

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Adoption of an Ordinance to)
 Amend Ordinance 578 to Modify the Solid Waste)
 Disposal License Agreement with Riverbend) ORDINANCE 693
 Landfill and the Riverbend Landfill Co. Revocable)
 Landfill-Environmental Trust Agreement;)
 Declaring an Emergency; Effective Immediately.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on February 1, 2001, commissioners Robert Johnstone and Thomas E.E. Bunn being present. Commissioner Leslie Lewis was excused..

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. ORS 459.110 to 459.990 authorize a county to enact ordinances and issue franchises and licenses regulating the collection and disposal of solid waste outside the incorporated areas of cities within the county. Yamhill County's Solid Waste Ordinance 1997, Ordinance 626, as amended, currently regulates solid waste collection and disposal within the unincorporated areas of the county. Under the Solid Waste Ordinance, 1997 and predecessor ordinances the Board is authorized to grant a solid waste disposal license agreement.

B. On August 31, 1994 the Board adopted Ordinance 578 to, among other things, approve a Solid Waste Disposal License Agreement with Riverbend Landfill. Ordinance 578 also approved a First Supplemental Trust Agreement to the Riverbend Landfill Co. Revocable Landfill-Environmental Trust Agreement (RLE Trust) which had been created in 1989. County records related to creation of the RLE Trust can be found in Board Order 89-177. The First Supplemental Trust Agreement provided that upon dissolution of the trust any remaining trust assets would become property of Riverbend Landfill.

C. In June, 2000 Riverbend Landfill asked the Board to make the following modifications to the License Agreement and RLE Trust: (a) So long as funds in the RLE Trust exceeded \$5,000,000 in year 2001 dollars, Riverbend would stop collecting that portion of the Landfill Environmental Expense Charge used to fund RLE Trust contributions and cease RLE Trust contributions in order to decrease solid waste disposal rates; (b) The RLE Trust portion of the Landfill Environmental Expense Charge would be reinstated when the RLE Trust dropped below \$5,000,000 in year 2001 dollars; (c) Funds in the RLE Trust in excess of \$5,000,000 in year 2001 dollars would be distributed from the RLE Trust to Riverbend Landfill by the Trustee; (d) Final distribution of RLE Trust assets would be made within 30 days after 30 years following DEQ landfill closure approval.

D. The Board finds that Riverbend Landfill Company's requested modifications set forth in paragraph (C) are reasonable because (a) A rate decrease at the landfill would be for the benefit of county citizens who dispose of solid waste at Riverbend Landfill; (b) Additional insurance coverage is now provided by Riverbend Landfill due to its acquisition by Waste Management, Inc.; (c) \$5,000,000 in year 2001 dollars is adequate to meet the purposes of the RLE Trust which was created for identified beneficiaries including Yamhill County; (d) The separate Closure/Post-Closure Trust is adequate to provide financial assurance for closure and post-closure of Riverbend Landfill; and (e) The remaining funds in the trust are ultimately an asset of Riverbend Landfill Company under the terms of the First Supplemental Trust Agreement.

E. Since a preliminary meeting of the Board in June, 2000 county staff has worked with representatives of Riverbend Landfill Company to develop language to implement the company's requested modifications in a manner fair to both the company and citizens of the county. The Board is satisfied the current language is fair and in the best interests of the citizens of the county.

F. In order to approve Riverbend Landfill Company's requested modifications, it is necessary to amend the 1994 License Agreement and First Supplemental Trust Agreement to the Riverbend Landfill Co. Revocable Landfill-Environmental Trust Agreement (RLE Trust) as authorized by Ordinance 578. NOW, THEREFORE

THE YAMHILL COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

Section 1. Amendment of Licence Agreement.

The Chairman of the Board is authorized to execute the attached and incorporated Exhibit "A" constituting the "First Amendment to Solid Waste Disposal Agreement" upon approval of the document by Riverbend Landfill Company. Upon execution by Riverbend Landfill Company and the Chairman of the Board, the License Agreement authorized by Ordinance 578 is hereby amended by Exhibit "A."

