

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING	)	RESOLUTION NO. 89-1102
AN AGREEMENT WITH THE CITY OF	)	
FOREST GROVE, OREGON, PERTAINING	)	Introduced by
TO AN ENHANCEMENT FEE FOR THE	)	Councilor Devlin
FOREST GROVE TRANSFER STATION	)	

WHEREAS, The Council of the Metropolitan Service District has adopted Ordinance No. 88-266 establishing that the apportionment of enhancement fees is appropriate for local communities where disposal sites are located; and

WHEREAS, A transfer station exists in the City of Forest Grove, Oregon, pursuant to a Metro-approved Franchise; and

WHEREAS, Metro's Community Enhancement Policy provides that Metro shall create or designate a local community enhancement committee, which may be a local governing body, which shall be responsible for making recommendations on the disbursement of funds under the community enhancement program; and

WHEREAS, The Forest Grove Transfer Station is a private facility that existed prior to the adoption of Metro's Community Enhancement Policy; and

WHEREAS, Exhibit "A" attached hereto is an appropriate agreement for the payment of enhancement fees related to the Forest Grove Transfer Station; now therefore,


BE IT RESOLVED,

1. That the Council of the Metropolitan Service District approves the execution of the Agreement attached as

Exhibit "A" with the City of Forest Grove.

2. That the Council of the Metropolitan Service District declares that the Enhancement Fee Agreement with the City of Forest Grove is not intended to set a precedent nor to be a model for future enhancement fee agreements with other jurisdictions.

ADOPTED by the Council of the Metropolitan Service District this 27th day of July, 1989.

  
\_\_\_\_\_  
Mike Ragsdale, Presiding Officer

DEC:gpwb  
a:Dev1102.res

## EXHIBIT "A"

### AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF FOREST GROVE, OREGON, ("FOREST GROVE"), and the METROPOLITAN SERVICE DISTRICT ("METRO"). The parties agree as follows:

A. METRO agrees to:

1. Subject to the limitations expressed elsewhere in this Agreement, impose a surcharge on and pay to FOREST GROVE an amount equal to 50 cents per ton for all solid waste received at the facility known as the Forest Grove Transfer Station (hereinafter "the FACILITY") except for source separated recyclable materials. Payments to FOREST GROVE shall be made according to the following provisions.

(a) The amount paid by METRO shall be deposited by FOREST GROVE in a separate, dedicated fund for the purpose of implementing plans, programs and projects for the rehabilitation and enhancement of the area around the transfer station pursuant to the terms of this Agreement.

(b) METRO shall have no obligation to make any payments to FOREST GROVE except from funds actually collected by METRO from the operator of the FACILITY unless METRO is itself operating the gatehouse of the FACILITY. METRO shall make a good faith effort to collect all funds. METRO retains the right to require the operator of the FACILITY to collect an additional 50 cents per ton surcharge on all waste received in order to obtain funds to make payments to FOREST GROVE.

2. Make available to FOREST GROVE, on an as requested basis, monthly reports of activity at the FACILITY including data on the gross weight of solid waste received in vehicles that are weighed as they enter the FACILITY, the number of other vehicles assessed fees on an estimated volume basis, and the tonnage of solid waste transferred from the FACILITY.

B. FOREST GROVE agrees:

1. That the City Council, functioning as the local community enhancement committee, will determine and submit for the Metro Council approval within six (6) months of the date of execution of this agreement:

(a) The boundary of the area eligible for rehabilitation and enhancement.

(b) Criteria for providing funds under the community enhancement program for the rehabilitation and enhancement of the area around the FACILITY.

2. The City Council shall hold a public hearing to provide the opportunity for comment on the proposed boundary of the area eligible for rehabilitation and enhancement, the criteria for providing funds under the community enhancement program, and annually for the selection of the individual projects or programs to be funded. Timely notice of these public hearings shall also be mailed to the Metro Councilor whose district includes Forest Grove.

