorded exercise thereof, shall impair, affect, be a defense to or claim against such guaranty. The guaranty under this Agreement is a continuing guaranty and shall (a) survive any termination of this Agreement, and (b) remain in full force and effect until payment in full of, and performance of, all Guaranteed Obligations and all other amounts payable under this Agreement. The guaranty under this Agreement is made for the benefit of the Administrative Agent, the Issuing Banks and the Banks and their successors and assigns, and may be enforced from time to time as often as occasion therefor may arise and without requirement on the part of the Administrative Agent, the Issuing Banks or the Banks first to exercise any rights against the Borrower, or to resort to any other source or means of obtaining payment of any of the said obligations or to elect any other remedy.

§28.4. Waiver. Except as otherwise specifically provided in any of the Loan Documents, the Guarantor hereby waives promptness, diligence, protest, notice of protest, all suretyship defenses, notice of acceptance and any other notice with respect to any of its Guaranteed Obligations and the guaranty under this Agreement and any requirement that the Banks, the Issuing Banks or the Administrative Agent protect, secure, perfect any security interest or Lien or any property subject thereto or exhaust any right or take any action against the Borrower or any other Person. The Guarantor also irrevocably waives, to the fullest extent permitted by law, all defenses which at any time may be available to it in respect of its Guaranteed Obligations by virtue of any statute of limitations, valuation, stay, moratorium law or other similar law now or hereafter in effect.

§28.5. Expenses. The Guarantor hereby promises to reimburse (a) the Administrative Agent for all reasonable out-of-pocket fees and disbursements (including all reasonable attorneys' fees), incurred or expended in connection with the preparation, filing or recording, or interpretation of the guaranty under this Agreement, the other Loan Documents or any amendment, modification, approval, consent or waiver hereof or thereof, and (b) the Administrative Agent, the Issuing Banks and the Banks and their respective affiliates for all reasonable out-of-pocket fees and disbursements (including reasonable attorneys' fees), incurred or expended in connection with the enforcement of its Guaranteed Obligations (whether or not legal proceedings are instituted). The Guarantor will pay any taxes (including any interest and penalties in respect thereof) other than the Banks' taxes based on overall income or profits, payable on or with respect to the transactions contemplated by the guaranty under this Agreement, the Guarantor hereby agreeing jointly and severally to indemnify each Bank with respect thereto.

§28.6. Concerning Joint and Several Liability of the Guarantor.

(a) The Guarantor hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the Borrower, with respect to the payment and performance of all of its Guaranteed Obligations (including, without limitation, any Guaranteed Obligations arising under this §28), it being the intention of the parties hereto that all such Guaranteed Obligations shall be the joint and several Guaranteed Obligations of the Guarantor and the Borrower without preferences or distinction among them.

(b) If and to the extent that the Borrower shall fail to make any payment with respect to any of its Obligations as and when due or to perform any of its Guaranteed Obligations in accordance with the terms thereof, then in each such event the Guarantor will make such payment with respect to, or perform, such Guaranteed Obligation.

(c) The Guaranteed Obligations of the Guarantor under the provisions of this §28 constitute full recourse obligations of the Guarantor enforceable against the

Guarantor to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Agreement or any other circumstance whatsoever.

(d) Except as otherwise expressly provided in this Agreement, the Guarantor hereby waives notice of acceptance of its joint and several liability, notice of any Loans made, or Letters of Credit issued under this Agreement, notice of any action at any time taken or omitted by the Administrative Agent, the Issuing Banks or the Banks under or in respect of any of the Guaranteed Obligations, and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement. The Guarantor hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Guaranteed Obligations, the acceptance of any payment of any of the Guaranteed Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Administrative Agent, the Issuing Banks or the Banks at any time or times in respect of any Default or Event of Default by the Borrower or the Guarantor in the performance or satisfaction of any term, covenant, condition or provision of this Agreement or any other Loan Document, any and all other indulgences whatsoever by the Administrative Agent, the Issuing Banks or the Banks in respect of any of the Guaranteed Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Guaranteed Obligations or the addition, substitution or release, in whole or in part, of the Borrower or the Guarantor. Without limiting the generality of the foregoing, the Guarantor assents to any other action or delay in acting or failure to act on the part of the Banks, the Issuing Banks or the Administrative Agent with respect to the failure by the Borrower or the Guarantor to comply with its respective Obligations or Guaranteed Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this §28, afford grounds for terminating, discharging or relieving the Guarantor, in whole or in part, from any of the Guaranteed Obligations under this §28, it being the intention of the Guarantor that, so long as any of the Guaranteed Obligations hereunder remain unsatisfied, the Guaranteed Obligations of the Guarantor under this §28 shall not be discharged except by performance and then only to the extent of such performance. The Guaranteed Obligations of the Guarantor under this §28 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to the Borrower or the Guarantor or the Banks, the Issuing Banks or the Administrative Agent. The joint and several liability of the Guarantor hereunder shall continue in full force and effect notwithstanding any absorption, merger, consolidation, amalgamation or any other change whatsoever in the name, membership, constitution or place of formation of the Borrower or the Guarantor, the Banks, the Issuing Banks or the Administrative Agent.

