

FIRST AMENDMENT TO AGREEMENT

Pursuant to City of San Antonio ("City") Ordinance 78715 of September 15, 1993, the City and Texas Disposal Systems Landfill, Inc., a Texas corporation ("TDSL") entered into an Agreement for municipal waste disposal ("Agreement").

The City subsequently determined it is in the City's interest to address its waste disposal needs in a more comprehensive manner over a longer term. The City solicited bids for Municipal Solid Waste Disposal Services through a Request for Proposal dated April 19, 1995 and its Addenda dated April 24, 1995, May 1, 1995 and May 2, 1995 ("Second RFP"). A true copy of the Second RFP and TDSL's response thereto is attached and incorporated for all purposes as Exhibit C. All references to "RFP" include collectively the Request for Proposals referenced in the Agreement and the Second RFP. The provisions of the Agreement and this Amendment shall control in case of any conflict with Exhibits, A, B or C.

The City and TDSL desire to amend and extend the term of the Agreement in response to the Second RFP and the City's goals and objectives.

For a full and valuable consideration and the mutual covenants and benefits to each of the parties, the City and TDSL have agreed to amend the Agreement as follows:

A-1 TERM.

Section 1, Term shall be amended to read as follows:

"1. Term.

This Agreement became effective as of September 20, 1993 and shall remain in effect until midnight September 30, 2025. It is further contemplated that this Agreement may be extended by the parties for five (5) consecutive one-year terms beginning at the end of the initial term through written agreement of the City and TDSL not less than ninety (90) days prior to the end of the initial term and the end of each consecutive one-year term. This Agreement may be terminated by the City at any time upon (i) the delivery of written notice to TDSL, and (ii) the expiration of five (5) years from the date such notice was delivered."

A-2 DISPOSAL RATES.

Section 6 (paragraphs A, B, C, D, E, F, G, H & I), Disposal Rates shall be amended as follows:

"6. Disposal Rates.

Subject only to the adjustments set forth in this Agreement, TDSL will accept the City's solid waste at the TDSL landfill at 7500 FM 1327, Buda, Texas, 78610, at the following rates which shall in no event be higher than the then published gate rate at the TDSL landfill for similar type waste ("Base Rate"):

Rates for direct delivery to TDSL landfill (without state fee).

Year Beginning:	9/20/93	9/20/94	9/30/95	9/30/96	9/30/97	and all subsequent years
Base Rates						
Per Ton:	\$9.40	\$9.40	\$10.90	\$10.90	\$11.40	

The following terms and conditions are applied to the Base Rate:

- A. The Base Rate may increase to \$10.90 per ton for the third and fourth years beginning 9/30/95 and 9/30/96 of this Agreement, and with the fifth year beginning on 9/30/97 the

Base Rate may increase to \$11.40 per ton, to cover the increased costs of Subtitle D of RCRA. Such increase shall be at the sole discretion of TDSL."

B. The following sentence shall be added to the end of paragraph B:

"Notwithstanding anything to the contrary, there shall be no limitation on the amount of CPI adjustment for the period beginning on 10/01/2005 and each contract year thereafter. CPI, as used herein, means the "Consumer Price Index" determined by the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index, All Urban Wage Earners and Clerical Workers, All Items, for the Southern Region of the United States, or the successor of such index, or if no successor index is designated, then such other index as may be agreed by the parties hereto. The base index shall be September, 1995."

C. "Any fees or charges imposed subsequent to the effective date of this First Amendment attributable to the volume of waste received from the City of San Antonio levied by the Texas Natural Resource Conservation Commission or other governmental authority which are applicable to one or more Type I landfills then being used by the City, shall be passed on directly to the City in proportionate amount. Any fees or charges which are not applicable to one or more of the City's other similar Type I landfills are subject to review with respect to whether the charges should be passed on to the City."

D. "Any state fees levied by the Texas Natural Resources Conservation Commission (TNRCC), which impact Type I landfills in the state and are not location specific, will be passed on directly to the City. The State fee at the initiation of this Agreement is \$1.25 per ton."

E. "These rates do not include special wastes as such term is defined in the RFP. The rate for special waste shall be the same rate charged to all other similar customers of TDSL for that waste."

- F. "TDSL agrees to accept up to 500,000 tons per year of City waste hauled by any City vehicle or designated hauler during the term of this Agreement at the rates set forth above. All waste accepted by TDSL under this contract shall be deemed to be the City's waste or within the responsibility or control of the City. The City guarantees to deliver to TDSL a minimum of 50,000 tons of solid waste per year during the term of this Agreement. The City shall deliver its waste on a regular basis, but the weekly volume may vary depending upon the City's work schedule and disposal plan. The operations and maintenance of the City's Starcrest (Northeast) Transfer Station will also affect the weekly volume. The City intends to haul to TDSL waste processed through the Northeast Transfer Station. TDSL shall provide the City with written reports on a monthly basis which show the amount of volume delivered to TDSL under this Agreement."
- G. "The City and TDSL agree to enter into negotiations regarding the use of the City's Starcrest (Northeast) Transfer Station by Texas Disposal Systems, Inc. (TDS) for disposal of commercial solid waste collected in San Antonio. It is the intent of the City and TDSL to negotiate an agreement on or before November 16, 1995 regarding the use of Starcrest (Northeast) Transfer Station."
- H. "Upon written request by the City, TDSL agrees to assist the City in expanding the use of the Northeast Transfer Station. Such assistance shall include TDSL providing a transfer trailer tipper at the TDSL landfill to dump the City's open top transfer trailers. The TDSL commitment is subject to the City utilizing open top transfer trailers, transporting approximately 100,000 tons per year of City municipal solid waste to TDSL, and providing TDS with truck access to the remaining operating capacity of the Northeast Transfer Station at City cost for dumping municipal solid waste collected in the San Antonio area."

