

WASTE DISPOSAL CONTRACT

This is a Waste Disposal Contract ("Contract") that is made by and between the City of Taylor, Texas a home rule political subdivision ("City") and Captex Inc., a Texas corporation, ("Captex") entered into on the effective date set forth at the end of this Contract.

RECITALS

WHEREAS, Captex is in the business of hauling and transporting waste to licensed and approved facilities for the treatment and disposal of such waste; and

WHEREAS, the City owns a sewage treatment plant ("Plant") that has the capability of treating and disposing of waste in accordance with applicable laws and the permit issued by the TCEQ to the City (all of which are referred to as the "Regulatory Requirements"); and

WHEREAS, Captex has requested service from the City to treat and dispose of the waste (as hereinafter defined) at the Plant in part because of the convenience of the Plant location and also to expand the business of Captex and its disposal areas.

NOW THEREFORE, for and in consideration of the above referenced recitals and other good and valuable consideration, the receipt of which is acknowledged by the respective parties, the parties agree as follows.

1. Recitals. All of the Recitals stated above are true and correct.
2. Licenses and Permits.
 - a. Captex warrants and represents to the City that it has and will continue to have during the term of this Contract all applicable licenses and approvals from all regulatory agencies having jurisdiction over the activities of the hauling and transporting activities of Captex; that Captex is not and will not be in violation of any of those licenses and approvals during the term of this Contract; and Captex will maintain all licenses and approvals in good standing with all

such regulatory agencies during the term of this Contract. From time to time, and at the request of the City, Captex will provide the City with a copy of any and all licenses and approvals held by Captex, and further, authorize the City to contact all regulatory authorities to verify the accuracy of the representations and matters stated in this Contract.

- b. The City represents to Captex that it is the holder of Permit Number TX0020443 ("Permit") issued by the TCEQ and it has the authority to operate the Plant in accordance with the terms of the Permit and all other Regulatory Requirements; that such Permit is in such full force and effect and will remain in full force and effect during the term of this Contract; and the City is not and will not be in violation of the terms of its Permit during the term of this Contract.

3. Type of Waste. Captex specifically warrants, represents and agrees with the City that it will deliver only domestic waste ("Waste") as that term is defined in Section 526.001 of the Texas Water Code. In particular, Captex specifically agrees that the Waste that will be disposed into the City Plant will be derived from either and/or all of the following:

- a. Gray water from septic tanks that has been pumped frequently due to overuse or failure of the system;
- b. Influent at lift stations that have lost power due to electric and/or other mechanical failure;
- c. Domestic wastewater sludge, not including industrial wastewater.

Provided however, and notwithstanding anything contained herein to the contrary, the Waste that Captex will deliver to the City and which will be treated by the Plant will contain 3000 mg/l of B.O.D.5; will not have a PH less than 6 or greater than 9; and the phosphorus level will not be greater than 30 mg/l. The Waste will not contain any compound or substance which will in any way damage the Plant.

4. Charges. Captex agrees to pay to the City for the disposal and treatment services provided by the City herein the sum of 0.015 cents per gallon for each gallon of Waste that is pumped from Captex's trucks into the designated disposal site described herein. Captex agrees to keep accurate records of all such discharges into the City Plant system and provide access to such records to the City on a daily basis. The City will provide a written statement of charges to Captex by the close of business on each Monday of each week for the sum due as charges for the previous week. Thereafter, Captex agrees to pay the amount shown for such charges within three days after date on such statement. All payments and charges are due at the offices of the City, in Williamson County, Texas. The addresses of the City and Captex are shown at the end of this Contract. In the event of a rate adjustment, the adjusted rate shall be paid by the next billing. The City will furnish notice of the adjusted rate to Captex on or before fifteen (15) days prior to the rate adjustment date. All past due sums bear interest at the rate of eighteen (18%) percent per annum, or the maximum amount allowed by law if the rate exceeds the maximum rate allow by law, from the due date until paid. All payments by Captex shall be due and payable on or before ten (10) days from the date of the billing by the City.

5. Term. The term of this Contract is one year. All of the terms and provisions of this Contract during any renewal term shall remain the same as existed at the end of the primary term or renewal term as applicable.

