

CLARK COUNTY
STAFF REPORT

DEPARTMENT/DIVISION: Public Works/Environmental Services

DATE: September 23, 1998

REQUEST: Adopt Resolution Authorizing the Chair of the Board to Execute Third Amendment to the "Contract Regarding Solid Waste Transfer, Transport and Out-of-County Disposal" with Columbia Resource Company.

CHECK ONE: Consent Discussion Public Hearing

BACKGROUND: On April 11, 1990, Clark County and Tidewater Barge Lines (Columbia Resource Company) entered into a twenty year contract for services. These services included the construction and operation of a solid waste recycling and disposal system with local recycling and transfer facilities and out-of-county waste disposal. The term of the contract is from January 1, 1992 to December 31, 2011. The present system consists of two recycling and transfer stations which process and transfer the county's waste into compacted, long-haul containers. Barges then haul the containerized, non-recycled solid waste up the Columbia River to the Port of Morrow, Oregon. From the Port, the waste is transferred and hauled by truck to Tidewater's landfill near Boardman, Oregon (Finley Buttes Landfill Company). Minor amendments were made to this contract in 1992 and 1996.

Over the past several months, discussions between Columbia Resource Company (CRC), the commercial haulers within Clark County, the Clark County Solid Waste Advisory Commission, and County and City of Vancouver solid waste staff have led to several proposed changes to the existing solid waste contract between CRC and the County. These discussions examined several alternatives for disposal fee rate restructuring which would make the County's regional disposal system more responsive to the market place and less reliant on government enforcement actions.

The proposed rate restructuring has four primary objectives:

- To establish rates for disposal services which are more responsive to market dynamics and secure the County's privately operated solid waste system.
- To ensure that disposal rates appropriately reflect true costs of service.
- To provide incentives for customers to consolidate loads and minimize trips to the transfer stations.
- To stabilize County solid waste system funding.

PW 98-223

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To implement these objectives, the following sections of the solid waste contract between CRC and the County are proposed to be amended:

1. Section 10.2; Tipping Fees/CPI Adjustment: A review of current disposal fees structure indicates that the current pricing structure does not adequately reflect transaction costs at the transfer stations and encourages inefficient use of the facilities. Because current charges are based only upon the weight of the waste delivered, the current \$5.00 minimum transfer station fee does not cover costs. The Clark County Auditor's Office has reviewed CRC records and determined that the average cost per transaction is \$18.64. The proposed amendments establish a "transaction fee" plus tonnage-based approach. This allows disposal fees to be restructured to be more reflective of the actual costs of transfer station services. The fees for the variable costs of transporting the waste are proposed to be decreased and will continue to be charged based upon weight. A transaction fee is proposed in order to more equitably distribute the fixed costs associated with the transfer station facilities to the entire customer base. Currently, commercial haulers and others with larger loads are paying a disproportionate share of the fixed costs. This results in the commercial haulers and other large load customers subsidizing customers with smaller loads.

The current disposal fee is \$74.50 per ton. The disposal fees are proposed to be reduced to \$59.40 per ton for commercial drop box waste and \$66.85 per ton for all other waste. In addition, a transaction fee of \$10 would be assessed to all loads regardless of size to cover basic service costs. The net effect of the proposed changes would be a cost decrease for residential and commercial garbage service customers and a cost increase for self-haulers bringing in small loads.

The other proposed modification in this section changes the mechanism of an automatic annual CPI adjustment granted to CRC. This modification allows CRC to take all, none, or a portion of the CPI adjustment that the contract allows. This change permits future rate change behavior to be responsive to market place conditions.

2. Section 10.11; Administrative/Regulatory Fee: The proposed modification changes the County's solid waste program fee from a per-ton fee to a flat franchise fee. This change was designed to be revenue neutral for the County and to provide funding stability for the County's regional solid waste program services including long-term solid waste planning and regional waste reduction and recycling programs. The proposed language also establishes threshold tonnage expectations and provides for an additional fee of \$3.50 per ton to be paid to the County in the event that these thresholds are exceeded.