Section 2. Amendments to RLE Trust.

The Chairman of the Board is authorized to execute the attached and incorporated Exhibit "B" constituting the "Second Supplemental Trust Agreement to the Riverbend Landfill Co. Revocable Landfill-Environmental Trust Agreement" (RLE Trust) upon approval of the document by the Trustor and Trustee. Upon execution by the Trustor, Trustee and Chairman of the Board, the Riverbend Landfill Co. Revocable Landfill-Environmental Trust Agreement originally authorized by Board Order 89-177 and amended by Ordinance 578 is hereby amended by Exhibit "B."

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Section 3. Effective Date; Emergency Clause.

This ordinance, being necessary for the health, safety and welfare of the citizens of Yamhill County and an emergency having been declared to exist, shall become effective on passage.

Section 4. Severability.

All sections, subsections and paragraphs of this ordinance are severable. If any section, subsection or paragraph is ruled invalid for any reason by the court of last resort, the other portions of this ordinance shall be unaffected.

DONE at McMinnville, Oregon on February 1, 2001.

ATTEST

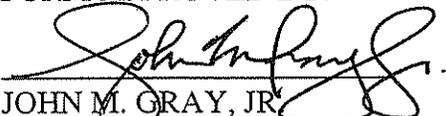
YAMHILL COUNTY BOARD OF COMMISSIONERS


YAMHILL COUNTY BOARD OF COMMISSIONERS
County of Yamhill Oregon
By: 
Deputy KELLYE FETTERS


Chairman ROBERT JOHNSTONE


Commissioner THOMAS E. E. BUNN

FORM APPROVED BY:


JOHN M. GRAY, JR.
Yamhill County Counsel

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**FIRST AMENDMENT TO
SOLID WASTE DISPOSAL LICENSE AGREEMENT**

This First Amendment to Solid Waste Disposal License Agreement (the "First Amendment") is entered into as of the 1st day of February, 2001, by and between RIVERBEND LANDFILL CO., INC. ("RLC") and YAMHILL COUNTY, a political subdivision of the State of Oregon (the "County") and is incorporated into and made part of that certain Solid Waste Disposal License Agreement between RLC and the County dated as of October 1, 1994 (the "License Agreement").

RECITALS

A. RLC and Wells Fargo Bank, N.A. are parties to the Revocable Landfill-Environmental Trust Agreement dated as of July 5, 1989, as amended by the First Supplemental Trust Agreement between RLC and Wells Fargo Bank dated as of October 1, 1994 (collectively, the "Trust Agreement").

B. Pursuant to the License Agreement, RLC has been collecting a Landfill Environmental Expense Charge ("LEE Charge") as a part of the disposal rate charged customers for disposal of waste at the Riverbend Landfill owned by RLC (the "Landfill"). In accordance with the License Agreement and the Trust Agreement, RLC has been depositing a portion of the LEE Charge into the Revocable Landfill-Environmental Trust (the "RLE Trust") established pursuant to the Trust Agreement.

C. RLC and the County have evaluated the funding and projected growth of the RLE Trust and have agreed that, commencing February 1, 2001, the LEE Charge should be reduced (with a corresponding reduction in the Landfill disposal rate) and payments into the RLE Trust should be discontinued. Contemporaneous with the execution of this First Amendment, the County and RLC are executing a Second Supplemental Trust Agreement to the Trust Agreement (the "Second Supplemental Trust Agreement") to effect the discontinuation of funding of the RLE Trust.

