

## SECOND AMENDMENT TO MANAGEMENT AND OPERATIONS AGREEMENT

This **SECOND AMENDMENT TO MANAGEMENT AND OPERATIONS AGREEMENT** (the "Second Amendment") is made and entered into this 25<sup>th</sup> day of April, 2016, (the "Effective Date") by and between **CAMELOT LANDFILL TX, LP**, a Delaware limited partnership ("Contractor") and the **CITY OF FARMERS BRANCH**, a Texas home rule municipality ("City")(Contractor and City collectively referred to hereafter as "the Parties" and individually as "Party").

### **W I T N E S S E T H :**

**WHEREAS**, Contractor and City are parties to that certain *Management and Operations Agreement* (the "Operations Agreement"), effective October 1, 2008, ("the Original Agreement") related to the management and operation of City's municipal solid waste landfill known as the "Camelot Landfill," (the "Landfill") which is operated pursuant to TCEQ Permit No. MSW-1312A (the "Permit"); and

**WHEREAS**, the Parties have previously amended the Original Agreement pursuant to that certain *First Amendment to Management and Operations Agreement* dated July 7, 2016, ("the First Amendment") (the Original Agreement and the First Amendment hereafter collectively referred to as "the Operations Agreement"); and

**WHEREAS**, the Operations Agreement anticipates City making application for an amendment to the Permit in order to expand the Landfill; and

**WHEREAS**, City is currently seeking a permit amendment from the Texas Commission on Environmental Quality ("TCEQ") to expand the lateral and vertical limits of the Landfill and thereby expand the capacity of the Landfill ("the Project") pursuant to TCEQ Permit Application No. 1312B (the "Application"); and

**WHEREAS** Section 361.1231 of the Texas Health & Safety Code requires that the City of Lewisville ("Lewisville") approve the proposed amendment to the Permit before TCEQ may approve the Application; and

**WHEREAS**, in an effort to avoid further litigation and an extensive contested case hearing relating to the Application before the TCEQ as well as to obtain Lewisville's approval of the Application as required by state law, on or about January 6, 2016, City and Lewisville entered into that certain *Agreement By and Between City of Lewisville, Texas and City of Farmers Branch, Texas Regarding the Expansion of the Camelot Landfill*, which agreement was amended effective on or about October 18, 2016, by that certain *First Amendment to Agreement By and Between City of Lewisville, Texas and City of Farmers Branch, Texas Regarding the Expansion of the Camelot Landfill* (collectively, the "Lewisville Agreement"); and

**WHEREAS**, the Lewisville Agreement provides that certain payments be made and privileges be granted to Lewisville and its residents as consideration for obtaining Lewisville's approval of the Application; and

**WHEREAS**, approval of the Application by Lewisville and TCEQ benefits both City and Contractor; and

**WHEREAS**, City has advised Contractor that Contractor's payment of certain of the payments required by the Lewisville Agreement (the "Lewisville Payments") and agreement to provide certain services (the "Lewisville Services") will serve as an incentive for City to continue to pursue the Application and perform its obligations pursuant to the Lewisville Agreement; and

**WHEREAS**, Contractor desires to provide such incentive to City by making the Lewisville Payments to Lewisville on behalf of City and by providing the Lewisville Services to Lewisville residents required by the Lewisville Agreement; and

**WHEREAS**, the Parties desire to further amend the Operations Agreement to set forth their agreement regarding the foregoing Lewisville Payments and Lewisville Services to be provided by Contractor;

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants and obligations of the Parties contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

**1. Amendments to Section 6 of the Operations Agreement:** The Operations Agreement is further amended as follows:

A. A new Subsection (k) shall be added to read as follows regarding the payment of the Lewisville Payments by Contractor:

(k) City and Contractor acknowledge that as consideration for obtaining the approval of the City of Lewisville ("Lewisville") with respect to the City's application to the Texas Commission on Environmental Quality ("TCEQ") for a permit amendment to expand the Landfill as provided in Section 9, below, City has entered into that certain *Agreement By and Between City of Lewisville, Texas and City of Farmers Branch, Texas Regarding the Expansion of the Camelot Landfill*, which agreement was amended effective on or about October 18, 2016, by that certain *First Amendment to Agreement By and Between City of Lewisville, Texas and City of Farmers Branch, Texas Regarding the Expansion of the Camelot Landfill* (collectively, the "Lewisville Agreement"), copies of which Contractor acknowledges have been provided by City to Contractor. Commencing January 1, 2017, and ending on January 1 of the year in which the final acceptance of Solid Waste at the Landfill occurs, Contractor agrees to pay on City's behalf the amount of \$93,000.00 annually to Lewisville as required by Section V.A. of the Lewisville Agreement.

B. A new Subsection (1) shall be added to read as follows regarding Contractor's provision of the Lewisville Services:

(1) City and Contractor acknowledge that as consideration for obtaining the approval of Lewisville with respect to the City's application to the TCEQ for a permit amendment to expand the Landfill as provided in Section 9, below, City has entered into that certain *Landfill Use Agreement* effective on or about October 18, 2016, ("the Landfill Use Agreement") providing for the limited right of Lewisville's residents to dispose of solid waste at the Landfill at no cost to the residents, a copy of which is attached as an exhibit to the Lewisville Agreement and which Contractor acknowledges having received. Contractor agrees to cooperate with City to ensure City's ability to successfully perform City's obligations under the Landfill Use Agreement. Contractor expressly acknowledges that Contractor shall not be authorized to charge a fee to Lewisville residents for the disposal of solid waste at the Landfill to the extent such charges are waived or otherwise not allowed to be assessed pursuant to the Landfill Use Agreement.

2. **Recitals.** Contractor and City acknowledge the accuracy of the Recitals and hereby incorporate the Recitals into the body of this Second Amendment.

3. **Effective Date; Counterparts.** This Second Amendment shall become effective and binding upon the Parties on the date when signed by authorized representatives of both Parties. This Second Amendment may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties.

4. **Entire Agreement.** The Operations Agreement, as amended by this Second Amendment, sets forth the entire agreement between the Parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreement relating to the subject matter covered by the Operations Agreement as amended by this Second Amendment. In case of any irreconcilable conflict between the provisions of the Operations Agreement and this Second Amendment, this Second Amendment shall govern. Except as expressly amended herein, all other terms and conditions of the Operations Agreement shall remain in full force and effect.

*[Signature Page Follows]*

**SIGNED AND AGREED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

**CAMELOT LANDFILL TX, LP,**  
a Delaware limited partnership

By: Allied Waste Landfill Holdings, Inc., a  
Delaware corporation, General Partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF FARMERS BRANCH,**  
Texas Home Rule Municipality

By: \_\_\_\_\_  
Charles S. Cox, City Manager

ATTEST:

\_\_\_\_\_  
Amy Piukana, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Peter G. Smith, City Attorney