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3. Section 14.4 and 14.5; Pollution Liability Self-Insurance Fund: The proposed modification eliminates future CRC contributions to a self-insurance fund and allows the existing self-insurance fund account to be used by CRC for other financial and environmental insurance purposes. The elimination of this provision resulted in disposal fees being decreased by \$0.91 per ton.

4. Article 1 of the Contract and Section 1.2 of the Technical Specifications to the Contract: The proposed changes modify "prior approval" restrictions on out-of-county waste from being accepted at the transfer stations. It is estimated that at least 50,000 tons per year of waste generated within Clark County is currently disposed of in facilities outside of the County's disposal system. The proposed changes mirror changes by neighboring jurisdictions, helps "level the playing field" for CRC in the competitive marketplace, and anticipates trends towards deregulation of solid waste flow control. While the proposed language would allow for some limited importation of solid waste into Clark County it also provides for safeguards against wholesale importation of waste by CRC.

5. New definitions added to Article 1 of the Contract and modification to Section 6.5 of the Technical Specifications: These modifications are needed for the proposed changes described above.

6. Effective Date: The proposed contract amendment would become effective January 1, 1999.

COMMUNITY OUTREACH: Clark County and City of Vancouver Solid Waste Program staff held a series of meetings with CRC and the garbage collection companies beginning in February. This "technical group" developed several options for consideration by the County's Solid Waste Advisory Commission (SWAC) and the public. Three options, with a range of potential transaction fee/tip fee combinations, were selected for public discussion. Public discussion occurred through SWAC during a series of meetings from May through July.

On June 18, the SWAC also held a special meeting to gather public comment. This meeting was advertised through news stories in each of the local and regional daily and weekly newspapers. Flyers were also distributed at each of the transfer stations. Environmental Services staff briefed the Board of County Commissioners in a work session on August 12.

ACTION REQUESTED: Adopt the attached resolution authorizing the Chair of the Board to sign the "Third Amendment to the Contract Regarding Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal" with Columbia Resource Company.

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BUDGET IMPLICATIONS: While the rate restructuring included in the proposed contract amendment is revenue neutral for the County, the proposed changes have immediate benefits to County solid waste system customers and long term benefits to the county. A rate decrease would provide immediate benefits for approximately 90% of the County's residents and businesses. Additionally, elimination of one year's scheduled CPI adjustment yields \$500,000 in reduced fees for 1999 for all system users. Over the long term, these changes will further stabilize the County's solid waste service delivery and funding by providing more flexibility to respond to market place changes.

POLICY IMPLICATIONS: If implemented, the proposed changes would benefit Clark County solid waste system users in several ways. Approximately 90 percent of Clark County households and businesses would see a reduction in solid waste costs through lower fees. Any lower fees established would be passed on directly to customers.

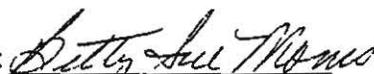
By moving towards charges that more closely reflect the cost of providing the service, residential and commercial customers who are signed up for curbside collection service will provide less of a subsidy to small self-haulers. Larger, more efficient, consolidated loads will save money and be encouraged. This will reduce the total trips/traffic to the transfer stations.

A system that is responsive to competitive pressure tends to be more efficient. The proposed changes maintain the County's comprehensive solid waste management system by encouraging competitive market forces rather than government enforcement.

DISTRIBUTION: Please return two original copies of the signed agreement to the Public Works Department.



Brian K. Carlson,
Environmental Services Manager

APPROVED: 
CLARK COUNTY WASHINGTON
BOARD OF COMMISSIONERS



Ron S. Bergman,
Director of Public Works

RSB:GS:SN

Attachments: Resolution, Third Amendment to Contract Regarding Solid Waste Recycling, Transfer, Transport and Disposal.

