



BOARD OF COUNTY COMMISSIONERS

CLERMONT COUNTY, OHIO

ROBERT L. PROUD EDWIN H. HUMPHREY DAVID H. UIBLE

**IN RE: BOARD OF COUNTY COMMISSIONERS...AGREEMENT WITH
 CECOS INTERNATIONAL, INC. RELATIVE TO THE FINAL
 DISPOSITION OF THE POST-CLOSURE PLAN FOR THE CLOSED
 HAZARDOUS WASTE DISPOSAL FACILITY LOCATED ON ABER
 ROAD IN JACKSON TOWNSHIP...12-0731-001...EXECUTED**

Moved by Mr. Uible, seconded by Mr. Humphrey, that the Board of County Commissioners approve the following recommendation:

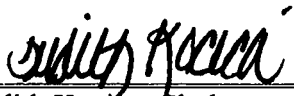
Recommendation of Paul W. Braasch, Director, Clermont County Water Resources Department/Office of Environmental Quality, with the concurrence of Stephen H. Rabolt, County Administrator, to execute the CECOS-Clermont County Agreement by and between the Board of Commissioners of Clermont County, Ohio, and CECOS International, Inc., 18500 North Allied Way, Phoenix, Arizona 85054 in and as it relates to the post-closure plan for the closed hazardous waste disposal facility located at 5092 Aber Road, Williamsburg, Ohio 45176 in Jackson Township, specifically the disposition of all outstanding issues and disputes between the named entities and in concert with the Amended Post-Closure Plan for the referenced facility issued by the Ohio EPA Director on 07/12/2012, effective for the period of 08/01/12 through 02/14/27, pursuant to and in compliance the terms and conditions as specified therein.

Upon roll call on the foregoing motion, the vote was as follows:

Mr. Uible, Yes; Mr. Humphrey, Aye; Mr. Proud, Yea.

I, Judith Kocica, Clerk of the Board of the Clermont County Commissioners, do hereby Certify the above to be a true and exact excerpt from the minutes of the Regular Session of the Board of County Commissioners, Clermont County, Ohio, on August 1, 2012.

ATTEST:



Judith Kocica, Clerk
August 1, 2012

CECOS-CLERMONT COUNTY AGREEMENT

THIS CECOS-CLERMONT COUNTY AGREEMENT (this "Agreement") is made and entered into as of the 1st day of ~~July~~^{August}, 2012 by and between CECOS International, Inc. ("CECOS") and the Board of Commissioners of Clermont County, Ohio ("County") (CECOS and County are referred to collectively as the "Parties").

RECITALS:

WHEREAS, CECOS is the owner and operator of a closed hazardous waste disposal facility located at 5092 Aber Road, Williamsburg, Clermont County, Ohio 45176 (hereinafter the "Facility");

WHEREAS, on September 23, 1994 the Director of the Ohio Environmental Protection Agency (hereinafter "Director" and "Ohio EPA", respectively) approved a post-closure plan for the Facility;

WHEREAS, on January 31, 2012 CECOS submitted to the Director a request to amend the approved post-closure plan;

WHEREAS, on December 7, 2010 the County submitted to the Director a petition to modify the approved post-closure plan;

WHEREAS, CECOS' request to amend the approved post-closure plan differs from the County's petition to modify the approved post-closure plan;

WHEREAS, on July 12, 2012, the Director issued a final action amending the Facility's post-closure plan ("Amended Post-Closure Plan") which, *inter alia*, included revisions to the Facility's groundwater Detection Monitoring Program network and program (hereinafter "DMP"); and

WHEREAS, CECOS and the County desire to resolve all outstanding issues and disputes between them related to the Facility, including the Amended Post-Closure Plan for the Facility;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

A. Obligations of CECOS. Although the Parties disagree whether the following activities are required by applicable law and regulations relating to post-closure care for closed hazardous waste disposal facilities, CECOS nevertheless agrees to perform them:

1. CECOS will install a new groundwater monitoring well east of Cell 13 at the Facility to monitor the Bedrock/Till Interface ("BTI") Zone. This well will be installed when CECOS installs other new wells for the DMP that are required by the Amended Post-Closure Plan.

