

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 03-3344
OPERATING OFFICER TO EXECUTE AMENDMENT)
NO. 1 TO METRO CONTRACT NO. 924538, A)
DESIGNATED FACILITY AGREEMENT BETWEEN) Introduced by Councilor Susan
METRO AND VALLEY LANDFILLS, INC.) McLain

WHEREAS, Metro Contract No. 924538 is a designated facility agreement (the "Agreement") between Metro and Valley Landfills, Inc., doing business as the Coffin Butte Landfill (the "Landfill"); and,

WHEREAS, the Agreement includes certain provisions which prohibit the Landfill from accepting material recovery processing residual from any source other than Metro-authorized material recovery facilities; and,

WHEREAS, the Landfill has requested that the DFA be amended to permit it to accept processing residual resulting from material recovery conducted on non-putrescible waste at construction and demolition sites; and,

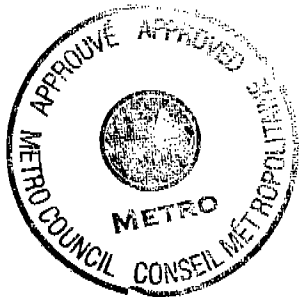
WHEREAS, Amendment No. 1 to the Agreement, a copy of which is Exhibit A to this resolution, amends the Agreement to provide that the Landfill may accept processing residual resulting from material recovery conducted on non-putrescible waste at construction and demolition sites; and,

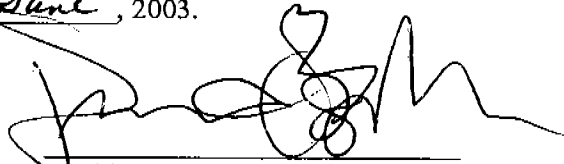
WHEREAS, Amendment No. 1 also clarifies that the Chief Operating Officer, and not the Director of the Solid Waste and Recycling Department, is the Metro official with authority to modify, terminate, or suspend the Agreement, or waive any term or condition of the Agreement; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED that the Council authorizes the Chief Operating Officer to execute Amendment No. 1 to Metro Contract NO. 924538 in a form substantially similar to Exhibit A to this resolution.

ADOPTED by the Metro Council this 26th day of June, 2003.




David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

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METRO

**AMENDMENT NO. 1
METRO CONTRACT NO. 924538**

**AMENDMENT NO. 1 TO
DESIGNATED FACILITY AGREEMENT**

This Amendment No. 1 amends Metro Contract No. 924538, dated December 2, 2002 (entitled "Designated Facility Agreement"), between Metro, a metropolitan service district organized under ORS Chapter 268 and the Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232-2736, ("Metro") and Valley Landfills, Inc., doing business as the Coffin Butte Landfill located at 28972 Coffin Butte Road, Corvallis, OR 97330 (the "Facility") and is entered under the authority of ORS 268.317, and Metro Code section 5.05.030. The effective date of this Amendment No. 1 is the date that this Amendment No. 1 has been executed by both parties. The Designated Facility Agreement and this Amendment No. 1 are collectively referred to herein as the "Amended Agreement."

In exchange for the promises and other considerations set forth in the Amended Agreement, the Facility and Metro agree as follows:

1. Purpose. The purpose of this Amendment No. 1 is to clarify that certain provisions of the Designated Facility Agreement which require the Facility to accept only non-putrescible waste that has undergone material recovery. This Amendment No. 1 also makes certain other technical modifications to the Amended Agreement.

2. Amendment of Section 3 of the Designated Facility Agreement. The provisions of Section 3 of the Designated Facility Agreement are amended to read as follows:

Waste That May be Accepted at the Facility.

