

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

AMENDED ORDER PROHIBITING SOLID WASTE DISPOSAL IN FORT BEND COUNTY

SECTION I. GENERAL PROVISIONS AND FINDINGS

WHEREAS, the Commissioners Court of Fort Bend County, Texas, has both the responsibility and authority to protect the public health, safety and general welfare from the threat posed by solid waste disposal in various portions of the unincorporated areas of Fort Bend County, Texas, pursuant to the authority of the Texas Health and Safety Code §363.112 and §364.012; and

WHEREAS, pursuant to its authority under the Texas Health and Safety Code §363.112, the Commissioners Court of Fort Bend County, Texas adopted an Order dated January 22, 2002 prohibiting solid waste disposal in Fort Bend County and designating areas in Fort Bend County, Texas in which the disposal of solid waste is not prohibited; and

WHEREAS, Section III of said Order designated (as Area Seven) 334.904 acres of land owned by Sprint Fort Bend County Landfill, L.P., within which the Sprint Fort Bend County Landfill has operated since 1982, as an area in which the disposal of solid waste is not prohibited; and

WHEREAS, the Commissioners Court finds that it is beneficial to Fort Bend County to amend said Order to increase and reconfigure the area designated as Area Seven in Section III of the January 22, 2002 order, so that it covers a slightly larger area of 354.5 acres of land owned by Sprint Fort Bend County Landfill, L.P; and

WHEREAS, the Commissioners Court has accepted a donation from Sprint Fort Bend County Landfill, L.P., of portions of said 334.904-acre tract for West Bellfort Boulevard right of way and storm water detention, and for the Four Corners Park and for use as flood water storage areas; and

WHEREAS, the Commissioners Court finds that it is important to protect floodplains from landfill development in order to protect ground water and surface water resources from contamination; and

WHEREAS, the Commissioners Court finds that the resources of the County are best served by designating and reconfiguring certain areas within Fort Bend County, Texas in which the disposal of solid waste is not prohibited and the requested amendment to the order is appropriate and does not impose a greater burden than necessary to protect the public health and safety under the circumstances; and

WHEREAS, this Amended Order has been published for two consecutive weeks in a newspaper of general circulation in the County; and

I:CountyOrders (LSL 11.19.18)

WHEREAS, the public hearing notices included (1) the proposed amended order prohibiting solid waste disposal in Fort Bend County; (2) the time, place, and date that the Commissioners Court of Fort Bend County was to consider the proposed amended order; and (3) notice that an interested citizen of the county may testify at the hearing; and

WHEREAS, a public hearing on this amended order was held on _____, 2018 before the amended order was considered by the commissioners court, and any interested citizen of the county was allowed to testify at the hearing; and

WHEREAS, a majority of the Commissioners approved this Amended Order on _____, 2018 at a public meeting noticed and held in accordance with the Texas Open Meetings Act.

SECTION II. AMENDMENT TO RECONFIGURE AREA SEVEN

NOW, THEREFORE, BE IT ORDAINED, AND ORDERED BY THE COMMISSIONERS COURT OF FORT BEND COUNTY, TEXAS, that the original Order Prohibiting Solid Waste Disposal in Fort Bend County, shall be amended as follows:

SECTION III APPROVED AREAS FOR DISPOSAL OF SOLID WASTE IN UNINCORPORATED AREAS OF FORT BEND COUNTY

For the above reasons, and pursuant to the provisions of §363.112 and §364.012 of the Texas Health and Safety Code, the Commissioners Court of Fort Bend County hereby ORDAINS, RESOLVES, ORDERS and ESTABLISHES that Section III of the ORDER PROHIBITING SOLID WASTE DISPOSAL IN FORT BEND COUNTY adopted on January 22, 2002, is AMENDED to designate the following as Area Seven:

AREA SEVEN

BEING A 354.5 ACRE TRACT OF LAND IN THE MILES M. BATTLE SURVEY, ABSTRACT NO. 9; IN THE D.A. CONNER SURVEY, ABSTRACT NO. 158; AND IN THE JOHN LEVERTON SURVEY, ABSTRACT NO. 402; FORT BEND COUNTY, TEXAS.

