



**21-023DA**

**TITLE:** Consider/Discuss/Act on the Second Amendment to the Final Settlement Agreement for the Type IV Landfill Generally Located South of U.S. Highway 380 (University Drive) and Approximately 8,000 feet East of Airport Road

**COUNCIL GOAL:** Direction for Strategic and Economic Growth  
(1C: Provide a strong city economy by implementing a Global Housing Strategy with a focus on affordable housing and facilitating a balance between industrial, commercial, residential and open space)

**MEETING DATE:** November 16, 2021

**DEPARTMENT:** Development Services

**CONTACT:** Michael Quint, Executive Director of Development Services

**RECOMMENDED CITY COUNCIL ACTION:**

- Staff recommends approval of the second amendment to the final settlement agreement.

**ITEM SUMMARY:**

- In the fall of 2021, City Staff was approached by the owner of the Type IV landfill generally located on the south side of U.S. Highway 380 and approximately 8,000 feet east of Airport Road regarding some proposed amendments to the final settlement agreement which has governed the property since 2001, and amended in 2020.
- The proposed amendment to the final settlement agreement includes the following changes:
  - The landfill will cease operations on August 1, 2064 which represents a total of 45 years rather than the previously allowed 30 years, unless an extension is approved by the City Council.
  - The landfill's operator may request up to three, 10 year extensions to the life of the landfill allowing a total life span of 75 years. These extensions

may only be authorized if the landfill is found to comply with the following:

- The landfill is not a nuisance nor endanger the health, safety or general welfare;
  - The maximum capacity of the landfill has not been exceeded;
  - The landfill operator continues to effectively clean up and maintain 380 along the frontage of the property;
  - All required fees are paid;
  - No bird mitigation issues exist; and
  - The avigation easement required by the original settlement agreement has been followed and no conflicts with McKinney National Airport exist.
- The landfill operator will continue to pay a host fee of \$3 per truck until December 31, 2031 after which the fee will increase \$1 per truck every ten years.
  - The landfill operator will continue to pay \$45,000 annually to fund a city inspector until January 1, 2026 after which the fee shall increase 2% annually until the fee reaches \$70,000.
  - The City agrees to allow the landfill operator to accept any Type IV waste, as defined by the TCEQ, carried by McKinney's contracted hauler that originates within McKinney.
  - The landfill operator agrees not to oppose any Spur 399 or US 380 bypass alignments and further agree to fully partner with the City to ensure that the City's recommended alignments are established.
- Many of the proposed provisions addressing the landfill's life are needed as recycling efforts increase on site. It is estimated that when recycling efforts are fully operational, almost 80% of the waste being sent to the subject property could be reused thereby extending the functional life of the landfill. These recycling efforts will also indirectly benefit the North Texas Municipal Water District's regional landfill in Melissa, TX. Essentially, the longer that this landfill is operational and reusing construction waste, the less waste will need to be sent to Melissa.
  - The proposed amendments should generally benefit the City and its residents thus staff is recommending approval of the first amendment to the final settlement agreement.

#### **BACKGROUND INFORMATION:**

- The subject property and the associated landfill facility are subject to an agreement that was executed after some litigation in 2001. This final settlement agreement ensure the allowance of a Type IV landfill on the property but governs

aspects of its development and operation.

- Landfills in the State of Texas are heavily regulated by the Texas Commission on Environmental Quality (TCEQ). Per TCEQ's regulations, Type IV landfills may only accept construction materials and debris. This is a much different type of operation than Type I landfills which accept general household waste.
- This landfill began operating in August of 2019.
- The final settlement agreement was amended in February of 2020 to modify applicable fees and the landfill's hours of operation.

**FINANCIAL SUMMARY:**

- While the exact financial impacts to the City are unknown at this time, the proposed second amendment to the final settlement agreement should result in increased revenues for the City.

**BOARD OR COMMISSION RECOMMENDATION:**

- N/A

**SUPPORTING MATERIALS:**

[1295 Certificate](#)

[CRWC Final Settlement Agreement](#)

[First Amendment](#)

[Proposed Second Amendment](#)