



ESTADO LIBRE ASOCIADO DE PUERTO RICO

**Municipio de Salinas**

OFICINA DE LA ASAMBLEA MUNICIPAL

P.O. BOX 1149

SALINAS, PUERTO RICO - 00751

**RESOLUCIÓN NÚM. 7**

**SERIE 2001-2002**

**DE LA LEGISLATURA MUNICIPAL DE SALINAS, PUERTO RICO, PARA AUTORIZAR AL ALCALDE A ENMENDAR EL CONTRATO PARA EL DESARROLLO Y OPERACIÓN DE UN VERTEDERO, OTORGADO Y SUSCRITO ENTRE EL MUNICIPIO DE SALINAS Y BFI OF PONCE, INC.**

**POR CUANTO:** El Artículo 2.005 de la Ley de Municipios Autónomos (la "Ley") (21 L.P.R.A. & 4055) faculta a los Municipios establecer, mantener y operar por sí, o mediante contratación con cualquier personal privado, los servicios y programas de recogido y recolección de desperdicios sólidos y saneamiento público en general.

**POR CUANTO:** Mediante Resolución Número 2, Serie 1994-95, la Legislatura Municipal de Salinas, autorizó al Honorable Basilio Baerga Paravisini, Alcalde, a otorgar y suscribir un contrato con BFI of Ponce, Inc., para que esta preste servicios de operación y administración del Vertedero Municipal de Salinas, y para que ambas partes gestionen los procedimientos para el establecimiento de un vertedero municipal.

**POR CUANTO:** El 5 de octubre de 1994, el Municipio de Salinas, a través del Honorable Basilio Baerga Paravisini, Alcalde, otorgó y suscribió con BFI of Ponce, Inc. un Contrato de Servicios para el Recogido de Desperdicios Sólidos Municipales, Servicios de Disposición y para el Desarrollo y Operación de un Vertedero.

**POR CUANTO:** El Municipio de Salinas, ha determinado la necesidad de enmendar el Contrato de Servicios para el Recogido de Desperdicios Sólidos Municipales, Servicios de Disposición y para el Desarrollo y Operación de un Vertedero.

**POR CUANTO:** El Municipio de Salinas, recibió de la Compañía BFI of Ponce, Inc., un borrador de la enmienda al Contrato de Servicios para el Desarrollo y Operación de un Vertedero, el cual se incorpora y se hace formar parte de esta Resolución.

**POR CUANTO:** Esta Legislatura entiende que la enmienda al Contrato de Servicios para el Desarrollo y Operación de un Vertedero, propuesta por BFI of Ponce, Inc. recoge y atiende las necesidades del Municipio de Salinas y provee un mecanismo para ingresar fondos adicionales al Fondo General de nuestro Municipio.

**POR TANTO: SE RESUELVE POR LA LEGISLATURA MUNICIPAL DE SALINAS, COMO SIGUE:**

**Sección 1ra:** Autorizar, por la presente se autoriza, al Alcalde a enmendar el Contrato de Servicios para el Desarrollo y Operación de un Vertedero otorgado y suscrito entre el Municipio de Salinas y BFI of Ponce, Inc.

**Sección 2da:** Por la necesidad que existe de viabilizar los propósitos contemplados en el Contrato de Servicios para el Desarrollo y Operación de un Vertedero, y de ingresar fondos adicionales para el Fondo General de nuestro

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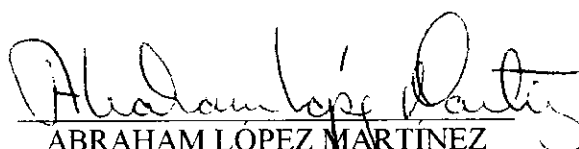
Municipio y teniendo en cuenta los beneficios que representa para el Municipio de Salinas esta actividad en manos privadas, la vigencia de esta Resolución es de carácter inmediato a su aprobación por la Legislatura.

**Sección 3ra:** Esta Resolución comenzará a regir inmediatamente después de su aprobación.

  
ROBERTO L. MERCADO COLÓN  
PRES. LEGISLATURA MUNICIPAL

  
IRIS D. GONZÁLEZ MARTÍNEZ  
SEC. LEGISLATURA MUNICIPAL

Aprobada por el Alcalde, Hon. Abraham López Martínez, a los 20 de mes de septiembre de 2001.

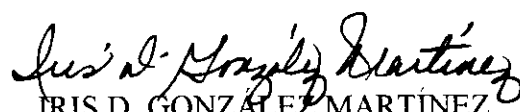
  
ABRAHAM LÓPEZ MARTÍNEZ  
ALCALDE

## CERTIFICACIÓN

YO, IRIS D. GONZÁLEZ MARTÍNEZ, Secretaria de la Legislatura Municipal de Salinas, Puerto Rico, Certifico: Que la antecede es copia fiel y exacta de la Resolución Número 7, Serie 2001-2002, adoptada por la Legislatura Municipal en la Sesión Extraordinaria celebrada el día 6 de septiembre de 2001.