3. To create a special fund and ensure that projects developed and funded pursuant to the community enhancement program, consistent with the funding criteria and within the eligible area,

are authorized for the disbursement of funds from such special fund. Administrative expenses may not be charged to the special fund.

4. To report annually to the Metro Executive Officer and the Metro Council on the expenditures of the special fund and fund balance no later than September 1 of each year.

5. If during the term of this Agreement, FOREST GROVE adopts a tax or charge that imposes a fee on haulers of commercial solid waste or other users of the FACILITY except as may be imposed by any tax duly adopted by FOREST GROVE of general applicability to all persons doing business in Forest Grove, then METRO shall have no further obligation to pay the sums provided for in this Agreement.

6. To provide all necessary administrative support to administer the Fund and shall only expend monies from the Fund in a manner consistent with its charter and applicable Oregon Laws.

7. To hold METRO harmless and indemnify METRO from any claims or causes of action of whatever nature that may arise out of FOREST GROVE's administration of the Fund.

C. Term. The term of this Agreement is indefinite unless one of the parties shall terminate pursuant to this section.

1. FOREST GROVE may terminate by giving thirty (30) days written notice to METRO.

2. METRO may terminate upon giving thirty (30) days written notice to FOREST GROVE if:

- (a) the operation of the FACILITY shall cease, or
- (b) METRO shall through duly adopted legislation

cease making similar payments through other local governments or Metro appointed advisory committee for mitigation and enhancement of areas affected by solid waste disposal facilities; or

(c) METRO is prevented by law from making payments pursuant to this Agreement.

3. METRO may otherwise terminate on June 30th of any year by giving FOREST GROVE at least six (6) months prior notice.

4. Payments to FOREST GROVE shall be made on all tonnage received at the FACILITY after January 1, 1989, on a retroactive basis.

D. Notice. Any notice required pursuant to this Agreement shall be delivered as follows:

If to FOREST GROVE:

Connie Fessler, City Manager  
City of Forest Grove  
P.O. Box 326  
Forest Grove, OR 97116

If to METRO:

The Honorable Rena Cusma  
Metropolitan Service District  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Copy to:

Daniel B. Cooper, General Counsel  
Metropolitan Service District  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Or as to such individuals as the parties may designate in writing in the future.

E. This Agreement sets forth the entire obligation of the parties to each other in connection with the FACILITY herein

described.

F. This Agreement is subject to specific enforcement by the courts at the request of either party.

G. Default. Each party agrees to give thirty (30) days written notice to the other in the event that it determines a default exists specifying the nature of the default and giving the other party the opportunity during said 30-day period to cure the default before taking any further action.

H. This Agreement shall become effective upon execution by the parties after prior approval of the terms of this Agreement by the Metro Council and Forest Grove City Council.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1989.

CITY OF FOREST GROVE

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_  
Rena Cusma

Title: \_\_\_\_\_

Title: Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Forest Grove City Attorney

\_\_\_\_\_  
Metro General Counsel

RD:RB:pa  
C:\JESS\DEV68RV.AGR  
8-2-89

## SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 89-1102, FOR THE PURPOSE OF AUTHORIZING AN AGREEMENT WITH THE CITY OF FOREST GROVE, OREGON, PERTAINING TO AN ENHANCEMENT FEE FOR THE FOREST GROVE TRANSFER STATION

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Date: July 5, 1989

Presented by: Councilor  
Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 4 to 1 to recommend Council adoption of Resolution No. 89-1102. Councilors voting aye: Hansen, Kelley, Buchanan and Ragsdale. Voting nay: Councilor Wyers. This action taken June 13, 1989.

Committee Discussion/Issues: Two different agreements regarding the Forest Grove Enhancement Fee were introduced at the Solid Waste Committee meeting on June 13, 1989. Resolution No. 89-1102 was introduced by Councilor Devlin; Resolution No. 89-1102A by Councilors Bauer, Collier and Gardner.