RESOLUTION No. 1998-09-29

A RESOLUTION relating to solid waste amending the Contract Regarding Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal between Clark County, a political subdivision of the State of Washington ("Clark County"), Tidewater Barge Lines, Inc., an Oregon Corporation ("Tidewater"), and Columbia Resource Company, L.P., a Washington Limited Partnership ("CRC").

WHEREAS, Clark County and Tidewater entered into a Contract Regarding Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal on the 11th day of April 1990 ("Contract"); and

WHEREAS, Tidewater assigned its interest under the contract to CRC by assignment dated January 1, 1991, which assignment was acknowledged by Clark County on December 9, 1991 and which assignment did not relieve or release Tidewater from any rights or responsibilities under the Contract; and

WHEREAS, on the 9th day of December 1992, and on the 16th day of December 1996, Clark County, Tidewater and CRC amended the Contract in several respects; and

WHEREAS, Clark County, Tidewater and CRC again wish to amend the Contract in several respects;

and

WHEREAS, on September 23, 1998 the Environmental Services Manager, Clark County Department of Public Works, forwarded the proposed contract amendments and a staff report recommending the Board approve the proposed contract amendments; and

WHEREAS, the County has determined it to be in the public interest to modify the Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal Contract; and

WHEREAS, the Third Amendment to the Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal Contract has been forwarded to the Board of County Commissioners for execution; now therefore,

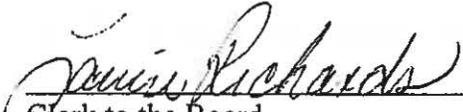
BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR CLARK COUNTY, STATE OF WASHINGTON, as follows:

1. That it is in the public interest to enter into the Third Amendment to the Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal Contract.
2. That certain agreement entitled the "Third Amendment to the Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal Contract" between Clark County and Tidewater Barge Lines are

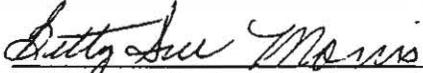
hereby approved and the Chair of the Board is authorized to execute said agreement on behalf of Clark County.

ADOPTED this 27th day of September, 1998

ATTEST:


Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON

By 
Betty Sue Morris,
Chair

Approved as to Form Only
ARTHUR D. CURTIS
Prosecuting Attorney

By 
E. Bronson Potter,
Deputy Prosecuting Attorney

By _____
Mel Gordon,
Commissioner

By _____
Judie Stanton,
Commissioner

SW 98-87

**THIRD AMENDMENT TO CONTRACT REGARDING
SOLID WASTE RECYCLING, TRANSFER,
TRANSPORT AND OUT-OF-COUNTY DISPOSAL**

THIS THIRD AMENDMENT to the Contract Regarding Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal is entered into this 29th day of September, 1998, between Clark County, a political subdivision of the State of Washington ("Clark County"), Tidewater Barge Lines, Inc., an Oregon Corporation ("Tidewater"), and Columbia Resource Company, L.P., a Washington Limited Partnership ("CRC").

RECITALS

WHEREAS, Clark County and Tidewater entered into a Contract Regarding Solid Waste Recycling, Transfer, Transport and Out-of-County Disposal on the 11th day of April, 1990 ("Contract"); and

WHEREAS, Tidewater assigned its interest under the Contract to CRC by assignment dated January 1, 1991, which assignment was acknowledged by Clark County on December 9, 1991 and does not relieve or release Tidewater from any rights or responsibilities under the Contract; and

WHEREAS, on the 9th day of December, 1992, and on the 23rd day of December, 1996, Clark County, Tidewater and CRC amended the Contract in several respects; and

WHEREAS, Clark County, Tidewater and CRC again wish to amend the Contract in several respects; now, therefore,

CLARK COUNTY, TIDEWATER AND CRC agree as follows:

1. Article 1 of the Contract, the definition of "Acceptable Waste" is modified to read:

"Acceptable Waste" means all putrescible and non-putrescible wastes ~~originating within the County or within jurisdictions approved by the County~~ including but not limited to:

- (a) Garbage as defined in WAC 173-304-100;
- (b) Rubbish;
- (c) Refuse;
- (d) Residential heating and cooking ash;

- (e) Waste paper;
- (f) Cardboard;
- (g) Commercial Waste;
- (h) Industrial waste as defined in WAC 173-304-100;
- (i) Demolition waste as defined in WAC 173-304-100;
- (j) Construction waste;
- (k) Manure;
- (l) Dead animals under 200 pounds;
- (m) Yard Waste;
- (n) Empty non-rigid pesticide containers (bags);
- (o) Empty rigid pesticide containers that have been properly decontaminated by jet or multiple rinsing and crushing; or
- (p) Other materials and substances that may in the future be included in the definition of "solid waste" in ORS 459.005, RCW 70.95.030 or regulations promulgated thereunder.

2. Section 10.2 of the Contract is modified to read:

10.2 Basic Tipping Fees; CPI Adjustment. The Tipping Fees for Acceptable Waste delivered to the Transfer Stations and method to adjust those Tipping Fees for changes in the CPI are set forth in subsections (a) and (b) below.

- (a) Basic Tipping Fees. ~~Effective January 1, 1999, the Basic Tipping Fees for Acceptable Waste delivered to the Transfer Stations shall be as follows. Effective January 1, 1996, the basic Tipping Fees for Acceptable Waste delivered to the Transfer Stations shall be:~~

Non-drop Box Waste	\$ 66.85 per Ton
Commercial Drop Box Waste	\$ 59.40 per Ton

~~In addition to the Basic Tipping Fee above, each load of Acceptable Waste delivered to the transfer stations will be assessed a \$10.00 transaction fee.~~

1. ~~The County Administrative/Regulatory Fee described in Section 10.3(d); and~~
2. ~~\$65.74 per ton, composed of the following components:~~

Transfer Stations/Recycling	\$31.10
Transportation	14.64
Disposal	<u>20.00</u>
TOTAL	\$65.74

(b) The ~~\$65.74 per ton~~ Tipping Fee for Acceptable Waste set out above represents compensation to the Contractor for all services the Contractor proposed to provide to the County in Contractor's June 22, 1988, response to the County's RFQ/P including the following additional Facilities and services:

- A. 12 Additional operating hours per week, as specified in Section 2.5 of the Specifications,
- B. Drop box storage, as specified in Section 2.3.22 of the Specifications,
- C. Truck wash facilities, as specified in Section 2.3.14 of the Specifications, and
- D. Construction and operation of Household Hazardous Waste dropoff facilities including land, improvements, utilities, engineering and permitting, as specified in Section 2.7 of the Specifications.

Beginning with an adjustment on January 1, 1997 ~~2001~~, the ~~Transfer Stations/Recycling, Transportation and Disposal components~~ ~~Basic Tipping Fees~~, under (a)(2), above, shall ~~may~~ be increased or decreased on January 1 of each year at up to the rate of 82% of the percentage point increase or decrease in the Consumer Price Index that occurred during the first six months of the previous year and the last six months of the year preceding that year at the sole option of the Contractor. Should Contractor elect to not increase ~~Basic Tipping Fees~~ on January 1, up to the full amount allowed, the CPI adjustment shall be cumulative to the next January 1. The allowable adjustment on January 1, 2001, shall be an amount equal to a year 2000 adjustment and the year 2001 adjustment on a base amount of \$66.00 for non-drop box waste and \$58.64 for commercial drop box waste.

