

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING A) ORDINANCE NO 99-800
SOLID WASTE FRANCHISE GRANTED)
TO USA WASTE OF OREGON, INC.) Introduced by Executive Officer Mike Burton,
DBA METROPOLITAN DISPOSAL AND) Councilor Ed Washington, and Councilor
RECYCLING CORPORATION TO) Susan McLain
OPERATE THE FOREST GROVE)
TRANSFER STATION; AND)
DECLARING AN EMERGENCY)

WHEREAS, in Ordinance No. 97-718, the Metro Council authorized the Executive Officer to enter into a franchise agreement with USA Waste of Oregon, Inc., dba Metropolitan Disposal and Recycling Corporation; and

WHEREAS, as described in the accompanying staff report, Metro and the franchisee wish to modify certain provisions of the franchise; and

WHEREAS, Metro has determined that such modifications are acceptable and are in the public interest because they will allow solid waste to be transported to the nearest transfer station, thereby reducing regional traffic congestion and pollution; and

WHEREAS, this Ordinance was submitted to the Executive Officer for consideration and is now forwarded to the Council for approval; and

WHEREAS, allowing this Ordinance to take effect immediately is necessary for the public health, safety and welfare of the Metro area, because the franchise for the operation of the Forest Grove Transfer Station constitutes an integral and important part of the regional solid waste disposal system, and no benefit would be derived by delaying the effective date of this ordinance, and such delay may cause disruption; and

WHEREAS, the Executive Officer recommends that the Council amend the franchise to USA Waste, dba Metropolitan Disposal and Recycling Corporation; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

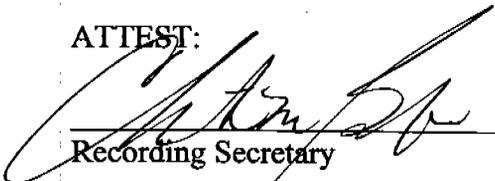
1. That the franchise issued to USA Waste, dba Metropolitan Disposal and Recycling Corporation, shall be modified as described in the attached Exhibit "A" to this Ordinance; and
2. This Ordinance being necessary for the public health, safety and welfare of the Metro area, an emergency is hereby declared to exist; because the franchise for the operation of the Forest Grove Transfer Station constitutes an integral and important part of the regional solid waste system, no benefit would be derived by delaying the effective date of this Ordinance. This Ordinance shall take effect upon its passage.

ADOPTED by the Metro Council this 15th day of April 1999.



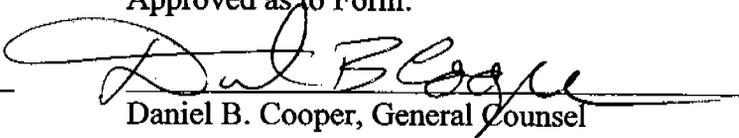
Rod Monroe, Presiding Officer

ATTEST:



Recording Secretary

Approved as to Form:



Daniel B. Cooper, General Counsel

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Exhibit A
to Ordinance 99-800

The following amendments shall be included in the solid waste franchise issued to USA Waste of Oregon, Inc., dba Metropolitan Disposal and Recycling Corporation.

- Delete the heading and text of Section 6.1 and the heading of Section 6.2, "Further Limitations," and delete Sections 6.2.1, 6.2.2 and 6.2.3.
- Renumber Section 6.2.4 as Section 6.1.
- Delete Sections 15.1 through 15.4 and renumber Section 15.5 as Section 15.1.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 99-800 FOR THE PURPOSE OF AMENDING A SOLID WASTE FRANCHISE GRANTED TO USA WASTE OF OREGON, INC., DOING BUSINESS AS METROPOLITAN DISPOSAL AND RECYCLING CORPORATION, TO OPERATE THE FOREST GROVE TRANSFER STATION; AND DECLARING AN EMERGENCY.

Date: March 11, 1999

Presented by: Bruce Warner

PROPOSED ACTION

Adopt Ordinance No. 99-800.

FACTUAL BACKGROUND AND ANALYSIS

The Forest Grove Transfer Station (FGTS) is a privately owned transfer station, operated by USA Waste of Oregon, Inc., under a franchise granted by Metro. The first franchise for this transfer station was issued by Metro in 1985. It was subsequently renewed in 1988 and 1994, and is scheduled to expire in early 1999. This transfer station is one of three regional transfer stations identified in the Regional Solid Waste Management Plan.

The Forest Grove Transfer Station currently handles about ten percent of the municipal solid waste generated within the Region. The waste from the transfer station is currently disposed of at the Riverbend Landfill near McMinnville, Oregon. The waste from this transfer station has historically been disposed of at the Riverbend Landfill, except for a short period between June 1994 and May 1995, when the Columbia Ridge Landfill was used.

Metro was notified in late 1996 that the franchise holder had entered into negotiations for the sale of the facility to USA Waste. Metro negotiated a new franchise with USA Waste of Oregon, doing business as Metropolitan Disposal and Recycling that took effect on December 31, 1997. In July of 1998, USA Waste merged with Waste Management.

The franchise that Metro granted to USA Waste of Oregon to operate the Forest Grove Transfer Station has two unique elements. While the franchise doesn't limit the amount of solid waste that can be handled, the amount of waste disposed of at a general-purpose landfill can not exceed ten percent of the Metro Region's waste. This limitation was placed in the franchise to enable Metro to meet the flow guarantee included in its disposal contract.

A new fee, the "Differential Fee," was established in the Forest Grove Transfer Station franchise. This fee was designed to substitute for periodic rate review. The level of the fee was set to reflect the difference in operating cost between Metro facilities and the Forest Grove Transfer Station. With this fee, the operator could charge a tip fee equal to the Metro tip fee and receive a fair and reasonable fee for the operation of the transfer station. This fee also compensated

Metro's ratepayers for an increase in disposal costs due to a reduction in tonnage delivered under Metro's disposal contract.

After the merger of Waste Management and USA Waste, changes have occurred that eliminate the need for these two franchise provisions. As a result of negotiations with Metro, changes have been proposed to the Disposal Contract that modify the guarantees in the contract so that Metro will no longer be in violation of the contract if the Forest Grove Transfer Station sends more than ten percent of the Region's waste to the Riverbend Landfill.

The proposed changes in Metro's Disposal Contract also eliminate the need for the Differential Fee. The proposed contract modifications change the method of determining Metro's rate so that the Region's ratepayers' cost will not vary with the amount of waste sent to the Riverbend Landfill. The rate reductions proposed in the disposal contract modifications are in excess of the differential fee. If Metro elects to pass on these savings in its tip fee, the operator of the Forest Grove Transfer Station will receive a lower rate for transfer and transportation of the waste than with the differential fee.

This ordinance eliminates the sections of the franchise that require payment of the Differential Fee and the limitations on where waste can be disposed of.

BUDGET IMPACT

There is no budget impact of these changes during the current fiscal year. In the 1999-2000 fiscal year, the budget impact will be a revenue loss of approximately \$350,000.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 99-800.