- a. Provided that the Facility has any required separate and appropriate legal authority, the Facility may accept only the following types of materials generated from within the Metro Region:

- (1) Processing residual resulting from material recovery of non-putrescible waste, provided that such processing residual has been generated (a) by a person certified, licensed or franchised by Metro to conduct material recovery of non-putrescible waste, (b) by a person with whom Metro has executed a designated facility agreement which requires the facility to conduct material recovery of non-putrescible waste, or (c) at a construction or demolition site;
 - (2) "Cleanup Material Contaminated By Hazardous Substances" as that term is defined in Metro Code Chapter 5.01.010;
 - (3) "Special waste" as defined in Metro Code 5.02.015, provided that such special wastes are specifically required in the Oregon Department of Environmental Quality ("DEQ") solid waste disposal permit for the Facility to have special handling or testing prior to disposal, and are not eligible or amenable to material recovery;
 - (4) Useful Material as defined in Metro Code section 5.01.010, including but not limited to Alternative Daily Cover Material as approved by DEQ, but only for those quantities demonstrated to be equivalent to 6-inches of earthen materials in accordance with OAR 340-97-120(5) or (6);
 - (5) Inert materials as approved by DEQ in accordance with the solid waste permit exemption process as authorized by OAR 340-93-080(2);
 - (6) Waste other than that permitted by this Agreement, provided it is authorized by Metro under a non-system license;
 - (7) Disaster debris as may be specifically authorized by the Director.
 - (8) Other waste as described in any future addendum to this Agreement approved by the Director of the Solid Waste and Recycling Department ("the Director"); and
- b. Except as provided in section 3a., the Facility agrees that no other types of wastes generated within the Metro boundary shall be accepted or disposed at the Facility, including but not limited to the following types of wastes: putrescible wastes; putrescible source-separated recyclable material; non-putrescible waste that has not undergone material recovery; source separated recyclable material; and any other materials prohibited by the DEQ solid waste disposal site permit.
3. Amendment of Sections 12 and 13 of the Designated Facility Agreement. All references to the "Director" in Sections 12 and 13 of the Designated Facility Agreement shall be replaced with references to the "Chief Operating Officer."

4. No Other Modifications. Except as modified herein, all other terms and conditions of the Designated Facility Agreement shall remain in full force and effect. Any conflict between the provisions of this Amendment No. 1, on the one hand, and the Designated Facility Agreement, on the other hand, shall be resolved by reference to and reliance upon this Amendment No. 1.

COFFIN BUTTE LANDFILL

By: _____

Print name and title

Date: _____

METRO

By: _____

Michael Jordan
Metro Chief Operating Officer

Date: _____

By: _____

Mike Hoglund
Director, Metro Solid Waste & Recycling Dept.

Date: _____

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 03-3344, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE AMENDMENT NO. 1 TO METRO CONTRACT NO. 924538, A DESIGNATED FACILITY AGREEMENT BETWEEN METRO AND VALLEY LANDFILLS, INC.

June 2, 2003

Prepared by: Janet Matthews

BACKGROUND

In November 2002, Metro Council approved a Designated Facility Agreement (DFA) with Valley Landfills, Inc., which owns and operates the Coffin Butte Landfill, located at 28972 Coffin Butte Road in Benton County, north of Corvallis, Oregon.

This DFA is the first to contain a "mandatory MRFin" provision, which limits disposal of dry waste chiefly construction and demolition debris -- to processing residual from Metro-authorized material recovery facilities (MRFs). Requiring dry waste to be processed through a MRF prior to disposal is intended to increase recovery of dry waste from the region.

Because the DFA stipulates that the landfill may accept dry waste processing residual only from Metro-authorized material recovery facilities, it does not allow for the direct disposal of processing residual when recovery takes place at a construction or demolition site. Thus, under the present terms of the DFA, construction or demolition projects with on-site source separation would be required to send already processed residual to a MRF for a second round of processing before the waste material could be delivered to Coffin Butte for disposal. This would likely add costs and vehicle miles traveled while yielding little to no additional recovery.

The proposed resolution would amend the DFA to allow the Coffin Butte Landfill to accept processing residual directly from construction and demolition sites, provided that material recovery is conducted at such sites. Other, non-substantial, changes have been included as well.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Metro Code Sections 5.05.030 (c) requiring the agreement be adopted by the Metro Council; and section (d) that requires the agreement to specify waste types.