(e) The Guarantor shall be liable under this §28 only for the maximum amount of such liabilities that can be incurred under applicable law without rendering this §28 voidable under applicable law relating to fraudulent conveyance and fraudulent transfer, and not for any greater amount. Accordingly, if any obligation under any provision under this §28 shall be declared to be invalid or unenforceable in any respect or to any extent, it is the stated intention and agreement of the Guarantor, the Administrative

Agent, the Issuing Banks and the Banks that any balance of the obligation created by such provision and all other obligations of the Guarantor under this §28 to the Banks, the Issuing Banks or the Administrative Agent shall remain valid and enforceable, and that all sums not in excess of those permitted under applicable law shall remain fully collectible by the Banks, the Issuing Banks and the Administrative Agent from the Borrower or the Guarantor, as the case may be.

(f) The provisions of this §28 are made for the benefit of the Administrative Agent, the Issuing Banks and the Banks and their successors and assigns, and may be enforced in good faith by them from time to time against the Guarantor as often as occasion therefor may arise and without requirement on the part of the Administrative Agent, the Issuing Banks or the Banks first to marshal any of their claims or to exercise any of their rights against the Borrower or the Guarantor or to exhaust any remedies available to them against the Borrower or the Guarantor or to resort to any other source or means of obtaining payment of any of the obligations hereunder or to elect any other remedy. The provisions of this §28 shall remain in effect until all of the Guaranteed Obligations shall have been paid in full or otherwise fully satisfied and the Commitments have expired and all outstanding Letters of Credit have expired, matured or otherwise been terminated. If at any time, any payment, or any part thereof, made in respect of any of the Guaranteed Obligations, is rescinded or must otherwise be restored or returned by the Banks, the Issuing Banks or the Administrative Agent upon the insolvency, bankruptcy or reorganization of the Borrower or the Guarantor, or otherwise, the provisions of this §28 will forthwith be reinstated in effect, as though such payment had not been made.

§28.7. Waiver. Until the final payment and performance in full of all of the Obligations, the Guarantor shall not exercise and the Guarantor hereby waives any rights the Guarantor may have against the Borrower arising as a result of payment by the Guarantor hereunder, by way of subrogation, reimbursement, restitution, contribution or otherwise, and will not prove any claim in competition with the Administrative Agent, the Issuing Banks or any Bank in respect of any payment hereunder in any bankruptcy, insolvency or reorganization case or proceedings of any nature; the Guarantor will not claim any setoff, recoupment or counterclaim against the Borrower in respect of any liability of the Borrower to the Guarantor; and the Guarantor waives any benefit of and any right to participate in any collateral security which may be held by the Administrative Agent, the Issuing Banks or any Bank.

§28.8. Subrogation; Subordination. The payment of any amounts due with respect to any indebtedness of the Borrower for money borrowed or credit received now or hereafter owed to the Guarantor is hereby subordinated to the prior payment in full of all of the Obligations. The Guarantor agrees that, after the occurrence of any default in the payment or performance of any of the Obligations, the Guarantor will not demand, sue for or otherwise attempt to collect any such indebtedness of the Borrower to the Guarantor until all of the Obligations shall have been paid in full. If, notwithstanding the foregoing sentence, the Guarantor shall collect, enforce or receive any amounts in respect of such indebtedness while any Obligations are still outstanding, such amounts shall be collected, enforced and received by the Guarantor as trustee for the Banks, the Issuing Banks and the Administrative Agent and be paid over to the Administrative Agent at Default, for the benefit of the Banks, the Issuing

Banks, and the Administrative Agent on account of the Obligations without affecting in any manner the liability of the Guarantor under the other provisions hereof.

§29. PRO RATA TREATMENT.

(a) Notwithstanding anything to the contrary set forth herein, each payment or prepayment of principal and interest received after the occurrence of an Event of Default hereunder shall be distributed *pro rata* among the Banks, in accordance with the aggregate outstanding principal amount of the Obligations owing to each Bank divided by the aggregate outstanding principal amount of all Obligations.