3. Section 10.11 of the Contract is modified to read:

10.11 Administrative/Regulatory Fee. ~~On or before the 5th day of each month, the Contractor shall pay the County the applicable Administrative/Regulatory Fee on all Waste for which the Contractor charged a Tipping Fee for the month preceding the immediately preceding month. (Example: the Administrative Fee due on Tipping Fees charged during January is due March 5). If the Contractor has previously paid the County an Administrative/Regulatory Fee for Waste accepted on credit, and Contractor demonstrates that the debt cannot reasonably be collected, Contractor may deduct the Administrative/Regulatory Fee paid on such Waste from any payment due under this section. Contractor may display the amount of the Administrative/Regulatory Fees on signs,~~

receipts, monthly invoices or other documents made available to ratepayers. The Contractor may, or the County may cause the Contractor to, refuse service to any Person that fails to pay the Administrative/Regulatory Fee component or the Tipping Fee. Contractor shall pay to the County an Administrative Fee of \$100,000 per month so long as this Contract is in effect. The first Administrative Fee monthly payment shall be due and paid sixty-five (65) days after the effective date of this Third Amendment to the Contract. The Administrative Fee shall be adjusted on the same date and by the same percentage as the CPI adjustment to the Basic Tipping Fees in accordance with Article 10.2(b). Any increase in the Administrative Fee shall be in addition to the Basic Tipping Fees increase. In addition to the monthly County Administrative Fee, the Contractor shall pay the County an additional fee of \$3.50 per ton for all tons of Acceptable Waste delivered to the transfer stations in excess of the total tons listed below. Acceptable Waste, for purposes of determining the Administrative Fee, does not include separated recyclables, wood, yard debris or clean co-mingled recyclables. The fee will be paid to the County sixty (60) days following the last day of the year for all tons received in excess of the total tons for the year.

Year	Total
1998	246,000
1999	252,900
2000	260,007
2001	267,327
2002	274,867
2003	282,633
2004	290,632
2005	298,871
2006	307,357
2007	316,098
2008	325,101
2009	334,374
2010	343,925
2011	353,763

4. Sections 14.4(a) and (b) of the Contract are modified to read:

14.4 Pollution Liability Self-Insurance Fund.

(a) **Establishment and Funding of Self-Insurance Fund.** Pursuant to the Contract, the Contractor has previously made periodic payments to a self-insurance fund to satisfy the pollution insurance coverage required under Sections 14.3(6) and (7) of the Contract. The self-insurance fund is currently being held in escrow and managed by a trustee designated by the Contractor and approved by the County. After the effective date of this Third Amendment to the Contract, the Contractor's obligation to make payments to said fund shall cease. The Contractor will make a tax calculation for the 1998 fund earnings and contributions as of the effective date of the third amendment, which amount will be distributed from the fund to the Contractor and applied to any liability for taxes. Immediately following the distribution for taxes, thirty percent of the fund balance, as of the effective date

of the third amendment, shall be distributed to the County. Any future interest earned on fund principal shall remain on deposit in the fund until distributed in accordance with this Article. The Contractor shall in accordance with this Section establish, maintain and pay all Costs and fees relating to a self-insurance fund to satisfy the pollution insurance coverage required under section 14.3(6) and (7). The self-insurance fund shall be held in escrow and managed by a trustee (which may be the County) designated by the Contractor pursuant to an escrow agreement submitted by the Contractor on or before June 1, 1991, to the County for its approval. Effective January 1, 1996, the Contractor shall deposit in the fund no less than \$2.14 of the per ton Tipping Fee received in accordance with Article 10, as adjusted in the same manner as provided for the CPI adjustment of Tipping Fees in Section 10.2 for each ton of Waste Transferred, Transported and Disposed under the Contract. Any interest earned on fund principal shall remain on deposit in the fund until distributed in accordance with this Article.