D. The Parties wish to enter into this First Amendment to amend the License Agreement in accordance with the terms and conditions contained herein. All capitalized terms used herein that are not otherwise defined herein shall have the meaning given them in the License Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RLC and the County hereby agree as follows:

Ex "A" - 1/2

1. Section 4.2 of the License Agreement is hereby amended and restated in its entirety to read as follows:

“4.2 Landfill Environmental Expense Charge. In addition to the Tipping Fees set forth in Section 4.1 above, and excluding waste which is beneficially used or reused by RLC in the operation or development of the Disposal Site, RLC shall charge and collect on every ton of Acceptable Waste disposed in the Disposal Site, a landfill environmental expense charge (the “LEE Charge”). Commencing February 1, 2001, the LEE Charge shall be set at \$1.51 per ton and shall be subject to adjustment pursuant to Section 6.1 of the License Agreement unless the County and RLC agree otherwise. Upon receipt, RLC shall pay the entire LEE Charge into the CPC Trust. If the funds collected through the LEE Charge at any time exceed the amount necessary for funding the CPC Trust in accordance with the Closure/Post-Closure Trust Agreement and applicable law, then, upon agreement of RLC and the County, the LEE Charge and the disposal rate charged County users at the Landfill shall be reduced by a per ton amount that corresponds to such excess. There shall be no increase in the LEE Charge except as follows: in accordance with Section 6.2 of the License Agreement; upon agreement of RLC and the County if necessary to fund increased costs of closure and/or post-closure in accordance with the Closure/Post-Closure Trust Agreement and applicable law; or to recommence funding the RLE Trust in accordance with terms of the Second Supplemental Trust Agreement. All funds collected under this Section 4.2 shall be managed in accordance with the terms and conditions of the Closure/Post-Closure Trust Agreement.”

2. The remainder of the License Agreement is not amended hereby and shall remain in full force and effect. RLC and the County hereby ratify and confirm the terms and conditions of the License Agreement, as amended by this First Amendment.

EXECUTED as of the day and year first above written.

RIVERBEND LANDFILL CO., INC.

By: _____
Its: _____

YAMHILL COUNTY

By: _____
Its: _____

Ex "A" - 2/2

**SECOND SUPPLEMENTAL TRUST AGREEMENT
TO THE RIVERBEND LANDFILL CO.
REVOCABLE LANDFILL-ENVIRONMENTAL TRUST AGREEMENT**

This Second Supplemental Trust Agreement is entered into as of the 1st day of February 2001, by and between RIVERBEND LANDFILL CO., INC. ("Trustor") and WELLS FARGO BANK, N.A., as successor-in-interest to First Interstate Bank of Oregon, N.A. ("Trustee") and is incorporated into and made part of that certain Revocable Landfill-Environmental Trust Agreement between Trustor and Trustee dated as of July 5, 1989, as amended by the First Supplemental Trust Agreement between Trustor and Trustee dated as of October 1, 1994 (collectively, the "Trust Agreement").

RECITALS

A. Pursuant to a Solid Waste Disposal License Agreement (the "License Agreement") dated as of October 1, 1994 between Trustor and Yamhill County, a political subdivision of the State of Oregon (the "County"), Trustor has been collecting a Landfill Environmental Expense Charge ("LEE Charge") as a part of the full disposal rate charged customers for disposal of waste at the Riverbend Landfill owned by Trustor (the "Landfill"). In accordance with the License Agreement and the Trust Agreement, Trustor has been depositing a portion of the LEE Charge into the Revocable Landfill-Environmental Trust (the "Trust") established pursuant to the Trust Agreement.

B. Trustor and the County have evaluated the funding and projected growth of the Trust and have agreed that, commencing February 1, 2001, the LEE Charge should be reduced (with a corresponding reduction in the Landfill disposal rate) and payments into the Trust should be discontinued. Contemporaneous with the execution of this Second Supplemental Trust Agreement (the "Second Supplement"), the County and Trustor are executing an amendment to the License Agreement to effect the reduction in the LEE Charge and the Landfill disposal rate.

