

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF TERMINATING THE) RESOLUTION NO. 08-4006
DESIGNATED FACILITY AGREEMENT)
ENTERED INTO BETWEEN METRO AND) Introduced by Chief Operating Officer
ROOSEVELT REGIONAL LANDFILL) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, Roosevelt Regional Landfill ("Roosevelt") is a designated facility of the Metro Solid Waste Flow Control system pursuant to Metro Code 5.05.030;

WHEREAS, in April 1993, Metro entered into a designated facility agreement ("Agreement") with Roosevelt (Metro Contract No. 902861);

WHEREAS, the Metro Council may terminate the Agreement for good cause or a substantial change of circumstances upon passage of a resolution specifying the action taken and the effective date;

WHEREAS, the Metro Code provides that no later than November 1, 2008, the Chief Operating Officer ("COO") and Roosevelt shall establish a modified designated facility agreement ("Modified Agreement") that ensures substantial compliance with the Metro Code;

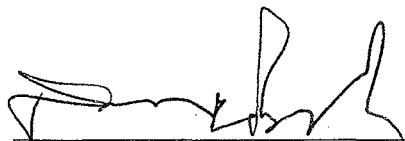
WHEREAS, the COO and Roosevelt established a Modified Agreement by November 1, 2008;

WHEREAS, the Modified Agreement between Metro and Roosevelt supersedes the Agreement and constitutes good cause for termination of the Agreement; and

WHEREAS, the Metro Council provided Roosevelt with reasonable notice and an opportunity to be heard before taking action; now therefore

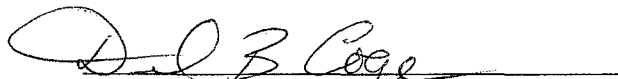
BE IT RESOLVED that the Metro Council terminates the Agreement with Roosevelt effective December 31, 2008.

ADOPTED by the Metro Council this 18th day of December 2008.

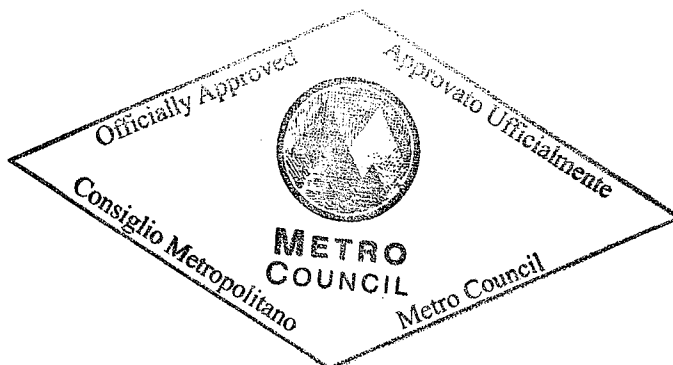


David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



Resolution No. 08-4006

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-4006, FOR THE PURPOSE OF TERMINATING THE DESIGNATED FACILITY AGREEMENT ENTERED INTO BETWEEN METRO AND ROOSEVELT REGIONAL LANDFILL

Date: December 2, 2008

Prepared by: Bill Metzler

The proposed Resolution, if approved by Council, will terminate the existing designated facility agreement for the Roosevelt Regional Landfill (“RRL”) on December 31, 2008 because the modified designated facility agreement, effective January 1, 2009, supercedes the existing agreement.

BACKGROUND

The Metro Code describes the designated facilities of the system.¹ RRL is located outside the Metro Region in Klickitat County, Washington and is owned by Allied Waste Services (“AWS”) and has been a designated facility of the system since 1993.² Metro and AWS have entered into a designated facility agreement (“DFA”) in which RRL receives certain types of solid waste generated in the Metro Region and agrees to collect and remit Regional System Fee and Excise Tax on that waste.³

In 2007, the Metro Council amended the Metro Code to require existing designated facilities, including RRL, to notify Metro of its intent to seek an agreement to recover non-putrescible waste from the Region or to take only processed non-putrescible waste from authorized facilities. The Chief Operating Officer (“COO”) must modify existing DFAs to ensure substantial compliance with these requirements by December 31, 2008. If the COO and a designated facility were unable to reach an agreement by November 1, 2008, the COO must terminate the existing DFA no later than December 31, 2008.⁴

In April 2008, AWS certified its intent that RRL would accept only processed non-putrescible waste from the Metro Region in accordance with the Metro Code. By November 1, 2008, the COO and AWS agreed to modify the existing DFA for RRL to ensure substantial compliance with the Enhanced Dry Waste Recovery Program (“EDWRP”) code requirements. The new DFA (Metro Contract No. 928986) for RRL will be effective on January 1, 2009. Therefore, the existing DFA (Metro Contract No. 902861) between Metro and RRL must be terminated because it is no longer valid.

Under the terms of the existing RRL DFA (Metro Contract No. 902861), the Metro Council may terminate the agreement by passage of a resolution specifying the action taken and effective date. Accordingly, Resolution No. 08-4006 will terminate the RRL DFA effective December 31, 2008, so that the new DFA (Metro Contract No. 08-928986) can lawfully take effect on January 1, 2009.

ANALYSIS/INFORMATION

1. **Known Opposition.** Staff is not aware of any opposition to the proposed Resolution.
2. **Legal Antecedents.** Chapter 5.01 and Chapter 5.05 of the Metro Code. Ordinance No. 07-1147B. Metro Contract No. 902861.

¹ Metro Code Section 5.05.030

² Metro Code Section 5.05.030(a)(5).

³ Metro Code Section 5.05.030(a)(5) & (c); Metro Contract No. 902861

⁴ Metro Code Section 5.05.030(c). This code change is part of the Enhanced Dry Waste Recovery Program (“EDWRP”). See Ordinance No. 07-1147B.

3. **Anticipated Effects.** Adoption of Resolution No. 08-4006 will terminate the existing designated facility agreement (Metro Contract No. 902861) entered into between Metro and RRL effective December 31, 2008.
4. **Budget Impacts.** There are no budget impacts associated with the adoption of this Resolution. Adoption of this Resolution will help enable implementation of EDWRP, whose budget impacts have already been considered by the Metro Council in its adoption of Ordinance No. 07-1147B and is not expected to alter the budget impact projection contained in the EDWRP Ordinance staff report.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-4006.

BM:bjl
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