FOR CONNECTION, begin at a 5/8 inch diameter iron rod for an interior corner of a call 187.0178 acre tract (Volume 2569, Page 2006; Official Records of Fort Bend County, Texas); said corner being in the northerly line of said Miles M. Battle Survey, being in the southerly line of said D.A. Conner Survey and being the southeast corner of a call 2.500 acre tract (Fort Bend County Clerk's File No. 2014002046); Thence; North 2 degrees, 31 minutes, 42 seconds West - 570.96 feet along a westerly line of said call 187.0178 acre tract to a five-eighths inch diameter iron rod with cap for the northeast corner of a 2.500 acre tract (Fort Bend County Clerk's File No. 2013107441) and for the southeast corner of a call 9.787 acre tract (Fort Bend County Clerk's File No. 2001115166); said corner being an interior corner in a northerly line of and **PLACE OF BEGINNING** for this 354.5 acre tract;

- THENCE;** North 02 degrees, 31 minutes, 42 seconds West – 1,015.90 feet continuing along a westerly line of said call 187.0178 acre tract being along the easterly line of said call 9.787 acre tract to a five-eighths inch diameter iron rod with cap for angle point corner;
- THENCE;** North 04 degrees, 34 minutes, 17 seconds West continuing along a westerly line of said call 187.0178 acre tract, at 21.00 feet pass a five-eighths inch diameter iron rod with plastic cap in the southerly line of a 0.645 acre road easement tract (Fort Bend County Clerk's File No. 2002096733), in all 43.20 feet to an "X" in concrete for angle point corner;
- THENCE;** North 2 degrees 34 minutes 57 seconds West continuing along a westerly line of said call 187.0178 acre tract 169.40 feet to a point for corner, said corner being the most northerly northwest corner of said call 187.0178 acre tract and the most northerly northwest corner of this tract;
- THENCE;** North 87 degrees 53 minutes 21 seconds East – 1,330.24 feet to a point for corner, said corner being the northwest corner of a call 0.997 acre tract (Fort Bend County Clerk's File No. 9662184);
- THENCE;** North 88 degrees 00 minutes 33 seconds East – 123.56 feet to a point for corner, said corner being the northwest corner of a call 6.3149 acre tract (Parcel 2, Fort Bend County Clerk's File No. 9655320);
- THENCE;** North 81 degrees 41 minutes 26 seconds East – 986.76 feet to a five-eighths inch diameter iron rod with cap for corner, said corner being the northwest corner of a call 15.00 acre tract (Fort Bend County Clerk's File No. 2005003074) and the northeast corner of this tract;
- THENCE;** South 03 degrees 33 minutes 00 seconds East – 941.55 feet continuing along the westerly line of said call 15.00 acre tract to a point for corner, said corner being the southwest corner of said call 15.00 acre tract;
- THENCE;** South 86 degrees, 55 minutes, 02 seconds West – 451.61 feet to a point for corner, said corner being the most easterly northeast corner of said call 187.0178 acre tract;
- THENCE;** South 03 degrees, 47 minutes, 08 seconds East – 897.44 feet to a point for corner, said corner being the most easterly southeast corner of said call 187.0178 acre tract;
- THENCE;** South 87 degrees, 5 minutes, 20 seconds West – 489.22 feet to a point for corner, said corner being the northeast corner of a call 30.219 acre tract (Volume 2538, Page 1316; Official Records of Fort Bend County, Texas);

THENCE; South 03 degrees, 26 minutes, 42 seconds West – 860.52 feet to a point for corner;

THENCE; North 89 degrees, 15 minutes, 00 Seconds East – 70.37 feet along the northerly line of a call 103.534 acre tract (Fort Bend County Clerk's File No. 2012147528) to a point for corner;

THENCE; South 2 degrees, 44 minutes, 09 seconds East – 1,906.76 feet crossing into the interior of said call 103.534 acre tract to a point for the southeast corner of this tract;

THENCE; South 87 degrees, 19 minutes, 31 seconds West – 1,809.55 feet continuing within said call 103.534 acre tract to a point for angle;