(b) Each Bank agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against any Borrower (pursuant to §13 or otherwise), including a secured claim under Section 506 of the Bankruptcy Code or other security or interest arising from or in lieu of, such secured claim, received by such Bank under any applicable bankruptcy, insolvency or other similar law or otherwise, obtain payment (voluntary or involuntary) in respect of the Notes, Loans, Reimbursement Obligations and other Obligations held by it (other than pursuant to §5.5, §5.6 or §5.8) as a result of which the unpaid principal portion of the Notes and the Obligations held by it shall be proportionately less than the unpaid principal portion of the Notes and the Obligations held by any other Bank, it shall be deemed to have simultaneously purchased from such other Bank a participation in the Notes and the Obligations held by such other Bank, so that the aggregate unpaid principal amount of the Notes and the Obligations and participations in Notes and Obligations held by each Bank shall be in the same proportion to the aggregate unpaid principal amount of the Notes and the Obligations then outstanding as the principal amount of the Notes and the Obligations held by it prior to such exercise of banker's lien, setoff or counterclaim was to the principal amount of all Notes and Obligations outstanding prior to such exercise of banker's lien, setoff or counterclaim; provided, however, that if any such purchase or purchases or adjustments shall be made pursuant to this §29 and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the purchase price or prices or adjustments restored without interest. The Borrower expressly consents to the foregoing arrangements and agrees that any Person holding such a participation in the Obligations deemed to have been so purchased may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by the Borrower to such Person as fully as if such Person had made a Loan directly to the Borrower in the amount of such participation.

§30. FINAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

§31. USA PATRIOT ACT. Each Bank hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Bank to identify the Borrower in accordance with the Act.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first set forth above.

THE BORROWER AND GUARANTOR:

WASTE MANAGEMENT, INC.

By: /s/ Cherie C. Rice
Name: Cherie C. Rice
Title: Vice President - Finance and Treasurer

WASTE MANAGEMENT HOLDINGS, INC.

By: /s/ Cherie C. Rice
Name: Cherie C. Rice
Title: Vice President and Treasurer

By: /s/ Amanda K. Maki
Name: Amanda K. Maki
Title: Assistant Secretary

THE ADMINISTRATIVE AGENT:

CITIBANK, N.A., as Administrative Agent

By: /s/ Jeffrey Stern
Name: Jeffrey Stern
Title: Vice President

<u>THE BANKS</u>:

JPMORGAN CHASE BANK

By: /s/ Randolph Cates
Name: Randolph Cates
Title: Vice President

BANK OF AMERICA, N.A.

By: /s/ Maria F. Maia
Name: Maria F. Maia
Title: Managing Director

CITIBANK, N.A.

By: /s/ Jeffrey Stern
Name: Jeffrey Stern
Title: Vice President

BARCLAYS BANK PLC

By: /s/ David Barton
Name: David Barton
Title: Associate Director

DEUTSCHE BANK AG, NEW YORK BRANCH

By: /s/ Ming K. Chu
Name: Ming K. Chu
Title: Vice President

By: /s/ Vincent Wong
Name: Vincent Wong
Title: Vice President

ABN AMRO BANK N.V.

By: /s/ Jeff Lobbezoo

Name: Jeff Lobbezoo

Title: Vice President

BNP PARIBAS

By: /s/ Mike Shryock
Name: Mike Shryock
Title: Managing Director

By: /s/ Becky Ortega
Name: Becky Ortega
Title: Vice President

THE BANK OF NOVA SCOTIA

By: /s/ William E. Zarrett
Name: William E. Zarrett
Title: Managing Director

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ L. Peter Yetman
Name: L. Peter Yetman
Title: Senior Vice President

CALYON NEW YORK BRANCH

By: /s/ F. Frank Herrera
Name: F. Frank Herrera
Title: Director

By: /s/ Ronald Moore
Name: Ronald Moore
Title: Director

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Philip K. Liebscher
Name: Philip K. Liebscher
Title: Senior Vice President

SUNTRUST BANK

By: /s/ Michael Lapresi
Name: Michael Lapresi
Title: Managing Director

WACHOVIA BANK, N.A.

By: /s/ John G. Taylor
Name: John G. Taylor
Title: Vice President

REGIONS BANK

By: /s/ Carol S. Geraghty
Name: Carol S. Geraghty
Title: Senior Vice President

COMERICA BANK

By: /s/ Charles T. Johnson
Name: Charles T. Johnson
Title: Vice President

MIZUHO CORPORATE BANK, LTD.

