

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

LANDFILL DISPOSAL SERVICES AGREEMENT
C-09-017-02-24

THIS LANDFILL DISPOSAL SERVICES AGREEMENT ("Agreement") is entered into effective as of the **March 1, 2009**, by and between the County of Hidalgo, Texas ("County") and **BFI Waste Systems of North America, Inc.**

WITNESSETH:

WHEREAS, County has requested that prospective bidders submit bids to permit County to dispose of certain waste products in a Landfill site in the Hidalgo County area pursuant to the terms and conditions of that certain Request for Bids for Landfill Access (**Hidalgo County Precinct No. 1**), a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes (the "RFB Packet"); and

WHEREAS, Contractor has submitted a bid to provide such services dated a copy of which is attached hereto as Exhibit "B" (the "Vendor's Bid"); and

WHEREAS, County has determined that Contractor's Bid constitutes the lowest and best bid for such services pursuant to the RFB; and

WHEREAS, the parties hereto now wish to reduce to writing their agreement for the purposes herein stated.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the parties hereto agree as follows:

1. **Contractor** will accept solid waste from **Precinct No. 1** for a **term of one (1) year for services on "As Needed Basis" only beginning (March 1, 2009), the effective date hereof.** The charge for the acceptance of such waste products shall be **\$ 21.50 plus \$1.25 Flow Charge** per ton of waste delivered to Contractor's landfill site. Contractor will bill **Precinct No. 1** on a monthly basis for waste received during the preceding calendar month. County may, in its sole discretion, elect to extend the term of this agreement for two (2) additional (1) one-year term(s) by giving notice to Contractor not later than thirty (30) days prior to the expiration of the initial one- year term hereof.
2. **Contractor** will accept solid waste from the following location: **Precinct No.1.** A copy of Contractor's permit(s) for operation of a Type 1 solid waste facility at such location(s) is attached hereto as Exhibit "C" (part of Insurance Requirements). Contractor will not accept "Special Waste," as that term is defined in 30 T.A.C. ' 330.2. Upon receipt and acceptance of the waste

from **Precinct No. 1**, title to such waste will be transferred to Contractor, and Contractor will be solely and exclusively responsible for the disposal of such waste in accordance with all applicable laws and regulations. Contractor agrees, by accepting waste from County hereunder, that such waste is of a class or type which Contractor may dispose in its permitted facilities in compliance with its permit and applicable laws and regulations.

3. This Agreement is for the acceptance and disposal of solid waste materials for **Precinct No. 1** only. Delivery of solid waste materials to such location shall be at the sole cost and expense of **Precinct No. 1**.
4. Contractor acknowledges that County is the operator of one or more landfill sites in Hidalgo County, which do not possess a Type 1 permit. The purposes of this Agreement are to provide County with an outlet for solid waste materials which it cannot dispose of in its own landfills. County, by its execution of this Agreement, does not represent that it will deliver any waste to Contractor.
5. Contractor shall furnish proof of insurance in at least the following limits, to be in place prior to providing any services under this Agreement and continuing at all times in force and effect during the term of this Agreement :
 - A. A \$500,000 comprehensive general liability policy with limits of at least \$300,000 per person and \$500,000 per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to \$500,000, in accordance with the Texas Tort Claims Act; (coverage and in the amounts described in Exhibit "C")
 - B. Workers compensation insurance as required by applicable law;
 - C. Certificates of insurance, naming County as an additional insured, shall be submitted to the County for approval prior to the award and execution of this Agreement;
 - D. Each policy of insurance required hereunder shall extend for a period equivalent to the term of this Agreement, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County Judge prior to the cancellation of any such coverage on the termination date or otherwise; and
 - E. This Agreement shall be automatically suspended upon the cancellation or other termination of any required policy of insurance hereunder.
6. Contractor represents and warrants that it possesses a current Type 1 landfill permit, and any and all other permits or licenses required under any applicable federal, state or local laws, regulations or ordinances for each of the locations described in paragraph 2 above. Contractor further represents and warrants that it will dispose of all waste delivered to and accepted by it in a manner consistent with its permits and all applicable laws and regulations. Contractor will notify County immediately upon the termination, cancellation, revocation or suspension of such permits or licenses, in which event County may, in its sole discretion, immediately terminate this Agreement. Contractor further represents and warrants that there are no current pending legal or administrative proceedings relating to the disposal of waste at the locations described in paragraph 2, above. In addition, Contractor will notify County within 3 business days of the filing of any legal or administrative proceeding affecting or in any manner related to the locations described in paragraph 2, above.
7. Contractor will indemnify and hold County harmless from any and all claims, actions, liability and expenses (including costs of judgments, settlements, court costs, and attorneys' fees, regardless

of both, and
it be automatically
of insurance

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

- 8.06 **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
- 8.07 **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
- 8.08 **Assignment.** This Agreement shall not be assignable.
- 8.09 **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.
- 8.10 **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.
- 8.11 **Authority to Execute.** The execution and performance of this Agreement by County and Contractor have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and Contractor in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the _____ day and _____ year first above written.