(b) Insurance Adjuster to Handle Pollution Claims; Distributions. The Contractor shall designate an insurance adjuster approved by the County, acting reasonably, to handle any pollution claims made against the Contractor or County that are related to the Project. Except as provided for in Section 14.5, the The fund shall be used exclusively for claims arising for the Contractor's performance of its obligations under the Contract. The trustee shall hold the funds for a period of ten years from the last date that Waste originating within the County is disposed of at the Disposal Site. Provided there are no claims against the fund then pending, the Contractor may thereafter direct the trustee in writing to make distributions from distribute the fund balance to the Contractor. Each distribution so made shall be divided by the Contractor and the County as follows: seventy percent to the Contractor and thirty percent to the County. However, such distributions may only be authorized by the Contractor.

5. Section 14.5 of the Contract is modified to read:

14.5 Use of Fund CPI Adjustment. The Contractor shall every five years adjust the coverage limits in Section 14.3, except those limits in Section 14.3(1)(a) and 14.3(7), to reflect one hundred percent of any percentage point increase or decrease in the Consumer Price Index, rounded to the nearest \$100,000, for the previous five years. Notwithstanding Section 14.4(b) of the Contract, the Contractor may also utilize the fund for the following purposes:

(a) To satisfy any insurance coverage deductible related to environmental liability for claims made against the Contractor or any affiliated entity arising out of the operation of Finley Buttes Landfill.

(b) As a pledge of financial assurance to the Oregon Department of Environmental Quality, pursuant to requirements relating to the siting and operation of the Finley Buttes Landfill in Morrow County, Oregon.

6. Section 1.2 of the Technical Specifications is modified to read:

1.2 Contractor's General Obligations. The Contractor shall accept, Transfer, Transport and Dispose of all Waste delivered to the Transfer Stations, including but not limited to the handling and sale of Waste directed by the County to the Recycling Processing Center as a part of the Recycling program. ~~Without prior County approval, the Contractor shall not use the Transfer Stations or Recycling Processing Center to process or handle waste originating outside the County or originating in nonparticipating Cities; however, Contractor may use the Recycling Facilities to Recycle materials substantially originating in Morrow County, Oregon.~~ The Contractor shall not use the Transfer Stations or Recycling Processing Center to process or handle waste originating outside the County without Director approval if the total amount of waste received at the Transfer Stations is more than the amount listed in the table below and is comprised of more than 20% out of County waste. The Contractor shall use all reasonable measures to prevent Unacceptable Waste from being delivered to the Disposal Site. The Contractor shall use reasonable measures to determine the origin of all Acceptable Waste delivered to the Transfer Stations by Commercial Vehicles.

<u>Year</u>	<u>Tons</u>
1998	280,000
1999	288,400
2000	297,052
2001	305,964
2002	315,142
2003	324,597
2004	334,335
2005	344,365
2006	354,696
2007	365,336
2008	376,297
2009	387,585
2010	399,213
2011	411,189

7. The following new definitions are added to Article 1 of the Contract:

"Commercial Drop Box" means a detachable container of 10 yards or greater capacity, transported by a roll-off vehicle for purposes of hauling waste originating from a single customer at a single location.

"Commercial Vehicle" means a self-unloading vehicle, with a capacity of 10 yards or greater.

8. The following new reporting requirements are added to Section 6.5 of the Technical Specifications:

(m) Daily and monthly tonnages of Waste delivered to the Transfer Stations by Commercial Vehicle, separately and combined, originating from outside the County.

9. Effective Date. The effective date of this Third Amendment is January 1, 1999.

DATED this 29th day of September, 1998.

Attest:

BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON

Ann Richards
Clerk to the Board

By *Betty Sue Morris*
Betty Sue Morris, Chair

Approved as to Form Only
ARTHUR D. CURTIS
Prosecuting Attorney

By _____
Mel Gordon, Commissioner

By *E. Bronson Potter*
E. Bronson Potter
Deputy Prosecuting Attorney

By _____
Judie Stanton, Commissioner

COLUMBIA RESOURCE CO.

TIDEWATER BARGE LINES, INC.

By *Wes Hickey*
Wes Hickey, General Mgr.

By *Wes Hickey*
Wes Hickey, President