2. CECOS will sample the following groundwater monitoring wells that are not part of the Amended Post-Closure Plan DMP (hereinafter "Distal Wells"):
 - a. existing groundwater monitoring well MP-215A, located east of Cell 13 and screened in the Upper Sand Zone;
 - b. existing groundwater monitoring well MP-216BR, located east of Cell 13 and screened in the 880 Sand Zone;
 - c. existing groundwater monitoring well MP-215BR, located east of Cell 13 and screened in the Channel Sand Zone;
 - d. existing groundwater monitoring well MP-270, located several hundred feet east of SCMF 10 and screened in the BTI Zone;
 - e. existing groundwater monitoring well MP-252A, located south of SCMF 6, SCMF 7 and Fire Pond 4/5 and screened in the 880 Sand Zone;
 - f. existing groundwater monitoring well MP-252, located south of SCMF 6, SCMF 7 and Fire Pond 4/5 and screened in the BTI Zone;
 - g. new groundwater monitoring well, located east of Cell 13 and screened in the BTI Zone, as required in paragraph 1 above;
 - h. existing groundwater monitoring well MP-290B, located east of the sanitary landfill and screened in the Upper Sand Zone.
3. In the event that one or more of the Distal Wells is in need of repairs or ceases to provide representative groundwater samples, CECOS will promptly repair it or, if it cannot be repaired, replace it with a functional well in approximately the same location, and screened in the same zone.
4. CECOS will sample the Distal Wells semi-annually, and such sampling will typically occur at the same time as the semi-annual sampling events for the groundwater monitoring wells within the DMP, that are required by the Amended Post-Closure Plan. Samples from the Distal Wells shall be analyzed for the same volatile organic compounds (VOCs) as those required semi-annually for the DMP wells that are specified in the Amended Post-Closure Plan, except that samples from MP-290B shall be analyzed for the same parameters as those required for other groundwater monitoring wells specified in the CMI, provided further that, in the event that U.S. EPA ceases to require monitoring of MP-290B, the sampling and analysis of such well shall thereafter be identical to that specified for other Distal Wells.
5. If CECOS requests the United States Environmental Protection Agency ("U.S. EPA") before 2027 to cease sampling of any of the Corrective Measures Implementation ("CMI") wells, CECOS will provide the County with such request contemporaneously with submitting it to USEPA.
6. CECOS will continue to monitor the underdrains and leak detectors at the Facility, as required by U.S. EPA under the Toxic Substances Control Act (TSCA) program, which currently includes quarterly sampling for VOCs, polychlorinated biphenyls (PCBs), and total organic carbon (TOC).

7. CECOS will evaluate data for the RCRA metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver) for the DMP wells monitoring the Upper Sand and 880 Sand Zones. CECOS will semi-annually evaluate such data qualitatively through time-series plots, which will be presented and discussed in report submittals to Ohio EPA to identify potential changes that may warrant further evaluation. Such report submittals will be provided to the County at the same time they are submitted to Ohio EPA. The County acknowledges that this Agreement does not confer on it any legal right to require that CECOS perform any follow-up work based on these RCRA metal evaluations.
8. CECOS will sample all of the DMP wells for major cations/anions (calcium, magnesium, sodium, potassium, bicarbonate, sulfate, and chloride) at least once every two years beginning in 2013. Such sampling typically will occur during one of the regularly scheduled, semi-annual DMP groundwater sampling events. CECOS will provide the County with such sampling data as part of the respective routine sampling event reports.
9. On or before March 31 of each year beginning in 2013, CECOS will provide to the County the monthly totals of the previous years' offsite shipments of the effluent from the Leachate Treatment System at the Facility, which is the leachate generated from SCMF's 3 through 10.
10. Beginning in 2014, CECOS will sample all leachate standpipes at the Facility for the parameters listed in Table 14 of the Amended Post-Closure Plan (the DMP "Appendix IX parameters") every six years. Such sampling data will be provided to the County by March 31 of the year following such sampling.
11. CECOS will contemporaneously provide the County with copies of all reports submitted to Ohio EPA and/or U.S. EPA. The Parties acknowledge that the "reports" required to be submitted to the County under this paragraph specifically do not include emails, correspondence and other non-routine documents that CECOS may send to Ohio EPA and/or U.S. EPA from time to time, but do include all monitoring data and analyses of such data. CECOS shall also contemporaneously provide the County with copies of communications it sends to Ohio EPA or U.S. EPA requesting changes to the Amended Post-Closure Plan, the CMI, or the requirements set forth in (a) the March 15, 1984 TSCA Monitoring Program and, (b) CECOS' correspondence to Steve Johnson (USEPA) dated December 5, 1997, and June 4, 1998.
12. CECOS will meet with the Clermont County Administrator and/or Clermont County personnel at least annually to provide updates on the Facility, and if both Parties agree, additional meetings will be scheduled on a case-by-case basis.