Approved As To Form:

By: _____
Antonio Mendoza
Assistant District Attorney

COUNTY OF HIDALGO, TEXAS

By: _____
Juan D. Salinas III, County Judge

ATTEST:

Arturo Guajardo Jr., County Clerk

Contractor: BFI Waste Systems of North America, Inc.

By: [Signature]

Printed Name _____

Title: _____

Contractor: BFI

By: [Signature]

Contractor: BFI

By: [Signature]

HIDALGO COUNTY

BID NO.: 2009-017-02-18CGV

Exhibit "A" "LANDFILL ACCESS FOR PRECINCT NO. 1"

INFORMATION TO BIDDERS:

These instructions apply to all offers made to Hidalgo County (herein referred to as "County") by all prospective vendors (herein after referred to as "Bidders") on behalf of Solicitations including, but not limited to, Invitations to Bid.

- Please review this document in its entirety. Be sure your bid is complete, and double check your bid for accuracy.
- Open records access to all information submitted. All information included will be open to the public, other bidders, media as per Open Records Act and not be confidential in nature. If you deem any information as confidential it should not be made part of your bid package.
- All applicable forms in this packet must be filled out in its entirety and submitted with bid response. Incomplete sections may be considered for probable cause of disqualification and/or non-compliance.

SPECIFICATIONS/TERMS AND CONDITIONS:

1. Bidder must identify the landfill sit to which solid waste materials are to be delivered. Bidder shall provide a copy of the current Type 1 permit for the landfill site issued by the Texas Natural Resource Conservation Commission. In addition, Bidder should present evidence that it possesses all other federal, state and local permits which may be necessary and proper to the conduct of a landfill business.
2. The bidder will accept possession & entitled to all deliveries of solid waste materials tendered to it by County at the landfill site. Bidder acknowledges that County is operator of one or more landfill sites in Hidalgo County, which do not possess a Type 1 permit. The purpose of this contract is to provide County with an outlet for solid waste materials which it cannot dispose of in its own landfills. County, in its sole discretion, may determine which items, if any, will be tendered to Bidder of disposal.
3. Bidder should propose prices for a per-ton-of-loose-waste-basis, and should provide separate unit pricing for each of County's two precincts. Price differentials based on the award of a single County wide contract will be considered if proposed.

4. The successful bidder shall furnish proof of insurance in at least the following limits, to be in place prior to providing any services under any contract awarded pursuant to these Specifications and to continue at all times in force in effect during the term of any such contract.
 - A. A \$500,000 general liability policy with limits of at least \$100,000/3000,000 in accordance with the Texas Tort Claims Act;
 - B. Workers compensation insurance as required by applicable law;
 - C. Certificates of insurance shall be submitted to the County for approval prior to the award and execution of any contract pursuant hereto;
 - D. Each policy of insurance required hereunder shall extend for a period equivalent to the term of a contract entered into pursuant to these Specifications, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County Judge prior to the cancellation of any such coverage on the termination date or otherwise, and
 - E. Any contract award pursuant hereto shall provide that is shall automatically suspend upon the cancellation of other termination of any required policy of insurance hereunder.
5. The successful bidder will indemnify and hold harmless the County, and its officers, officials, employees, agent and attorneys for any and all claims and expenses arising out of or in any way related to the performance of the contract awarded pursuant hereto;
6. **Locations of landfill site and related incremental hauling costs to County may be considered in determining the lowest and best bid. In addition, the County may, in its discretion, elect in award separate contracts for landfill access service for one or more precincts.**
7. Hidalgo County reserves the right to continue this bid for an additional sixty (60) day Grace Period, under the same terms and conditions, at the end of the contract term for unforeseen delay in award of new bid for next contract term.
8. All costs and expenses associated with the preparation and submission of (bids, proposals and/or quotes) shall be the responsibility of the bidder and no reimbursements for such charges or expenses shall be passed onto Hidalgo County.