THENCE; South 88 degrees, 20 minutes, 17 seconds West, at 25.16 feet pass a point for corner in the westerly line of said call 103.534 acre tract being the easterly line of a call 41.636 acre tract (Fort Bend County Clerk's File No. 2016038939), said corner bears South 3 degrees, 12 minutes, 39 seconds East - 420.01 feet from a 2 inch outside diameter iron pipe in concrete for the northwest corner of said call 103.534 acre tract, in all 1,653.14 feet along a line within said call 41.636 acre tract to a point for the most southerly southwest corner of this tract;

THENCE; North 47 degrees, 07 minutes, 21 seconds West – 212.82 feet along a line within said call 41.636 acre tract to a point;

THENCE; North 02 degrees, 35 minutes, 41 seconds West, – 288.03 feet to a point in the northerly line of a call 41.636 acre tract (Fort Bend County Clerk's File No. 2016038939) being the southerly line of a call 57.78 acre tract (Fort Bend County Clerk's File No. 9837853);

THENCE; South 88 degrees 05 minutes 11 seconds West – 224.31 feet to a point for corner, said corner being the northwest corner of said call 41.636 acre tract and the most westerly southwest corner of this tract;

THENCE; North 02 degrees 42 minutes 22 seconds West – 463.48 feet continuing along a westerly line of said call 57.78 acre tract to a point for corner, said corner being the northeast corner of a call 1.4242 acre tract (Fort Bend County Clerk's File No.2012088768);

THENCE; North 02 degrees 41 minutes 15 seconds West – continuing along a westerly line of said call 57.78 acre tract, at 809.90 feet pass a one-half inch iron pipe with cap, in all 839.86 feet for angle point corner in the centerline of Red Gully;

THENCE; North 2 degrees, 41 minutes, 15 seconds West – 422.63 feet along the westerly line of said call 57.78 acre tract to a one-half inch inside diameter iron pipe for angle point corner;

- THENCE;** North 2 degrees, 28 minutes, 0 seconds West – 871.95 feet along the westerly line of said call 57.78 acre tract to a one-half inch inside diameter iron pipe for the most westerly northwest corner of this tract; said corner being the northwest corner of said call 57.78 Acre Tract;
- THENCE;** North 82 degrees, 2 minutes, 55 seconds East – 827.17 feet along the northerly line of said call 57.78 acre tract to a five-eighths inch diameter iron rod with cap for interior corner of this tract; said corner being the southwest corner of a call 3.010 acre tract (Second Tract, Fort Bend County Clerk's File No. 2015074577);
- THENCE;** North 3 degrees, 8 minutes, 14 seconds West – 40.87 feet to a five-eighths inch diameter iron rod with cap for the most westerly northwest corner of said call 3.010 acre tract;
- THENCE;** North 60 degrees, 37 minutes, 42 seconds East – 167.36 feet along the northwesterly line of said call 3.010 acre tract to a five-eighths inch diameter iron rod with cap for corner;
- THENCE;** North 26 degrees, 18 minutes, 10 seconds East – 43.31 feet continuing along the northwesterly line of said call 3.010 acre tract to a point for re-entrant corner of this tract;
- THENCE;** North 87 degrees, 25 minutes, 14 seconds East – 1,330.13 feet crossing said call 3.010 acre tract, a call 3.021 acre tract (First Tract, Fort Bend County Clerk's File No. 2015074577), and a call 9.028 acre tract (Fort Bend County Clerk's File No. 2006083831), to the **PLACE OF BEGINNING** and containing 354.5 acres of Land.

SECTION III. CIVIL REMEDIES AND PENALTIES

Any violation of the Amended Order is subject to a civil penalty for each violation, such penalty to be forfeited to Fort Bend County, Texas. Each day that a violation continues constitutes a separate ground for recovery.

The Commissioners Court of Fort Bend County, Texas, may bring a legal action to enjoin violations of the Amended Order and seek judgment for any civil penalties.

SECTION IV. SEVERABILITY

If any portion of this Amended Order is deemed to be in violation of the statutes or the constitution of this state or the United States by a court of competent jurisdiction, said portion shall be severed, and the remaining portions of this Amended Order shall remain in full force and effect.