By: /s/ Raymond Ventura
Name: Raymond Ventura
Title: Deputy General Manager

SUMITOMO MITSUI BANKING CORPORATION

By: /s/ Shigeru Tsuru

Name: Shigeru Tsuru

Title: Joint General Manager

THE BANK OF TOKYO MITSUBISHI UFJ, LTD.

By: /s/ D. Barnell
Name: D. Barnell
Title: V.P. & Manager

By: /s/ J. Wheeler
Name: J. Wheeler
Title: Vice President

BAYERISCHE HYPO- UND VEREINS BANK AG, NEW YORK BRANCH

By: /s/ Marianne Weinzinger
Name: Marianne Weinzinger
Title: Director

By: /s/ Richard Cordover
Name: Richard Cordvoer
Title: Director

CREDIT SUISSE FIRST BOSTON

By: /s/ Brian T. Caldwell
Name: Brian T. Caldwell
Title: Director

By: /s/ Laurence Lapeyre
Name: Laurence Lapeyre
Title: Associate

MELLON BANK, N.A.

By: /s/ Mark F. Johnston
Name: Mark F. Johnston
Title: First Vice President

KBC BANK, N.V.

By: /s/ Jean-Pierre Diela
Name: Jean-Pierre Diels
Title: First Vice President

By: /s/ Eric Raskin
Name: Eric Raskin
Title: Vice President

THE BANK OF NEW YORK

By: /s/ Kevin A. Higgins
Name: Kevin A. Higgins
Title: Vice President

US BANK NATIONAL ASSOCIATION

By: /s/ Kevin S. McFadden
Name: Kevin S. McFadden
Title: Vice President

WELLS FARGO BANK

By: /s/ Stephen C. Melton
Name: Stephen C. Melton
Title: Vice President

WILLIAM STREET COMMITMENT CORPORATION (Recourse only to assets of William Street Commitment Corporation)

By: /s/ Mark Walton
Name: Mark Walton
Title: Assistant Vice President

BANK OF TAIWAN, NEW YORK AGENCY

By: /s/ Eunice Shiou-Jsu Yeh

Name: Eunice Shiou-Jsu Yeh

Title: SVP & General Manager

CATHAY UNITED BANK

By: /s/ Allen Peng
Name: Allen Peng
Title: EVP & General Manager

BANK OF COMMUNICATIONS

By: /s/ Shelley He
Name: Shelley He
Title: Deputy General Manager

FIRST COMMERCIAL BANK
NEW YORK AGENCY

By: /s/ Bruce M.J. Ju
Name: Bruce M.J. Ju
Title: VP & General Manager

EXHIBIT 12

WASTE MANAGEMENT, INC.

COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
(In Millions, Except Ratios)
(Unaudited)

	Nine Months Ended September 30, 2006	Nine Months Ended September 30, 2005
Income before income taxes, losses in equity investments and minority interests	$ 1,204	$ 868
Fixed charges deducted from income:		
Interest expense	412	369
Implicit interest in rents	37	38
	449	407
Earnings available for fixed charges	$ 1,653	$ 1,275
Interest expense	$ 412	$ 369
Capitalized interest	11	4
Implicit interest in rents	37	38
Total fixed charges	$ 460	$ 411
Ratio of earnings to fixed charges	3.6x	3.1x

EXHIBIT 31.1

SECTION 302 CERTIFICATION

I, David P. Steiner, certify that:

1. I have reviewed this report on Form 10-Q of Waste Management, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a — (15e) and 15d — (15e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15 (f) and 15d — 15 (f))for the registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 25, 2006

By: /s/ DAVID P. STEINER
David P. Steiner
Chief Executive Officer

EXHIBIT 31.2

SECTION 302 CERTIFICATION

I, Robert G. Simpson, certify that:

1. I have reviewed this report on Form 10-Q of Waste Management, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a — (15e) and 15d — (15e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15 (f) and 15d — 15 (f)) for the registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 25, 2006

By: /s/ Robert G. Simpson
Robert G. Simpson
Senior Vice President and
Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Waste Management, Inc. (the “Company”) on Form 10-Q for the period ended September 30, 2006 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, David P. Steiner, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ DAVID P. STEINER
David P. Steiner
Chief Executive Officer

October 25, 2006

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Waste Management, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert G. Simpson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ ROBERT G. SIMPSON
Robert G. Simpson
Senior Vice President and
Chief Financial Officer

October 25, 2006