Term:

Awarded bidder will accept solid waste from Precinct No. 1 for a term of one (1) year for services on **“As Needed Basis” only** with the County’s option to renew for two (2) additional one (1) year terms, under the same rates terms and conditions.

Market Volatility and Unit Price Adjustments:

Hidalgo County recognizes that during periods of national crisis and unstable economic conditions, unforeseen price increases might affect costs for goods and services contracted on an annual basis. The following procedure may be employed to mediate price volatility:

1. **Requesting Price Adjustment:** Upon written request of the Vendor to the County Purchasing Agent, the County may review evidence of prevailing industry-wide market conditions that warrant an adjustment in bid prices contained in the contract.
 - a. A Vendor must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Such written request must be accompanied by a certified copy of the supplier's advisory or notification to the vendor of the price changes.
 - b. The Vendor must put the Purchasing Agent on the mailing lists for such publications so that the Purchasing Agent can monitor said changes. Such membership shall be at no cost to the County.
 - c. The County Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interest of the County.
 - d. No price escalation will be authorized in excess of the amount of the increase referred to in the supplier's notice.
 - e. The County may only grant a price increase if the evidence presented is deemed reliable. Should the County allow a price increase, the approved price change shall be honored for all orders received by the vendor or contractor after the effective date of such price change. Approved price changes are not applicable to orders already issued and in process at time of price change.
- 2) **Price Reduction:** Vendor shall notify the County at the time when the Vendor's costs for items and/or supplies reduce due to stabilization in the market at which time prices for items on this contract shall be reduced accordingly. Failure by the Vendor to notify the County of a decrease in costs for items and/or supplies for which the Vendor was granted a price adjustment, may result in immediate termination of this contract and the County shall not be obligated to pay the Vendor the difference between the contract price and the price adjustment.
- 3) **Time frame for Adjusted Price Increases:** Price increases are only valid for the quarter in which they are requested and approved. Prices shall return to the original contract price at the beginning of the following quarter unless a Vendor notifies the County in writing within ten (10) days of expiration of the quarter in which the price increase is in effect, that it desires to have the price increase continue or that the Vendor is requesting a different price increase for the following quarter. Such request must be supplemented with sufficient justification to County allow a price increase for all orders received by the

demonstrate that the price increase remains necessary. The County Purchasing Department shall have sole discretion whether to grant the price increase extension. The County too, shall have discretion to unilaterally reduce, eliminate or extend a price adjustment to the Vendor at any time upon written notice from the County to the Vendor demonstrating justification for such reduction, elimination or extension of the price adjustment.

- 4) **Allowable Review Periods:** Price adjustment reviews may only be requested by the Vendor on a quarterly basis. However, the County may at its own discretion, conduct temporary price adjustment reviews at any time. The County Purchasing Agent and/or the County Auditor reserve the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.
- 5) **Dollar Limit to Price Changes:** The total increase in contract price shall not exceed twenty-five percent (25%) of the original contract price during the contract term.

DISCLOSURE OF CONFLICT OF INTEREST: Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor, person, consultant or contractor considering doing business with Hidalgo County ("the County") to disclose in the Conflict of Interest Questionnaire ("the CIQ") attached as **Exhibit D**, the vendor, person, consultant or contractor's affiliation or business relationship that might cause a conflict of interest with the County. By law, the CIQ must be filed with the Hidalgo County Clerk's Office no later than the seventh business day after the date the person becomes aware of facts that require that statement to be filed. The disclosure requirement applies to a person or business who contracts or seeks to contract with Hidalgo County for the sale or purchase of property, goods or service. Any purchase order or contract resulting from this process shall be considered null and void if the successful participant fails to comply with Texas Local Government Code Chapter 176. Vendors, consultants, contractors and others who desire to conduct business with Hidalgo County are encouraged to refer to Texas Local Government Code Chapter 176 for the details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

Please Submit completed CIQ forms to the Hidalgo County Clerk's Office located at 100 N. Closner, Edinburg, Texas 78539-Hidalgo County Courthouse. **COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE PARTICIPANT.**

Hidalgo County is requesting that any and all questions, inquiries, and clarifications regarding quotes, bids, proposals or statement of qualifications be addressed to Martha L. Salazar, CPPB/Purchasing Agent at 2802 So. Business Hwy 281, Edinburg, Texas 78539. **TELEPHONE INQUIRIES WILL NOT BE ACCEPTED. ALL WRITTEN INQUIRIES WILL BE ACCEPTED VIA FACSIMILE NO LATER THAN, Wednesday, February 11, 2009 by 5:00 P.M. at (956) 318-2629. Responses to said inquires will be sent to all applicants via facsimile by no later than 5:00 P.M., Friday, February 13, 2009.**