B. Obligations of the County. The County agrees to the following:

13. The County agrees not to appeal or otherwise contest, directly or indirectly, the Director's final action issuing the Amended Post-Closure Plan, provided, however, that the County may file a Conditional Notice of Appeal of such action with the Environmental Review Appeals Commission, which shall include a provision that if no other entity (including CECOS) files a timely notice of appeal, the County's Notice of Appeal shall be deemed void. Except for the County's Conditional Notice of Appeal, if another entity, including CECOS, does file a timely notice of appeal, then this Agreement shall become null and void pursuant to paragraph 15.
14. Within five (5) days of the execution of this Agreement, or the expiration of the appeal period on the Amended Post Closure Plan without an appeal having been timely filed (other than pursuant to paragraph 13), whichever is later, the County will dismiss its pending appeal of CECOS' NPDES Sampling and Analysis Plan, which is currently pending before the Environmental Review Appeals Commission (ERAC), Case No. ERAC 136231.

C. General Provisions.

15. Effect of Appeal. Subject to the County's right to file a Conditional Notice of Appeal in paragraph 13, the Parties agree that this Agreement shall become null and void if any person or entity, including one of the Parties, files an appeal with ERAC of the Director's final action issuing the Amended Post-Closure Plan, or otherwise legally contests the Director's final action issuing the Amended Post-Closure Plan in a court of competent jurisdiction. If such appeal or contest is filed, this Agreement shall automatically terminate upon its own terms.
16. Ohio EPA Primacy. The parties agree that Ohio EPA will continue as the regulating body for the Amended Post-Closure Plan and even though additional information collected under this Agreement will be reported to Ohio EPA and the County, Ohio EPA will continue to be the sole entity with authority to require CECOS to address additional measures, if any, required at the Facility based on the additional information. Notwithstanding the above, and subject to only those explicit relinquishment of rights enumerated in this Agreement, the parties agree that the County does not waive any of its legal rights arising under Ohio EPA laws and regulations, or otherwise.
17. Termination. This Agreement shall terminate on February 14, 2027. If the Director extends the post-closure care period for the Facility past February 14, 2027, the Parties agree to engage in good-faith negotiations to extend some or all of the terms of this Agreement to coincide with the duration of such extension, provided there is no appeal to ERAC of the Director's action extending the post-closure care period or the plan approved for care during the extension.

18. Terms and Definitions. All terms, not otherwise defined herein, shall have the same meaning as those set forth in the approved Amended Post-Closure Plan and/or applicable statutes and rules governing the Facility.
19. No Fiscal Certificate. The County agrees and acknowledges that this Agreement does not involve the County's expenditure of money, and therefore, no fiscal officer certificate, pursuant to Ohio Rev. Code §5705.41(D)(1), is required for this Agreement to be binding upon the County.
20. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and proposals, whether written or unwritten. This Agreement may not be amended or modified except in writing signed by each of the Parties hereto.
21. Specific Performance; Attorneys' Fees. The parties agree that money damages may not be an adequate remedy for a violation of this Agreement and, accordingly, that the parties have the right to enforce the terms hereof in the Court of Common Pleas of Clermont County by specific performance. Should any party employ an attorney to enforce any of the provisions hereof, the prevailing party in any action shall be entitled to collect from the non-prevailing party all reasonable costs, charges, expenses, and attorneys' fees, whether incurred in trial, any appellate proceedings or other proceedings.
22. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio.
23. Counterparts. This Agreement may be executed in counterparts, which, when taken together, shall constitute one Agreement.

IN WITNESS WHEREOF, the undersigned Parties have caused this CECOS-Clermont County Agreement to be executed as of the date first written above.

CECOS INTERNATIONAL, INC.

By: _____
Ronald R. Krall, Vice President

BOARD OF COMMISSIONERS OF CLERMONT COUNTY, OHIO

By: Robert L. Roof

By: Edwin H. Humphrey

By: [Signature]

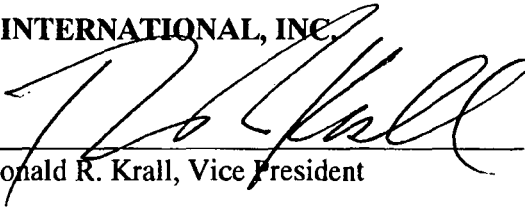
Approved as to Form:

[Signature]
Clermont County Prosecutor

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CECOS INTERNATIONAL, INC.

By:


Ronald R. Krall, Vice President

BOARD OF COMMISSIONERS OF CLERMONT COUNTY, OHIO

By: _____

By: _____

By: _____

Approved as to Form:

Clermont County Prosecutor