The "Devlin Agreement" includes a requirement that the Forest Grove City Council "shall provide the opportunity for public comment on the proposed boundary of the area eligible for rehabilitation and enhancement, the criteria for providing funds under the community enhancement program, and the selection of the individual projects or programs to be funded."

The "Devlin Agreement" also provides that payments to Forest Grove "shall be made on all tonnage received at the facility after January 1, 1989, on a retroactive basis."

The "Bauer, Collier and Gardner Agreement" provides for an enhancement grant program and requires the Forest Grove City Council or their designee to submit to the Metro Council "an annual grant proposal which meets the criteria for funding projects on programs under the Forest Grove enhancement program." Payments to Forest Grove shall be made on all tonnage received at the FACILITY after "June 1, 1989," on a retroactive basis. Payments shall be made on a quarterly basis.

Major Issues: The major issues discussed by the Solid Waste Committee included the following:

1. The local community enhancement committee: Citizens vs. City Council;
2. Retroactivity of payments to City of Forest Grove;
3. Setting precedent;
4. Acceptability of Agreement by City of Forest Grove;
5. Opportunity for public input (Forest Grove);
6. Metro's Community Enhancement Policy;
7. Approval authority for projects/programs and enhancement area boundaries.

### Arguments for Devlin Agreement:

1. It meets Metro's policy. Metro's Community Enhancement Policy states that "Metro shall create or designate a local community enhancement



committee, which may be a local governing body, which shall be responsible for making recommendations on the disbursement of funds under the community enhancement program."

2. The area if impact is similar to the area governed by the City Council.
3. Requires the opportunity for public input.
4. The City of Forest Grove will approve the Agreement.

Arguments Against Devlin Agreement:

1. Not consistent with the spirit of the earlier debate on the community enhancement policy and with the St. Johns model.
2. Gives too much authority to the City Council.
3. Payments retroactive to January 1, 1989. Goes back too far.

GH:RB:pa  
A:\RAYB.094

EXHIBIT "A"

\* REVISED \*

AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF FOREST GROVE, OREGON, ("FOREST GROVE"), and the METROPOLITAN SERVICE DISTRICT ("METRO"). The parties agree as follows:

A. METRO agrees to:

1. Subject to the limitations expressed elsewhere in this Agreement, impose a surcharge on and pay to FOREST GROVE an amount equal to 50 cents per ton for all solid waste received at the facility known as the Forest Grove Transfer Station (hereinafter "the FACILITY") except for source separated recyclable materials. Payments to FOREST GROVE shall be made according to the following provisions.

(a) The amount paid by METRO shall be deposited by FOREST GROVE in a separate, dedicated fund for the purpose of implementing plans, programs and projects for the rehabilitation and enhancement of the area around the transfer station pursuant to the terms of this Agreement.

(b) METRO shall have no obligation to make any payments to FOREST GROVE except from funds actually collected by METRO from the operator of the FACILITY unless METRO is itself operating the gatehouse of the FACILITY. METRO shall make a good faith effort to collect all funds. METRO retains the right to require the operator of the FACILITY to collect an additional 50 cents per ton surcharge on all waste received in order to obtain funds to make payments to FOREST GROVE.

2. Make available to FOREST GROVE, on an as requested basis, monthly reports of activity at the FACILITY including data on the gross weight of solid waste received in vehicles that are weighed as they enter the FACILITY, the number of other vehicles assessed fees on an estimated volume basis, and the tonnage of solid waste transferred from the FACILITY.

B. FOREST GROVE agrees:

1. That the City Council, functioning as the local community enhancement committee, will determine and submit for the Metro Council approval within six (6) months of the date of execution of this agreement:

(a) The boundary of the area eligible for rehabilitation and enhancement.

(b) Criteria for providing funds under the community enhancement program for the rehabilitation and enhancement of the area around the FACILITY.