County of the State of Idaho
Idaho County Court

Case No. 17-00000

EXHIBIT "A"
RFB PACKET
SPECIFICATIONS/REQUIREMENTS

Case No. 17-00000

RFB PACKET

Market Volatility and Unit Price Adjustments:

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 - c. The County Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interest of the County.
 - d. No price escalation will be authorized in excess of the amount of the increase referred to in the supplier's notice of increases that affect costs.
 - e. The County may only grant a price increase if the evidence presented is deemed reliable. Should the County allow a price increase, the approved price change shall be honored for all orders received by the vendor or contractor after the effective date of such price change. Approved price changes are not applicable to orders already issued and in process at time of price change.
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34 PAC

EXHIBIT "B"

VENDOR BID PAGE FORM

34 PAC

EXHIBIT

34 PAC

HIDALGO COUNTY
"LANDFILL ACCESS FOR PRECINCT NO. 1"
BID NO.: 2009-017-02-18CGV
EXHIBIT "B"

BID PAGE FORM

PRICE PER TON: \$21.50


TEXAS NATURAL RESOURCE CONSERVATION COMMISSION FLOW CHARGE: \$1.25 per ton

VENDOR NAME: BFI Waste Systems of America, Inc.

VENDOR ADDRESS: 9402 West Expressway 83

CITY/STATE/ZIP CODE: Harlingen, Tx. 78552

PHONE NO.: (800) 423-7316 FAX NO.: (956) 428-2045 CELL NO.: (956) 495-4236

AUTHORIZED SIGNATURE: 

TITLE: General Manager

DATE: 2-18-09

INFORMATION TO BIDDERS:

Location of landfill site and related incremental hauling costs to County may be considered in determining the lowest and best bid. In addition, the County may, in its discretion, elect in award separate contracts for landfill access services for one or more precincts.

ADDITONAL INFORMATION:

Term: One (1) year, on an "As Needed Basis" with the County's option to renew two (2) additional one (1) year terms under the same rates, terms and conditions.

EXHIBIT "C"

INSURANCE REQUIREMENTS

- **CERTIFICATE OF INSURANCE**
- **PERMIT TYPE I**

EXHIBIT "C"
Insurance Requirements

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The Bidder awarded the contract shall furnish proof of insurance, which will also include any subcontractor that is subcontracted by the bidder in at least the following limits, to be in place prior to providing any services under this Contract and to continue at all times in force in effect during the term of this Contract:

1. A Five Hundred Thousand Dollar (\$500,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of County.
2. Automobile liability insurance policy with limits of at least Three Hundred Thousand Dollars (\$300,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to Five Hundred Thousand (\$500,000.00) arising out of the services provided to County hereunder.
3. Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above.
4. Workers compensation insurance in amounts established by Texas law, unless the Bidder is specifically exempted from the Texas Workers Compensation Act, Texas Labor Code Chapter 401, et. seq.

Certificates of insurance naming County as an additional insured shall be submitted to County for approval prior to any services being performed by Contractor. Each policy of insurance required hereunder shall extend for a period equivalent to, or longer than the term of the Contract, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County prior to the cancellation of any such coverage on the termination date, or otherwise. This Contract shall be automatically suspended upon the cancellation, or other termination, of any required policy of insurance hereunder, and such suspension shall continue until evidence adequate replacement coverage is provided to County. If replacement coverage is not provided within thirty (30) days following suspension of the Contract, this Contract shall automatically terminate.

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Revised 09/28/07

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TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT SITE
Issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

DOCKET 1998-1254-MSW

Permit No. MSW-1948A.

Name of Permittee and Site Owner:	BFI Waste Systems of North America, Inc. P.O. Box 201690 San Antonio, Texas 78220
Facility Name:	BFI Rio Grande Valley Landfill
Classification of Site:	Type I Municipal Solid Waste Management Facility
Waste to be Accepted:	Municipal Solid Waste, Class 1 Industrial Waste, Class 2 Industrial Waste, Class 3 Industrial Waste and Special Waste.

The permittee is authorized to store, process, and dispose of waste in accordance with the limitations, requirements, and other conditions set forth herein. This amended permit is granted subject to the rules and Orders of the Commission and laws of the State of Texas. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Natural Resource Conservation Commission. This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is completely filled or rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with 30 Texas Administrative Code Chapter 330.

ISSUED DATE: JAN 10 2002

For the Commission