I. TDSL shall not accept and shall reject any waste brought to the disposal site that TDSL, in its sole discretion, considers to be unacceptable. TDSL will notify the City of the receipt and nature of unacceptable waste. The City and TDSL will cooperate to arrange for the removal of the unacceptable waste, the expense of removal to be borne by the City or the City's agent. Unacceptable waste is defined herein as any waste that TDSL is not permitted to accept at its disposal location by state or federal law or regulation.

A-3 RECYCLING AREA.

The following shall be added at the end of Section 9:

"TDSL shall work with the City to identify and secure a site located in the northern sector of the City which is a minimum of three acres in size for brush processing and grinding. TDSL, at its cost, shall provide the site for use by the City and TDSL, conditioned upon TDSL receiving appropriate zoning and permits for brush storage, grinding and processing."

A-4 TERMINATION.

Section 12. Termination of the Agreement shall be amended to read as follows:

"12. **Termination - REEZ.**

This contract may be terminated by the City after the fourth year of this agreement in order to initiate City operation of its Regional Environmental Enterprise Zone (REEZ), landfill resource facility. Such termination requires 60 days written notice to TDSL and only applies if the City has permitted and prepared for opening a new municipal solid waste landfill to receive this waste.

There shall be no penalty for such termination."

A-5 DEAD ANIMALS.

Section 13, Dead Animals, is amended to change the reference from Section 5 to Section 6.

A-6 FREE DISPOSAL DAYS.

A new section shall be added as follows:

"16. Free Disposal Days.

In recognition that the TDSL landfill is not located within the City, TDSL agrees to work with the City in developing a program of relative economic value with goals similar to the City's free disposal days program referenced in Section 1.13 of the Second RFP."

A-7 DISPUTE RESOLUTIONS.

A new section shall be added as follows:

"17. Dispute Resolution.

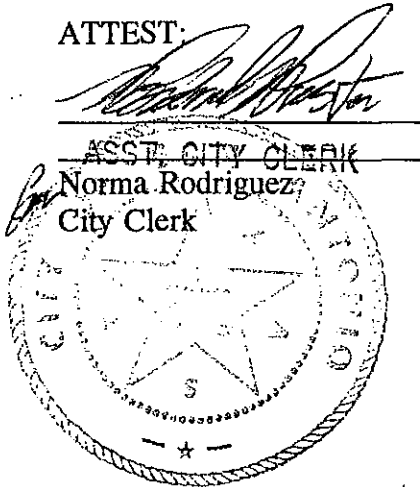
In the event the parties are unable to agree upon any issue which requires interpretation including periodic adjustments to the Base Rate, the parties agree to comply with non-binding mediation before initiating legal action in a court of law. All information required or requested of the parties during mediation under this section shall be confidential between the parties and the mediator. Such materials shall not be retained or distributed by the City in any manner which would subject them to the Texas Open Records Act or any other similar discovery procedure. At the conclusion of the mediation, each party shall return all copies and recordings of materials and information to the party furnishing such materials or information. In no event shall TDSL be required to release or disclose any financial information until all parties to the mediation have entered into a mutually agreeable confidentiality agreement. Information requested of TDSL shall be limited to that which is directly related to the issue in dispute.

Prior to initiating legal proceedings against each other, the parties shall participate in non-binding mediation. The parties shall consult with the Center for Dispute Resolution of the University of Texas at Austin School of Law (or other similar body if it ceases to exist) for purposes of mediator selection and the procedures to be followed. The parties shall then participate in good faith in non-binding mediation. Neither party shall be obligated to continue the mediation if it does not resolve the issue within fifteen (15) days after the mediation is initiated or thirty (30) days after mediation is requested whichever is later. The parties shall share equally in the costs of the mediation."

Except as modified by this First Amendment, the Agreement shall remain in full force and effect as written. The Agreement as amended by this First Amendment shall be deemed to control in the event of any conflict with Exhibits A, B, or C.

Executed as of this 8TH day of JUNE, 1995.

ATTEST:



~~ASST. CITY CLERK~~
Norma Rodriguez
City Clerk

CITY OF SAN ANTONIO

By:

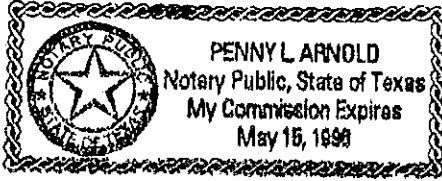
Alexander E. Briseño
Alexander E. Briseño, City Manager
Date: 6/8/95

TEXAS DISPOSAL SYSTEMS LANDFILL, INC.

By: Bob Gregory
Bob Gregory, President
Date: June 1, 1995

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 1st day of June, 1995, by Bob Gregory, President of Texas Disposal Systems Landfill, Inc., on behalf of said corporation.



Penny L. Arnold
Notary Public in and for the
State of Texas