6. Other Termination. Notwithstanding the provisions stated in paragraph 5 above, the parties agree that the City reserves the right to terminate this Contract without notice under the following circumstances:
 - a. the quality of the Waste that is being discharged into the City Plant system is, in the good faith opinion of the City Manager or City Manager designee of the City that the continued discharge of waste by Captex will damage or otherwise harm the Plant and/or cause the Plant to violate the applicable Regulatory Requirements under which the plant operates;

- b. the Plant does not have the capacity to treat or dispose of the Waste; and
- c. the Plant is under repair or otherwise mechanically unable to treat and dispose of the Waste in accordance with the terms of its Permit and all other applicable Regulatory Requirements.
- d. Notwithstanding anything herein to the contrary, it is specifically agreed that either party shall have the right to terminate this Contract upon giving 30 days prior written notice to the other party. Additionally, and notwithstanding anything herein to the contrary, in the event Captex violates any of the terms of this Contract and in particular if waste samples indicate that the influent has not met the requirements stated in paragraph 3 of this Contract, the City shall have the right to immediately terminate this Contract without any further notice to Captex.

7. Samples. At any time, and from time to time, the City and/or its agents (including its operator) shall have the right to take samples of the Waste that is to be discharged into the City Plant system. If The City has reason to believe that influent is not of acceptable quality and inconsistent with the terms of this Contract, Captex, will collect samples as required by the City, to determine if the Waste meets the requirements of this Contract. If Captex does not agree to collect samples or if Captex questions or refused to have the samples analyzed, the City shall, without further notice to Captex, be entitled to terminate this Contract or to obtain samples from Captex or to have the samples draw by Captex analyzed and charge the expense of the analysis to Captex. If the laboratory results of the samples taken are inconsistent with the terms of this Contract or for any other reason the City determines samples to be unacceptable, Captex will be responsible for any and all damages, fines, penalties, costs (including reasonable attorneys fees) incurred by the City resulting from the discharge by Captex into the Plant. City representatives, that include without limitation the Plant operator, shall have and are given the right to inspect trucks and any other vehicle used by Captex to deliver waste and to take waste samples.

8. Point of Discharge. The parties specifically agree that the only place and point where Captex may discharge Waste into the Plant shall be at the manhole located on the southeast corner outside the Plant's fence line. Captex shall not dispose of Waste into any other manhole or place on, in or related to the City collection system other than as described herein without the prior written approval of the City.
9. Log. Captex shall maintain a bound log and tickets regarding the amount of Waste that is hauled each time it disposes of any Waste into the Plant. The log and ticket system related to it shall be approved by Captex and the Plant operator of the Plant at the time of each delivery and discharge by Captex into the Plant. The records shall be a condition of this Contract and failure to do so by Captex shall be a default. Nothing herein shall be interpreted as permitting or allowing the establishment of any system of tickets, logs or any similar record keeping which is in violation of or inconsistent with the applicable Regulatory Requirements.
10. Inspections. In addition to the provisions in paragraph 7 herein, Captex specifically agrees that the City and its agents and its operator shall at all times have the unrestricted right and privilege to inspect the trucks and vehicles used by Captex to transport waste and any other real or personal property used or related to the hauling and disposal of Waste into the Plant.
11. Insurance. Captex shall carry and keep in force at all times during the term of this Contract the following types of insurance:
 - a. Workers compensation insurance in the amounts approved in writing by the City.
 - b. Comprehensive general liability in the amount of \$4,000,000.00;
 - c. Vehicle liability coverage for bodily injury and property damage combined in a single limit of not less than \$1,000,000.00;

- d. Employer's liability (covers criminal and fraudulent acts of operator's employees) - \$2,000,000.00.

To the extent permitted by applicable insurance law, rules and regulations, Certificates of Insurance for each of these types of insurance shall be delivered to the City prior to the time of the first delivery of Waste into the Plant. Each Certificate of Insurance shall name the City as an insured (to the extent permitted applicable insurance laws, rules and regulations) and provide 30 days notice in writing to the City prior to cancellation or renewal of any of the policies of insurance.

