

Figure: 30 TAC §37.381

LOCAL GOVERNMENT GUARANTEE

Guarantee made this (date), by (name of the local government), herein referred to as guarantor, to the Texas Commission on Environmental Quality, obligee, on behalf of the following (owner or operator) of (business address).

RECITALS

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 30 Texas Administrative Code (TAC) §37.281 (relating to Local Government Guarantee).
2. (Owner or operator) owns or operates the following facility(ies) covered by this guarantee: (List for each facility: permit number, name, and physical and mailing addresses. Indicate for each, whether the guarantee is for closure, post closure, or corrective action.)
3. "Closure, post closure, or corrective action plans" as used below refer to the plans maintained as required for the closure, post closure, or corrective action of facilities as identified above.
4. For value received from (owner or operator), guarantor guarantees to the TCEQ that in the event that (owner or operator) fails to perform (closure, post closure, or corrective action) of the above facility(ies) in accordance with the closure, post closure, or corrective action plans, permits, and other requirements whenever required to do so, the guarantor shall do so, or pay a third party to perform closure, post closure, or corrective action or establish a fully funded trust fund as specified in 30 TAC §37.201 (relating to Trust Fund) in the name of (owner or operator) in the amount of the current cost estimate.
5. Guarantor agrees that if, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the TCEQ's executive director and to (owner or operator) that the guarantor intends to provide alternate financial assurance as specified in 30 TAC Chapter 37 (relating to Financial Assurance), as applicable, in the name of (owner or operator). Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless (owner or operator) has done so.
6. Within 10 days after its commencement of the proceeding, the guarantor agrees to notify the executive director, by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor.
7. Guarantor agrees that within 30 days after being notified by the executive director of a determination that guarantor no longer meets the financial test criteria or that guarantor is disallowed from continuing as a guarantor of (closure, post closure, or corrective action), guarantor shall establish alternate financial assurance as specified in Subchapter C of 30 TAC Chapter 37 (relating to Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action), in the name of (owner or operator) unless (owner or operator) has done so.
8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure plans, post closure plans, or corrective action requirements, amendment or modification of the permit, the extension or reduction of the time of performance, or any other modification or alteration of an obligation of the owner or operator.
9. Guarantor agrees to remain bound under this guarantee for so long as (owner or operator) must comply

with the applicable financial assurance requirements for the above-listed facilities, except as provided in paragraph 10 of this agreement.

- 10. Guarantor may terminate this guarantee by sending notice by certified mail to the TCEQ executive director and to (owner or operator), provided that this guarantee may not be terminated unless and until (the owner or operator) obtains, and the executive director approves, alternate financial assurance.
- 11. Guarantor agrees that if (owner or operator) fails to provide alternate financial assurance as specified in 30 TAC Chapter 37, as applicable, and obtain written approval of such assurance from the TCEQ executive director within 90 days after a notice of termination by the guarantor is received by the TCEQ executive director from guarantor, guarantor shall provide such alternate financial assurance in the name of the (owner or operator).
- 12. Guarantor expressly waives notice of acceptance of this guarantee by the TCEQ or by (owner or operator). Guarantor also expressly waives notice of amendments or modifications of the closure plans, post closure plans, or corrective action requirements, and of amendments or modifications of the permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in 30 Texas Administrative Code §37.381 as such regulations were constituted on the date first above written.

Effective date: _____

(Name of guarantor) _____

(Authorized signature for guarantor) _____

(Type name of person signing) _____

(Title of person signing) _____

Signature of witness or Notary: _____