

**SECOND AMENDMENT TO THE
LANDFILL SERVICES AGREEMENT
BETWEEN THE
CITY OF CORPUS CHRISTI
AND
CEFE LANDFILL TX, LP**

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This second amendment ("Second Amendment") to the Landfill Services Agreement ("Agreement") executed on February 24, 2005, between the City and Cefe Landfill TX, LP (formerly, BFI Elliott Landfill TX, LP, by assignment from BFI Waste Systems of North America, Inc.) ("BFI"), having an Initial Operation Date of May 21, 2005, is made effective for all purposes as of September 1, 2019, unless otherwise specifically stated in this Second Amendment.

WHEREAS, the City and BFI desire to modify the terms and conditions of the Agreement and First Amendment (executed by the parties on July 22, 2005), as such terms and conditions are set out below, for the remainder Initial Term of the Agreement; and

WHEREAS, the parties agree to execute this instrument and proceed subject to the following terms, conditions and covenants.

1. **Incorporation of Preamble.** The preamble provisions set out above in this Second Amendment are incorporated by reference into the body of this document and constitute additional provisions under the Agreement and First Amendment.
2. **Effective Date.** This Second Amendment, following final approval by the City's City Council and execution by both parties, is ratified by both parties to take effect as of September 1, 2019.
3. **Effect of Second Amendment.** This Second Amendment modifies, supplements, and expands the provisions, terms, and conditions of the existing Agreement and First Amendment (including the respective exhibits) between the City and BFI and the duties and responsibilities undertaken by each, as is necessary and mutually desired to effectuate the purposes and plans of the parties. The parties acknowledge and agree that all terms, conditions, and covenants of the Agreement and First Amendment not changed by execution of this Second Amendment continue in full force and effect. Unless otherwise specifically indicated in context in this instrument, modified language is presented in legislative style, with deleted language shown to be stricken (example: ~~deleted~~) and new language to take effect shown underlined (example: added). The parties further agree that any ambiguities or conflicts between or among the documents may not be construed against the City as drafter. In the event of a conflict between or among the documents addressing the same matter, the parties agree that the more stringent provision controls.
4. **Definitions; Usage.** All words and phrases not defined in this Second Amendment or modified herein retain the definitions contained in the Agreement and First Amendment. For brevity in the remainder of this document, any reference to the Agreement is deemed to collectively include the First Amendment and this Second Amendment as well as all exhibits and documents attached to, referenced, or incorporated by reference into those instruments and which are the subjects of the Agreement's relationship between the parties.

5. **Intermediate Cover.** Article II, entitled "LANDFILL SERVICES, CITY'S RESPONSIBILITIES AND TERM," Section 2.02, entitled "Services Provided by BFI," subsection (a)(xiv) is modified as follows:

"(xiv) provide intermediate cover in all areas that have received waste but will be inactive for longer than (180) days, and such intermediate cover must include six inches of suitable earthen material that is capable of sustaining native plant growth;"

6. **City's Responsibilities.** Article II, entitled "LANDFILL SERVICES, CITY'S RESPONSIBILITIES AND TERM," Section 2.03, entitled "City's Responsibilities," subsection (h) only is modified as follows:

"(h) provide on the Cefe Landfill property within one-half mile of the active face of the Landfill onsite borrow pits or stockpiles containing all cover materials necessary for BFI to push, pack and cover waste, including daily and intermediate cover of the active face of the Landfill, in accordance with the Plan, and it is the responsibility of BFI to move the dirt from the borrow pits or stockpiles to the working face;"

7. **Term.** Article II, Section 2.05, entitled "Term," is modified as follows:

"Term. Unless earlier terminated pursuant to the provisions of this Agreement, the term of this Agreement (the "Term") commences on the Effective Date and continues until 11:59 p.m. on January 31, 2021 for a period of 20 years after the Initial Operation Date. BFI may renew this Agreement for an additional 20 years (which if so renewed shall be deemed part of the "Term") on the same terms and conditions as set out in this Agreement. To exercise its renewal option, BFI must give City written notice of renewal at least six months before the last day of the initial Term."

8. **Fees.** Article III, entitled "FEES," is modified by adding a new subsection 3.02-A, to read as follows:

"3.02-A. Effective September 1, 2019, the Fee paid to BFI is \$13.31 per ton."

9. **Duplicate Counterparts.** This Second Amendment may be executed by the parties in any manner as duplicate counterparts, each of which is deemed to be an original of this instrument for all purposes.

10. **Entire Agreement.** In addition to the existing Agreement and First Amendment, including any exhibits attached to, referenced, or incorporated by reference, this Second Amendment contains the entire understanding and mutual agreement of the parties, and no other agreements, assurances, covenants (express or implied), or other terms and conditions of any kind exist between the parties with regard to the Agreement.

ATTEST:

CITY OF CORPUS CHRISTI

Rebecca Huerta, City Secretary

Peter Zanoni, City Manager

Date: _____

Date: _____

Approved as to legal form: _____, 2019

Elizabeth Hundley
Assistant City Attorney
for the City Attorney

CEFE LANDFILL TX, LP, by Allied Waste Landfill Holdings, Inc., its General Partner

Signature

Title

Printed Name

Date