C. The Parties wish to enter into this Second Supplement to amend the Trust Agreement in accordance with the terms and conditions contained herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustor, Trustee and the Board of Commissioners for Yamhill County hereby agree as follows:

1. Article IV of the Trust Agreement is hereby amended and restated in its entirety to read as follows:

"Commencing on February 1, 2001, Trustor shall discontinue depositing funds into the Trust. Until termination of the Trust in accordance with Article XIII of the Trust Agreement, as amended by the Second Supplement, Trustor shall have no further

obligation to deposit monies into the Trust except as follows: If prior to final receipt of waste at the Landfill the balance in the Trust drops below an amount that is equivalent to \$5,000,000 in year 2001 dollars (as inflated in accordance with the CPI as provided in Article XI below) as a result of disbursements to beneficiaries for valid claims made under the terms of the Trust Agreement and, if Trustor and the County agree to increase the LEE Charge as provided herein, then Trustor shall deposit into the Trust the corresponding increased portion of the LEE Charge until such time as such increase in the LEE Charge is discontinued by agreement of Trustor and the County or until final receipt of waste at the Landfill, whichever occurs sooner. The LEE Charge shall not be increased, and no deposits shall be made into the Trust as provided in the foregoing, unless Trustor and the County agree to increase the LEE Charge in a reasonable amount not to exceed \$0.75 per ton, as escalated by the CPI in accordance with Section 6.1 of the License Agreement. For purposes of the preceding, "reasonable amount" shall mean an amount that will result in the disposal rate at the Landfill (including the increased LEE Charge and the Tipping Fee, License Fee and Host Fee as defined in the License Agreement) being no greater than disposal rates at other landfills in the vicinity of the Landfill."

2. The third paragraph of Article XI of the Trust Agreement is hereby amended and restated in its entirety to read as follows:

"Trustor shall not receive disbursements from the Trust, except in its capacity as a beneficiary of the Trust, until the balance of the Trust reaches an amount that is equivalent to \$5,000,000 in year 2001 dollars (the "Threshold Amount"). The year in which the Trust balance reaches the Threshold Amount shall be determined by Trustor, with approval from the County, through escalation of the current Trust balance by the CPI in accordance with Section 6.1 of the License Agreement. When the Trust balance reaches the Threshold Amount, Trustor shall give notice to the Trustee and, thereafter, in addition to its rights to distributions in its capacity as a beneficiary of the Trust, Trustor shall be entitled to receive disbursements from the Trust as follows: Each year on or before July 1 during the term of the Trust (the "Current Year"), Trustor shall calculate an "Adjusted Threshold Amount" by escalating the prior year's Threshold Amount by the CPI in accordance with Section 6.1 of the License Agreement, and Trustor shall compare such Adjusted Threshold Amount to the actual Trust balance as of March 31 of the Current Year. Trustor shall give notice to the Trustee and the County of its calculation of the Adjusted Threshold Amount each year. If the actual Trust balance as of March 31 of the Current Year exceeds the Adjusted Threshold Amount, the Trustee shall disburse to Trustor the difference between the Current Year actual Trust balance and the Adjusted Threshold Amount. If the Adjusted Threshold Amount exceeds the Current Year actual Trust balance, Trustor shall not be entitled to a disbursement from the Trust other than in its capacity as a beneficiary of the Trust."

3. Article XIII of the Trust Agreement, as amended by the First Supplemental Trust Agreement, is hereby amended and restated in its entirety to read as follows:

Ex "B" - 2/3

“Within thirty (30) days after thirty (30) years following the date of written approval of closure of the Riverbend Landfill by the Oregon State Department of Environmental Quality pursuant to OAR 340-094-0120, or sooner upon receipt by Trustee of a written termination of this Trust executed by Trustor and co-signed by the Yamhill County Commissioners, Trustee shall disburse all remaining assets in the Fund to Trustor.”

4. The remainder of the Trust Agreement is not amended hereby and shall remain in full force and effect. Trustor and Trustee hereby ratify and confirm the terms and conditions of the Trust Agreement, as amended by the First Supplemental Trust Agreement and this Second Supplement.

EXECUTED as of the day and year first above written.

TRUSTOR: RIVERBEND LANDFILL CO., INC.

By: _____
Its: _____

TRUSTEE: WELLS FARGO BANK, N.A.

By: _____
Its: _____

Approved By: YAMHILL COUNTY

By: _____
Its: _____

Ex "B" - 3/3