

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF TERMINATING THE) RESOLUTION NO. 08-4007
DESIGNATED FACILITY AGREEMENT)
ENTERED INTO BETWEEN METRO AND) Introduced by Chief Operating Officer
COLUMBIA RIDGE LANDFILL) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, Columbia Ridge Landfill ("Columbia Ridge") 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 Columbia Ridge (Metro Contract No. 902859);

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 Columbia Ridge shall establish a modified designated facility agreement ("Modified Agreement") that ensures substantial compliance with the Metro Code;

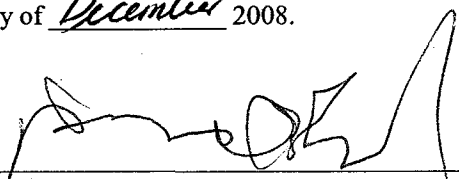
WHEREAS, the COO and Columbia Ridge established a Modified Agreement by November 1, 2008;

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

WHEREAS, the Metro Council provided Columbia Ridge 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 Columbia Ridge effective December 31, 2008.

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

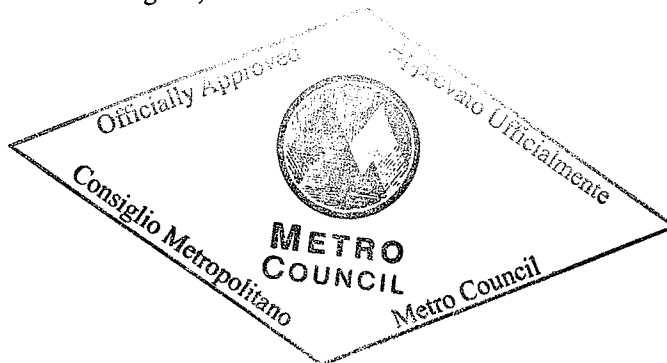


David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



Resolution No. 08-4007

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-4007, FOR THE PURPOSE OF TERMINATING THE DESIGNATED FACILITY AGREEMENT ENTERED INTO BETWEEN METRO AND COLUMBIA RIDGE 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 Columbia Ridge Landfill (“CRL”) 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 CRL is located outside the Metro Region in Arlington, Oregon and is owned by Waste Management of Oregon (“WMO”) and has been a designated facility of the system since 1993.² Metro and WMO have entered into a designated facility agreement (“DFA”) in which CRL 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 CRL, 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 June 2008, WMO certified its intent that CRL would accept only processed non-putrescible waste from the Metro Region in accordance with the Metro Code. By November 1, 2008, the COO and WMO agreed to modify the existing DFA for CRL to ensure substantial compliance with the Enhanced Dry Waste Recovery Program (“EDWRP”) code requirements. The new DFA (Metro Contract No. 928982) for CRL will be effective on January 1, 2009. Therefore, the existing DFA (Metro Contract No. 902859) between Metro and CRL must be terminated because it is no longer valid.

Under the terms of the existing CRL DFA (Metro Contract No. 902859), the Metro Council may terminate the agreement by passage of a resolution specifying the action taken and effective date. Accordingly, Resolution No. 08-4007 will terminate the existing CRL DFA effective December 31, 2008, so that the new DFA (Metro Contract No. 08-928982) 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. 902859.

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. 902859

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. 08-4007 will terminate the existing designated facility agreement (Metro Contract No. 902859) entered into between Metro and WMO for CRL 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. 08-4007.

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