12. Time of Discharge; key; damage. It is specifically agreed that Captex shall have the right at any time during the day and on any day of the week to discharge Waste into the point of discharge described in paragraph 9 herein. To implement this provision, the City has authorized its operator to deliver to Captex keys to the lock on the fence that secures the Plant. Captex represents, warrants and agrees that it will not allow anyone to make a copy of the keys and will not allow anyone except its authorized employees and agents to have possession of the keys. The keys will only be used for the purpose of entering the Plant to discharge Waste at the point of discharge during the term of this Contract. Upon termination of this Contract, Captex shall immediately return the keys to the City and/or its operator and will immediately cease any and all discharges into the Plant. When any agent or representative of Captex is on or around the Plant site, such person shall not do anything or take any action other than to remove the manhole and discharge the Waste from the Captex vehicle into the said manhole and then replace the manhole. Thereafter, the Captex agent or representative shall leave the premises and securely lock the gate. If any Waste is spilled, Captex shall immediately notify the City of the spill and Captex shall clean up the spill. If any damage occurs to the Plant or the Plant site, Captex shall immediately notify the City of such damage and the circumstances incident to such damage. If in the judgment of the City, it become necessary at

any time, and from time to time, to have the City's operator or any third party supervise the entry of a Captex vehicle on the Plant site and discharge, all costs of such supervision shall be paid by Captex upon receipt of a statement.

13. Cost Responsible. Captex specifically agrees that this is a cost responsible Contract under which the City shall have no expenses or costs (except normal operation costs of the Plant) and all expenses incident to the hauling, transporting and disposal of the Waste into the Plant at the point of discharge stated above shall be borne by Captex.
14. Title. Title and ownership of the Waste shall be vested in Captex until the Waste passes through the manhole at the designated point of discharge stated herein.
15. Warranties. Captex warrants and represents that (1) it has the requisite expertise and capability to transport, handle and dispose of the Waste into the City Plant system; (2) will handle, transport and discharge the Waste in a safe and workmanlike manner and in full compliance with all applicable Regulatory Requirements; (3) all information provided to the City herein in any log, record, ticket, or other writing related to the same is and will be true and correct; (4) the quality of the Waste discharged to the Plant will conform to the description contained herein; (5) Captex is under no legal restraint or order which prohibits the transfer of possession or title to the Waste for handling or disposal by the Plant; and (6) Captex will promptly notify the City of any spills, hazards or risks of which it becomes aware regarding the Waste, and the handling, transport or disposal of the same, and shall be fully liable for and shall indemnify and hold the City harmless from any and all damages, fines, penalties, costs and any other expenses including reasonable attorneys fees incurred by the City.
16. Binding. This Contract shall be binding upon and inure to the benefit of the respective parties, their respective successors and assigns.

17. Notices. All notices and communications required or permitted to be given under this Contract shall be in writing and deemed to have been given if sent to the respective parties at the addresses stated below their names either by certified mail, postage prepaid, return receipt requested, fax or hand delivery. Any notice sent to the City in care of the City Manager..
18. Indemnity. Captex shall indemnify and defend the City from and against any and all claims, demands, causes of action, penalties, fines and judgments (including reasonable attorneys fees and costs) in connection with or brought by any person regarding any matter contained herein.
19. Independent Contractor. It is specifically agreed that Captex and the City are independent contractors and are not agents or employees of the other.
20. Entire Agreement. This Contract constitutes the entire agreement between the parties and supersedes all prior negotiations, representations or agreements related to this Contract for any of the subject matter contained herein, whether written or oral. No changes, alterations or modifications to this Contract, whether in writing or otherwise, shall be effective unless in writing and signed by the parties hereto.
21. Operator. Intentionally omitted.
22. Jurisdiction. This contract shall be performable with venue and jurisdiction in Williamson County, Texas.
23. Time. Time is of the essence in this Contract.

DATED to be effective the 30th day of August, 2005.

CAPTEX, INC.
12321 Waters Park Road
Austin, Texas 78759
512/339-0892 (fax)

By: Cary Juby
Name: Cary Juby
Title: President

THE CITY OF TAYLOR, TEXAS

By:

Its:

400 Porter Street
Taylor, Texas 76574
512/467-6776 (Fax)

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