

EXHIBIT C

RESTRICTIVE COVENANT

This Restrictive Covenant is by and between **BFI WASTE SYSTEMS OF NORTH AMERICA, LLC** and **GILES HOLDINGS, L.P.** (collectively, “the Owners”) as the Owners of that 349.363 acre tract of land, more or less, as more particularly described in this Restrictive Covenant, and the **CITY OF AUSTIN**.

OWNER: **BFI WASTE SYSTEMS OF NORTH AMERICA, LLC**

ADDRESS: 2575 IH 35 South, Suite 103
San Marcos, Texas 78666

PROPERTY: a 54.13 acre tract of land, more or less, the tract of land being more particularly described by metes and bounds in Exhibit “A” attached and incorporated into this restrictive covenant.

OWNER: **GILES HOLDINGS, L.P.**

ADDRESS: 1223 Judson Road
Longview, Texas 75601-3922

PROPERTY: a 295.242 acre tract of land, more or less, comprised of certain parcels of land, the tract of land being more particularly described by metes and bounds in Exhibits “B” and “C” attached and incorporated into this restrictive covenant.

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to each Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, the Owners have provided sanitary waste disposal services to the citizens of the City of Austin (“City”) by operating a municipal solid waste landfill on the Property (“the Landfill”) since 1982;

WHEREAS, the Owners have submitted an application to the Texas Commission on Environment Quality (TCEQ”) seeking to increase the permitted capacity of the Landfill so as to continue to provide sanitary waste disposal services to the citizens of the City in future years;

WHEREAS, the Property described in this Restrictive Covenant is the same Property described in the application submitted to the TCEQ (TCEQ MSW Draft Permit No. 1447A) and currently the subject of a contested case hearing in the State Office of Administrative Hearings (SOAH Docket No. 582-08-2178);

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WHEREAS, whether and the extent to which the Owners could expand the Landfill or the City could prevent or restrict expansion of the Landfill is uncertain and is a question that is ultimately decided solely by TCEQ and the courts;

WHEREAS, given that TCEQ and the courts could either allow the maximum possible expansion despite the best efforts of the City or deny an expansion despite the best efforts of the Owners, both Parties find it in their interest to compromise; and

WHEREAS, the Owners of the Property and the City have agreed that the Property should be impressed with certain covenants and restrictions which is a material and decisive factor by the City not to actively oppose the permit amendment because the City's opposition could affect the outcome of the proceedings; and,

WHEREAS, the Owners represent that no other person or entity other than themselves currently possesses any interest in such land, that the undersigned are hereby authorized to execute the Restrictive Covenant as the authorized representative on behalf of their respective entity, and further represent that no other person or entity is allowed to dispose of waste or operate a transfer station at the Landfill;

NOW THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by the restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their successors and assigns.

- 1) After November 1, 2015, ~~Owners shall not receive, process, recycle, or dispose any waste~~ no form of liquid or solid waste shall be received, processed, disposed of or recycled on the Property. Further, no transfer station, ~~as defined in 30 TAC 330.3(157)~~ shall ever be constructed or operated on the Property. The term transfer station shall be defined as follows: "A facility used for transferring solid waste from collection vehicles to long-haul vehicles (one transportation unit to another transportation unit). It is not a storage facility such as one where individual residents can dispose of their wastes in bulk storage containers that are serviced by the collection vehicles."
- 2) The maximum heights, depths and footprint for the landfill, as approved by the TCEQ under permit number MSW 1447A and no other for the Property, shall not be exceeded.
- 3) If any person or entity shall violate or attempt to violate this Restrictive Covenant, it shall be lawful for the City or any person owning real property within one-half mile of the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate this Restrictive Covenant, or prevent the person or entity from such actions, and to collect ~~damages~~ actual damages or liquidated damages of \$25,000 per day for each day of violation, whichever is greater, attorneys' fees and all costs for such actions.
- 4) If any part of this Restrictive Covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Restrictive Covenant ~~and such remaining portion of this Restrictive Covenant shall remain in full effect~~ or Owners' obligations under TCEQ MSW Draft Permit No. 1447A.

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OWNER:

GILES HOLDINGS, L.P.

By: MOBLEY MANAGEMENT CO., L.L.C.,
General Partner

By: _____

Steve Mobley, President

~~Mobley Management Co., L.L.C., General Partner,~~
~~Giles Holdings, L.P.~~

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

SUBSCRIBED AND SWORN TO BEFORE ME by _____, Steve Mobley, President of Mobley Management Co., L.L.C. general partner of Giles Holdings, L.P. on this the _____ day of _____, 2008, to certify which witness my hand and seal of office.

(seal)

Notary Public in and for the State of Texas

My commission expires: _____
Printed Name of Notary _____