2. The City Council shall hold a public hearing to provide the opportunity for public comment on the proposed boundary of the area eligible for rehabilitation and enhancement, the criteria for providing funds under the community enhancement program, and annually for the selection of the individual projects or programs to be funded. Timely notice of these public hearings shall also be mailed to the Metro Councilor whose district includes Forest Grove.

[2.]3. To create a special fund and ensure that projects developed and funded pursuant to the community enhancement program, consistent with the funding criteria and within the

eligible area, are authorized for the disbursement of funds from such special fund. Administrative expenses may not be charged to the special fund.

[3]4. To report annually to the Metro Executive Officer and the Metro Council on the expenditures of the special fund and fund balance no later than September 1 of each year.

[4]5. If during the term of this Agreement, FOREST GROVE adopts a tax or charge that imposes a fee on haulers of commercial solid waste or other users of the FACILITY except as may be imposed by any tax duly adopted by FOREST GROVE of general applicability to all persons doing business in Forest Grove, then METRO shall have no further obligation to pay the sums provided for in this Agreement.

[5.]6. To provide all necessary administrative support to administer the Fund and shall only expend monies from the Fund in a manner consistent with its charter and applicable Oregon Laws.

[6.]7. To hold METRO harmless and indemnify METRO from any claims or causes of action of whatever nature that may arise out of FOREST GROVE's administration of the Fund.

C. Term. The term of this Agreement is indefinite unless one of the parties shall terminate pursuant to this section.

1. FOREST GROVE may terminate by giving thirty (30) days written notice to METRO.

2. METRO may terminate upon giving thirty (30) days written notice to FOREST GROVE if:

- (a) the operation of the FACILITY shall cease, or
- (b) METRO shall through duly adopted legislation

cease making similar payments through other local governments [of] or Metro appointed advisory committee for mitigation and enhancement of areas affected by solid waste disposal facilities; or

(c) METRO is prevented by law from making payments pursuant to this Agreement.

3. METRO may otherwise terminate on June 30th of any year by giving FOREST GROVE at least six (6) months prior notice.

4. Payments to FOREST GROVE shall be made on all tonnage received at the FACILITY after January 1, 1989, on a retroactive basis.

D. Notice. Any notice required pursuant to this Agreement shall be delivered as follows:

If to FOREST GROVE:

Connie Fessler, City Manager  
City of Forest Grove  
P.O. Box 326  
Forest Grove, OR 97116

If to METRO:

The Honorable Rena Cusma  
Metropolitan Service District  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Copy to:

Daniel B. Cooper, General Counsel  
Metropolitan Service District  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Or as to such individuals as the parties may designate in writing in the future.

E. This Agreement sets forth the entire obligation of the parties to each other in connection with the FACILITY herein described.

F. This Agreement is subject to specific enforcement by the courts at the request of either party.

G. Default. Each party agrees to give thirty (30) days written notice to the other in the event that it determines a default exists specifying the nature of the default and giving the other party the opportunity during said 30-day period to cure the default before taking any further action.

H. This Agreement shall become effective upon execution by the parties after prior approval of the terms of this Agreement by the Metro Council and Forest Grove City Council.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1989.

CITY OF FOREST GROVE

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_  
Rena Cusma

Title: \_\_\_\_\_

Title: Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Forest Grove City Attorney

\_\_\_\_\_  
Metro General Counsel

RD:RB:pa  
C:\JESS\DEV68RV.AGR  
7-27-89



# METRO

2000 SW First Avenue  
Portland, OR 97201-5398  
(503) 221-1646  
Fax 241-7417

May 11, 1989

COPY

The Honorable Mike Ragsdale  
Presiding Officer  
Metropolitan Service District  
2000 S. W. First Avenue  
Portland, OR 97201-5398

Executive Officer  
Rena Cusma

Metro Council

Mike Ragsdale  
Presiding Officer  
District 1

Sharron Kelley  
Deputy Presiding  
Officer  
District 7

Lawrence Bauer  
District 2

Jim Gardner  
District 3

Richard Devlin  
District 4

Tom DeJardin  
District 5

George Van Bergen  
District 6

Judy Wyers  
District 8

Tanya Collier  
District 9

Roger Buchanan  
District 10

David Knowles  
District 11

Gary Hansen  
District 12

Dear Councilor Ragsdale:

Re: Agreement with City of Forest Grove Regarding Host Fees

You have asked for an explanation of the intent of language in the Host Fee Agreement with Forest Grove which provides that Forest Grove must spend any moneys paid by Metro in a manner consistent with the city's charter.