SECTION V. WITHDRAWAL OR RETURN OF PERMIT

In the event that an application for permit or other authorization under Texas Health and Safety Code Chapter 361 which was pending before the Texas Commission on Environmental Quality (the commission) at the time of the adoption of this Order for an area listed in Section II of this Order is withdrawn by or returned to the applicant, or if such a permit or other authorization is overturned by a final appeal, then such area shall be removed from unincorporated areas of Fort Bend County, Texas in which solid waste disposal is not prohibited.

SECTION VI. REPEALER AND SAVINGS CLAUSE

IT IS ORDERED that this Amended Order shall be cumulative of all other orders dealing with the same subject and any provision of any order in direct conflict with any provision of this Amended Order is hereby repealed and the provisions of this Amended Order shall supersede any provisions in conflict herewith; all provisions of any other order not in conflict herewith shall remain in full force and effect.

IT IS FURTHER ORDERED that the disposal of solid waste is PROHIBITED in all other unincorporated areas of Fort Bend County, Texas, that have not been designated by the Amended Order as areas in which the disposal of solid waste is not prohibited, except (1) any area for which an application for a permit or other authorization under Health & Safety Code Chapter 361 has been filed with and is pending before the commission or for which a permit or other authorization under Chapter 361 has been issued by the commission, and (2) areas to which Health & Safety Code Section 361.090 applies.

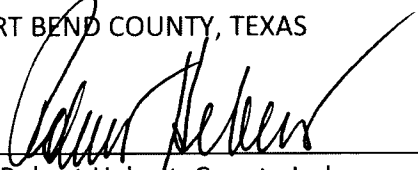
Notwithstanding the provisions of Section IV above, if Section II of this Amended Order is declared invalid in whole or in part for any reason, Section III, Area Seven of the Order Prohibiting Solid Waste Disposal in Fort Bend County, Texas, which was adopted on January 22, 2002, is revived, reinstated and effective for all purposes.

SECTION VII. ADOPTION OF AMENDED ORDER

On motion of Commissioner Patterson, seconded by Commissioner Meyers, duly put and carried, THIS AMENDED ORDER PROHIBITING SOLID WASTE DISPOSAL IN FORT BEND COUNTY IS HEREBY ADOPTED by the Commissioner's Court of Fort Bend County, Texas, duly convened and acting in its capacity as governing body of Fort Bend County, on this 11th day of December 2018.

IT IS ORDERED that the Fort Bend County Judge, Robert Hebert, be, and he is hereby, authorized to execute the Amended Order Prohibiting Solid Waste Disposal in Fort Bend County, Texas.

FORT BEND COUNTY, TEXAS

By: 

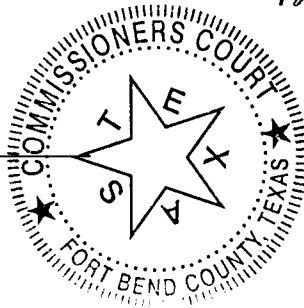
Robert Hebert, County Judge

12-11-2018

ATTEST:

By: 

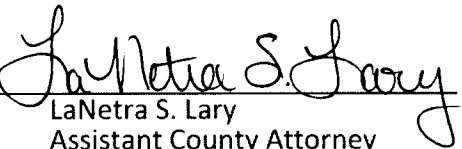
Laura Richard, County Clerk



APPROVED AS TO FORM:

ROY L. CORDES, JR.

FORT BEND COUNTY ATTORNEY

By: 

LaNetra S. Lary

Assistant County Attorney

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2018-432458

Date Filed:
12/10/2018

Date Acknowledged:
12/11/2018

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Sprint Fort Bend County Landfill LP
Sugar Land, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

To Be Determined
Red Gully Realignment and Water Detention

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Swinbank, Reagan	Houston, TX United States		X
	Swinbank, William	Houston, TX United States		X
	Swinbank, Joseph	Houston, TX United States		X
	Joe Swinbank Family Limited Partnership	Houston, TX United States		X
	Medio Landfill LP	Houston, TX United States		X
	Medio Management LLC	Houston, TX United States	X	

5 Check only if there is NO Interested Party.☐**6 UNSWORN DECLARATION**

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)