Se certifica, además, que dicha Resolución fue aprobada con los votos afirmativos de los siguientes Legisladores presentes en dicha Sesión: Roberto L. Mercado, José R. Merced, Jacqueline Vázquez, Luz M. Espada, Evelyn Alvarado, María E. Espada, José M. Carrillo, Luis M. Acosta, Domingo Soliván, Luis Díaz y voto en contra de Gilberto Reyes, Benjamín Zayas, Víctor Alvarado.

EN TESTIMONIO DE LO CUAL, libro la presente certificación bajo mi firma y sello oficial de este Municipio hoy día 20 de septiembre de 2001.

  
IRIS D. GONZÁLEZ MARTÍNEZ  
SEC. LEGISLATURA MUNICIPAL

### **ENMIENDAS AL CONTRATO DEL VERTEDERO**

- 1- La Legislatura Municipal autoriza que se adquieran 20 cuerdas adicionales ya sean rentadas o compradas.
- 2- Corregir pago de \$2.00 dólares por tonelada de desperdicio sólido, por día. (excepto la basura depositada de Salinas) no en exceso.
- 3- Añadir “Que el Municipio de Salinas, podrá supervisar la cantidad de desperdicios y que los mismos se depositen al Vertedero con personal del Municipio.
- 4- Que el Vertedero funcione estrictamente en el horario de Lunes a Viernes de 7:00 a.m. a 5:00 p.m. y los sábados de 7:00 a.m. a 12:00 del mediodía.
- 5- En el contrato donde dice, El Municipio busca desarrollar o apoyar una facilidad de manejo de desperdicios sólidos, alterna “excepto reciclaje”.
- 6- Que se prohíba depositar cenizas de carbón en este Vertedero.

### **RECOMENDACIONES AL ALCALDE**

- 1- Que del dinero adquirido por el Vertedero se asigne dinero para compra de vehículos y equipo para el Departamento de Reciclaje del Municipio de Salinas.
- 2- Pedir información sobre la deuda.

F. B. I.

**AGREEMENT FOR EXTENDED LANDFILL OPERATION  
FOR THE DISPOSAL OF NON-HAZARDOUS SOLID WASTE**

This Agreement is made and entered into this 14th day of August, 2001, between **BFI OF PONCE, INC.**, a corporation organized under the laws of the Commonwealth of Puerto Rico (Employer's Social Security Number 660432293), with principal offices in Ponce, Puerto Rico (hereinafter referred to as "**BFI**"), represented by Raquel Cortés, of legal age, and resident of Guaynabo, Puerto Rico, in her capacity as District Manager of BFI, who states his authority to appear herein; and the **MUNICIPALITY OF SALINAS**, a municipality of the Commonwealth of Puerto Rico (Employer's Social Security Number 660435311) (hereinafter referred to as the "**MUNICIPALITY**"), represented by the Honorable Abraham López Martínez, of legal age, and resident of Salinas, Puerto Rico, in his capacity of Mayor of the Municipality of Salinas, Puerto Rico, who is duly authorized to appear herein pursuant to Municipal and Commonwealth law which authorize municipalities to enter into agreements with private entities for the operation of landfills.

**WITNESSETH**

**WHEREAS:** On October 5, 1994, BFI and the Municipality executed an Agreement for Municipal Solid Waste Collection and Disposal Service and Operation of Landfill ("the 1994 Agreement"), which provided among others for the operation of the existing Salinas Municipal Landfill.

**WHEREAS:** The Municipality understands that BFI has operated the Municipal Landfill in an efficient and cost effective manner and in compliance with applicable laws and regulations.

**WHEREAS:** The Puerto Rico Environmental Quality Board ("EQB"), on August 18, 2000, authorized the Municipality and BFI to reduce the existing slopes of the Municipal Landfill to provide further stability to the landfill (the "Slope Stabilization Area"), and improve available airspace.

**WHEREAS:** On November 16, 2000 the Municipality and BFI executed an Agreement for Extended Solid Waste Disposal Services and Landfill Operation of Non-Hazardous Solid Waste (2000 Agreement), which Agreement provided for the development of a lateral expansion of the existing landfill, payment of royalties to the Municipality, and for the treatment of the indebtedness of the Municipality to BFI.

**WHEREAS:** Simultaneously with the execution of the 2000 Agreement, BFI delivered a check for the amount of \$47,815.18 to the order of the Puerto Rico Land Authority to pay the existing Municipal Landfill real property lease indebtedness as certified by the Puerto Rico Land Authority as of December 31, 2000.

  
A.C.M.