You question whether there are provisions in the charter of the city of Forest Grove that would require money to be expended in a manner or for purposes different than that provided for in the Agreement. I have reviewed the charter of the city of Forest Grove and find no requirements in that charter which are inconsistent with any of the terms or provisions of the agreement between Metro and the city regarding host fees.

The intent of the language was to indicate that the city would be acting subject to the limitations in its charter as to procedural requirements for expending money. The procedural requirements contained in the city charter are in no way inconsistent with either the specifics or the general intent of the Host Fee Agreement.

Yours very truly,

Daniel B. Cooper  
General Counsel

gl



**METRO**

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

# Memorandum

**Date:** June 8, 1989

**To:** Metro Councilors

**From:** Ray Barker, Council Analyst

**Regarding:** AGENDA ITEM NO. 3: RESOLUTION NO. 89-1102, FOR THE PURPOSE OF AUTHORIZING AN AGREEMENT WITH THE CITY OF FOREST GROVE, OREGON, PERTAINING TO AN ENHANCEMENT FEE FOR THE FOREST GROVE TRANSFER STATION

Two different agreements regarding the Forest Grove Enhancement Fee will be introduced: one by Councilor Devlin, and one by Councilors Collier, Bauer and Gardner. Amendments to the resolution and the agreements are being drafted and will need to be reviewed by General Counsel. Copies of the resolution and the agreements will be distributed as soon as possible.

RB:gpwb  
891102.mem



BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING ) RESOLUTION NO. 89-1102  
AN AGREEMENT WITH THE CITY OF )  
FOREST GROVE, OREGON, PERTAINING ) Introduced by Councilors  
TO AN ENHANCEMENT FEE FOR THE ) Bauer and Devlin  
FOREST GROVE TRANSFER STATION )

WHEREAS, The Council of the Metropolitan Service District has adopted Ordinance No. 88-266 establishing that the apportionment of enhancement fees is appropriate for local communities where disposal sites are located; and

WHEREAS, A transfer station exists in the City of Forest Grove, Oregon, pursuant to a Metro-approved Franchise; and

WHEREAS, Exhibit "A" attached hereto is an appropriate agreement for the payment of enhancement fees related to the Forest Grove Transfer Station; now therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District approves the execution of the Agreement attached as Exhibit "A" with the City of Forest Grove.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_\_\_ day of \_\_\_\_\_, 1989.

\_\_\_\_\_  
Mike Ragsdale, Presiding Officer

DEC:gpwb  
a:891102.res

EXHIBIT "A"

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3. METRO may otherwise terminate on June 30th of any

year by giving FOREST GROVE at least six (6) months prior notice.

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The Honorable Rena Cusma  
Metropolitan Service District  
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Portland, OR 97201-5398

Copy to:

Daniel B. Cooper, General Counsel  
Metropolitan Service District  
2000 S.W. First Avenue  
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Or as to such individuals as the parties may designate in writing in the future.

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F. This Agreement is subject to specific enforcement by the courts at the request of either party.

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H. This Agreement shall become effective upon execution by the parties after prior approval of the terms of this Agreement by the Metro Council and Forest Grove City Council.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1989.

CITY OF FOREST GROVE

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_  
Rena Cusma

Title: \_\_\_\_\_

Title: Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Forest Grove City Attorney

\_\_\_\_\_  
Metro General Counsel

DBC/PN:gl  
a:fgagree.exe