

**ORDINANCE NO. 2004- 14**

**An ordinance authorizing the City Manager to execute the Tenth Amendment to the Regional Solid Waste Sanitary Landfill Operations Services Contract between the City of Victoria and Browning-Ferris, Inc., which amendment provides for the adjustment of landfill operations services rates; amending Section 24-142 of the Victoria City Code to amend fees for landfill disposal services; repealing conflicting parts of ordinances; providing for severability; providing for codification and savings; and declaring an effective date.**

By Resolution No. 93-68R, passed June 15, 1993, the City Council authorized the city administration to enter into a Regional Solid Waste Sanitary Landfill Operations Services Contract with Browning-Ferris, Inc., ("B.F.I."), effective July 1, 1993, and Section 17.02 of the Contract requires the City to annually adjust all Use and Post Closure fees to reflect changes in the cost of operations, as reflected by fluctuations in the Consumer Price Index for Urban Wage Earners for the Southwest Statistical Summary ("All Items Index"), and the Consumer Price Index for Urban Wage Earners for the Southwest Statistical Summary, Expenditures Category, "Gasoline Index," both as published by the U.S. Department of Labor, Bureau of Labor Statistics, in a percentage amount equal to 90% of the net percentage change of the All Items Index, plus 10% of the net percentage change of the Gasoline Index;

By Resolution No. 95-97R, passed August 15, 1995, the City Council approved and authorized the City Manager to execute the Third Amendment to the Contract with B.F.I. to provide for the adjustment of landfill operations services rates, which provided for rate adjustments to compensate BFI for 50% of the cost of methane gas and groundwater monitoring wells; by Resolution No. 2000-131R passed September 5, 2000, the City council approved and authorized the City Manager to execute the Seventh Amendment to the Contract with B.F.I. to provide for the adjustment of landfill operations services rates; and by Ordinance No. 2001-18 passed September 18, 2001, the City Council approved and authorized the City Manager to execute the Eighth Amendment to the Contract with B.F.I. to provide for the adjustment of landfill operations services rates; and by Ordinance No. 2003-19 passed September 2, 2003, the City Council approved and authorized the City Manager to execute the Ninth Amendment to the Contract with B.F.I. to provide for the adjustment of landfill operations services rates; and

B.F.I. has submitted price increase information and calculations in accordance with the Contract and has requested the City amend the Contract a tenth time to increase the landfill disposal rates by **4.78%**;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

## 1.

The City Manager is authorized to execute the Tenth Amendment to the Contract between the City of Victoria and Browning-Ferris, Inc. (or BFI Waste Services of Texas, L.P.) in the form attached as **Exhibit "A"** which is attached hereto and incorporated herein, with such changes to form as are approved by the City Attorney.

## 2.

Section 24-142 "Landfill Disposal Services Rates," of the Victoria City Code is amended to read as follows:

**Sec. 24-142. Landfill disposal services rates.**

The disposal of garbage, trash, rubbish or other refuse at the City sanitary landfill sites shall be subject to the following schedule of fees and shall be payable to the City's solid waste sanitary landfill operation services contractor:

<b>Description</b>	<b>Fee</b>
Waste by the ton:	
From within Victoria County	\$32.74/per ton
From outside Victoria County	\$37.10/per ton
Non-compacted waste per cubic yard:	
From within Victoria County	\$8.40/cubic yard
From outside Victoria County	\$9.37/cubic yard
Compacted waste per cubic yard:	
From within Victoria County	\$9.82/cubic yard
From outside Victoria County	\$11.17/cubic yard
Category A. Automobiles	\$7.00

Category B. Pickup trucks without sideboards; small two-wheel trailers with sideboards two feet or less in height	\$14.00
Category C. Pickup trucks with sideboards; small two-wheel trailers with sideboards of more than two feet in height	\$28.00
Category D. All other vehicles	\$28.00
Wire, cable, and other materials requiring special handling or dumping in special sites	Double the otherwise applicable fee
Large household appliances such as stoves, refrigerators, washers (appliances must be free of all CFCs)	\$3.00 each
All tires up to light truck size 235/85R16	\$2.00 per tire
All tires size 235/85R17 to size 11R20	\$5.00 per tire
Tires larger than size 11R20 will not be accepted at the landfill.	
Asbestos	\$28.00/cubic yard
Sludge/soil (sludge must pass the paint filter test)	
From within Victoria County (only GBRA or City of Victoria may pay on a cubic-yard basis)	\$9.82/cubic yard/compacted \$8.40/cubic yard/non-compacted
From outside Victoria County	\$32.74 per ton \$37.10/per ton

3.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

4.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

5.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly. The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

6.