**WHEREAS:** The Municipality and BFI (collectively the "Parties"), agreed to renegotiate the payment of royalties by BFI and the treatment of the indebtedness of the Municipality.

**NOW, THEREFORE,** in consideration of the promises and the mutual agreements contained herein, the Municipality and BFI each intending to be legally bound hereby agree as follows:

**Article 1 - Expansion of Existing Municipal Landfill:**

(a) Subject to the provisions contained in Article 2 hereto, and the ratification of this Agreement by the Municipal Assembly of Salinas, which ratification shall be received by BFI and the Municipality within sixty (60) days after the date of this Agreement, BFI will pursue the design, permitting and construction of a lateral expansion of the existing Municipal Landfill at its own cost and expense (the "Lateral Expansion"). The construction and operation of such Lateral Expansion shall comply with all applicable laws and regulations, including environmental protection laws and regulations.

(b) Term of Operation: If all appropriate permits for the construction and operation of the Lateral Expansion are received from the applicable regulatory agencies, BFI will construct and operate the Lateral Expansion until the earlier to occur of: (1) the exhaustion of all available airspace at the Lateral Expansion for the disposal of solid waste; or (ii) the issuance of a Closure Order, as such term is defined in Article 1.7 of the 1994 Agreement.

**Article 2 - Location and Development of the Site/Land Authority Lease:**

(a) Lateral Expansion Rights: The Municipality represents and acknowledges that the Municipality may grant to BFI the rights contemplated in Article 1 of this Agreement and the applicable provisions of the 1994 Agreement.

(b) Location and Acquisition of the Site: The Municipality and BFI, the Parties hereto, identified a mutually acceptable area adjacent to the Municipal Landfill currently owned by the Commonwealth of Puerto Rico Land Authority, which description is attached hereto as **Exhibit A** (the "Site"). The Municipality will proceed at its expense to lease or purchase the Site and/or to obtain the unconditional right to purchase of the Site. Any agreement to lease the Site until the Site is acquired by the Municipality through a purchase deed, shall be for a term of no less than the estimated useful life of the Lateral Expansion, plus any period of time required by applicable law for the performance of closure and post closure care obligations.

(c) Approvals: Upon receipt of evidence satisfactory to BFI that the Municipality has purchased or obtained the unconditional right to purchase, or lease the Site, and if BFI

is satisfied with the results of its physical and environmental due diligence with respect to the Site, the Municipality and BFI shall jointly and diligently proceed to apply for the Lateral Expansion Approvals, as such term is defined in Article 4(b), and shall seek the early and continued support of the Commonwealth's Solid Waste Management Authority ("SWMA"), for the permitting, development and operation of the Lateral Expansion by BFI. Each party will cooperate with the other in good faith in obtaining the Lateral Expansion Approvals, and SWMA's endorsement.

(d) In the event that the Municipality obtains all Lateral Expansion Approvals, the Municipality shall lease or sublease the Site to BFI for a rental of one dollar (\$1.00) per year for a term consistent with the provisions of subsection 1(b) above, and other terms satisfactory to BFI.

(e) After execution and delivery of the lease or sublease referenced in subsection 2(d) above, BFI may commence the design and construction of the Lateral Expansion and diligently prosecute such construction in accordance with the terms and conditions of the Lateral Expansion Approvals and BFI's engineering and design plans submitted in connection therewith.

(f) BFI will use its reasonable best efforts to complete the construction of the Lateral Expansion, so that solid waste disposal operations may be commenced by BFI at the Lateral Expansion prior to the exhaustion of all available airspace at the Municipal Landfill, as such airspace may be increased by the stabilization of the Municipal Landfill slopes, provided that the parties agree and acknowledge that circumstances beyond the control of either party may inhibit the ability of BFI to do so.

**Article 3 - Payment of Royalty:**

(a) Simultaneously with the execution of this Agreement for Extended Landfill Operation for the Disposal of Non-Hazardous Solid Waste, BFI will deliver as prepaid royalty to the Municipality a company check in the amount of \$500,000.00 (the "Prepaid Amount") to cover the total amount of royalties to be paid by BFI to the Municipality from the Date of this Agreement until December 31, 2001, which amount shall be reimbursed to BFI within thirty (30) days in the event that this Agreement is not ratified by the Municipal Assembly.

(b) After the ratification of this Agreement by the Municipal Assembly, commencing on January, 2002 and each month thereafter until the termination of the Agreement or the term of operation, BFI shall pay the Municipality a royalty equal to two dollars (\$2.00) for each ton of solid waste per operating day in excess of the amount of solid waste delivered for disposal to the existing landfill or the Lateral Expansion, as applicable, by the Municipality or by any contractor, which is providing municipal solid waste collection services under contract with the Municipality (including BFI). It is

understood that no royalty payments will be made by BFI for waste disposed of under the Free Municipal Solid Waste Disposal provision contained in Article 3.7 (b) of the 1994 Agreement at the existing Salinas Municipal Landfill, or the lateral Expansion.