The provisions of this ordinance shall become effective on October 1, 2004.

PASSED FIRST READING, this the 21ST day of SEPTEMBER, 2004.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

PASSED SECOND READING, this the 5TH day of OCTOBER, 2004.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 5TH day of OCTOBER, 2004.

AYES: 7

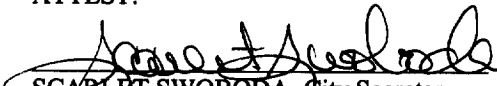
NAYS: 0


ABSTENTIONS: 0

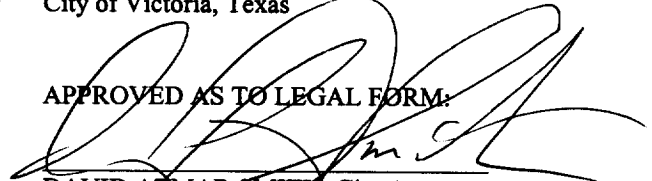
APPROVED AND ADOPTED, this the 5TH day of OCTOBER, 2004.



ATTEST:

  
SCARLET SWOBODA, City Secretary

  
WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:  
  
DAVID ATMAR SMITH, City Attorney

Distribution:    Legal Department  
                     Public Works Department  
                     Finance Department

Copies Sent: NOVEMBER 18, 2004

**Exhibit A**  
**TENTH AMENDMENT TO REGIONAL SOLID WASTE**  
**SANITARY LANDFILL OPERATIONS SERVICES CONTRACT**

This is the tenth amendment to the Contract dated July 1, 1993, between the City of Victoria, a Municipal Corporation in Victoria County, Texas ("City"), and BFI Waste Services of Texas, L.P., a Delaware limited partnership with its principal place of business in \_\_\_\_\_, \_\_\_\_\_, ("Contractor"), for regional solid waste sanitary landfill operations services.

1.

Effective October 1, 2004, Section 2.00 Rates of Proposal Item #1 is amended to read as follows:

**PROPOSAL ITEM #1**

**2.00 RATES**

The Contractor agrees to perform the landfill operation services as required by the terms and conditions set forth in the contract documents at the rates hereafter set forth:

A. For waste disposed of by the City of Victoria or a private contractor collecting the City of Victoria's waste, or any other waste **generated in Victoria County**, both commercial and industrial waste and residential waste, the Contractor shall charge a maximum of the following unit prices, which include the Landfill Use and Post-closure fees included in item A.4. below:

1. Compacted Waste: ~~\$9.37~~ **\$9.82** per cubic yard as measured by the manufacturers rated capacity of the vehicle.
2. Uncompacted Waste: ~~\$8.02~~ **\$8.40** per cubic yard as computed by actual measurements of the waste.
3. Waste by the Ton: ~~\$31.25~~ **\$32.74** per ton as measured by the scales at the landfill.
4. Such unit prices as noted in A.1., A.2., and A.3. above shall include a Landfill Use and Post-Closure Fee that Contractor shall remit to the City for all wastes received at the landfill in the amount of:
  - a. Landfill Use Fee:
    1. ~~\$1.68~~ **\$1.76** per compacted cubic yard
    2. ~~\$0.84~~ **\$0.88** per uncompacted cubic yard
    3. ~~\$5.09~~ **\$5.33** per ton
  - b. Landfill Post-closure Fee:
    1. ~~\$1.01~~ **\$1.06** per compacted cubic yard
    2. ~~\$0.52~~ **\$0.54** per uncompacted cubic yard
    3. ~~\$3.03~~ **\$3.17** per ton

B. For waste disposed of under this contract that **does not originate from within the County of Victoria**, but from approved Counties as so noted in the contract documents, the Contractor shall charge a maximum of the following unit prices, which include the Landfill Use and Post-closure fees included in item 4. below:

1. Compacted Waste: ~~\$10.66~~ **\$11.17** per cubic yard as measured by the manufacturers rated capacity of the vehicle.
2. Uncompacted Waste: ~~\$8.94~~ **\$9.37** per cubic yard as computed by actual measurements of the waste.
3. Waste by the Ton: ~~\$35.41~~ **\$37.10** per ton as measured by the scales at the landfill.
4. Such unit prices as noted in B.1., B.2., and B.3. above shall include a Landfill Use and Post-Closure Fee that Contractor shall remit to the City for all wastes received at the landfill in the amount of:
  - a. Landfill Use Fee:
    1. ~~\$2.51~~ **\$2.63** per compacted cubic yard
    2. ~~\$1.25~~ **\$1.31** per uncompacted cubic yard
    3. ~~\$7.55~~ **\$7.91** per ton
  - b. Landfill Post-closure Fee:
    1. ~~\$1.52~~ **\$1.59** per compacted cubic yard
    2. ~~\$0.94~~ **\$0.98** per uncompacted cubic yard
    3. ~~\$4.70~~ **\$4.92** per ton

C. Without limiting any other contractual duties herein, Contractor agrees to maintain a system satisfactory to the City of Victoria's Director of Public Works that clearly establishes the percentage and type of waste that originated from outside the County of Victoria. Said system may be audited by the City at any time.

Section 17.02(g) of Exhibit "A" of the Solid Waste Landfill Operations Contract is amended to read as follows:

17.02 (g) The entire amount of the funds received by Contractor for the construction, maintenance, and operational costs incurred in connection with the methane gas extraction wells and ground water monitoring wells required by the TNRCC (TCEQ) shall be paid monthly to the City as a Methane Gas Extraction and Water Monitoring Well Fee. Within 180 days after October 1<sup>st</sup> of each year, the City will repay Contractor an amount sufficient to pay for 50% of the cost of the construction, maintenance, and operational costs incurred in connection with the aforementioned methane gas extraction wells and ground water monitoring wells during the one-year time period prior to such October 1<sup>st</sup>. For purposes of this paragraph, the "Methane Gas Extraction and Water Monitoring Well Fee" for the construction, operation, and maintenance of methane gas extraction wells and ground water monitoring wells required be the TNRCC shall be as follows:

for waste generated in Victoria County

- 1. ~~\$0.92~~ **\$0.96** per compacted cubic yard
- 2. ~~\$0.78~~ **\$0.82** per uncompacted cubic yard
- 3. ~~\$3.07~~ **\$3.22** per ton.

for waste that does not originate from within the County of Victoria

- 1. ~~\$1.29~~ **\$1.35** per compacted cubic yard
- 2. ~~\$1.08~~ **\$1.13** per uncompacted cubic yard
- 3. ~~\$4.28~~ **\$4.48** per ton.

On each Rate Modification Date, the Methane Gas Extraction and Water Monitoring Well Fee shall be adjusted in the same percentage as the disposal rates are modified. This fee shall not be collected on bulk brush deposited or processed at the landfill per separate contract.

In witness whereof, City and Contractor have executed this amendment on duplicate originals through their duly authorized representatives this \_\_\_\_\_ day of \_\_\_\_\_, 2004, at Victoria, Texas.

CITY OF VICTORIA, a Texas municipal corporation

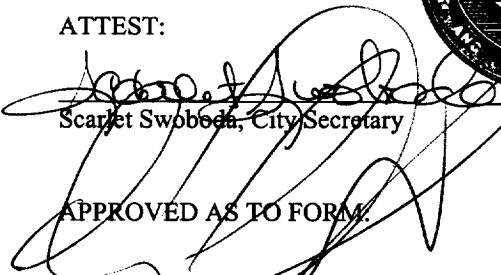
BFI Waste Services of Texas, L.P.

\_\_\_\_\_  
Denny L. Arnold  
City Manager

\_\_\_\_\_  
Allied Waste Landfill Holdings, Inc., a Delaware corporation, acting as the General Partner of BFI Waste Services of Texas, L.P.

ATTEST:

ATTEST:

  
Scarlet Swoboda, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
David Atmar Smith, City Attorney