(c) The parties agree that only fees relating to the disposal of non-hazardous solid wastes shall be subject to the payment of a royalty. Any portion of the fees attributable to transportation, container rental, laboratory analysis of a proposed waste stream or government charges are not subject to the payment of a royalty. For purposes hereof, government charges mean any tax, fee or charge imposed by any governmental or regulatory authority on or with respect to the disposal services provided at the Municipal Landfill and/or the Lateral Expansion, but excluding income, municipal and property taxes.

**Article 4 - Amount of Indebtedness:** Set forth on **Exhibit B** attached hereto and incorporated herein by reference, is a Schedule of Indebtedness of the Municipality to BFI for the total amount of \$1,518,865.38. Subject to the approval of this agreement by the Municipal Assembly, such Amount of Indebtedness shall not accrue interest for the term of two (2) years from the date this Agreement is signed by the Parties. **Provided**, that immediately after the two year term has expired, BFI shall apply on a monthly basis without further notice, \$1.00 of the royalty agreed to in Article 3(b) to the remaining balance of the indebtedness until total payment thereof. The remaining dollar will be paid each month to the Municipality.

(a) **Reduction of Indebtedness Upon Receipt of Lateral Expansion Approvals:** In order to induce the Municipality to use its best efforts in connection with obtaining the Lateral Expansion Approvals at the earliest possible date, BFI will reduce the indebtedness in a one-time lump sum reduction of \$300,000 in the event that the Lateral Expansion Approvals are received on or before the second anniversary of this Agreement.

(b) **Lateral Expansion Approvals:** Lateral Expansion Approvals shall mean those permits, licenses, endorsements, authorizations, and approvals of all applicable government authorities as are necessary to construct and operate the Lateral Expansion (with only restrictions, limitations and conditions satisfactory to BFI), in final form and not subject to any further consideration by suit, appeal or otherwise.

**Article 5 - Termination of Contract:** In the event this Agreement is terminated, which termination shall be by just cause, or any way prior to the Municipality's satisfaction of its indebtedness with BFI, the Municipality will pay BFI any amount due as of the date of termination.

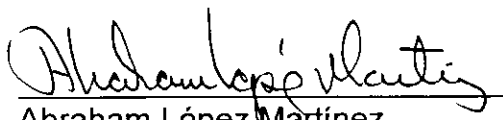
**Article 6 - Relationship to the 1994 Agreement:** Except for the collection services provisions contained in Article 2 of the 1994 Agreement, and any other provision which may be clearly inapplicable, this Agreement shall not be construed to extinguish any obligation between the parties, including but not limited to, the Free Municipal Solid Waste

  
A.L.M.

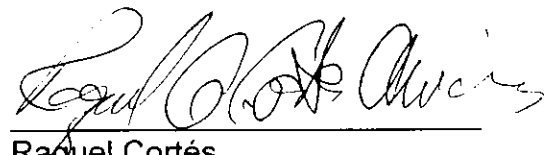
Disposal provision contained in Article 3.7(b) of the 1994 Agreement, closure obligations, and any outstanding payments which is owed by the Municipality pursuant to Articles 2 and 3 of the 1994 Agreement, as amended.

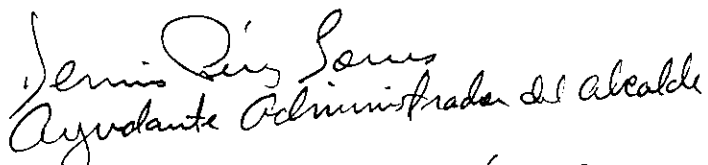
**Article 7 -** In the event that prior to the Approvals by applicable government agencies, a solid waste management facility for the disposal of Solid Waste to be located within the Municipality (or outside of the Municipality, if such facility is to serve the disposal needs of the Municipality), receives all governmental permits, or if the Municipality seeks to develop or supports an alternative solid waste management facility, BFI shall have no obligation to make any closure and post-closure contribution or any other payments to the Municipality, and the Municipality shall reimburse BFI for all expenses incurred by BFI in connection with the evaluation, permitting and development of the Lateral Expansion, including without limitation all design, engineering, legal, consulting, accounting, public relations, capital interest and other costs incurred in connection therewith. Any amounts owed to BFI hereunder shall be paid within thirty (30) days after written demand is made by BFI upon the Municipality.

**MUNICIPALITY OF SALINAS**

  
Abraham López Martínez  
Mayor

**BFI OF PONCE, INC.**

  
Raquel Cortés  
District Manager

  
Ayudante Administrador del alcalde  
Santiago 14 Agosto - 01