



Req. #6533

**SUBSTITUTE
RESOLUTION NO. 33826**

1 WHEREAS, pursuant to Resolution 32719 passed August 2, 1994, the
2 Council of the City of Tacoma waived competitive bidding for contracting of the
3 City's solid waste disposal services and authorized the proper officers of the
4 City of Tacoma to execute an amended and restated agreement (hereinafter
5 "Agreement") with Land Recovery, Inc. (LRI), for the disposal of a portion of the
6 City's municipal solid waste (hereinafter "MSW") at the Hidden Valley Landfill
7 and to transport and dispose of a portion of the City's MSW to a regional
8 landfill in Klickitat County, and
9

10 WHEREAS this Agreement is scheduled to expire on October 31, 1997,
11 which was the scheduled date for closure of the Hidden Valley Landfill, and
12

13 WHEREAS LRI has recently been granted an extension by the
14 Department of Ecology; said extension now allows the Hidden Valley Landfill to
15 remain open until December 31, 1998, and
16

17 WHEREAS the City is currently disposing approximately 125,000 tons
18 per year, or about 59% of its waste stream, to LRI at a cost of \$41.50 per ton,
19 and
20

21 WHEREAS, if the City authorizes an extension to the existing
22 Agreement from October 31, 1997, to December 31, 1999, LRI has agreed to a
23 revised disposal cost of \$32.95 per ton, and setting a disposal rate not to
24 exceed \$26 per ton for an in-county landfill, and
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26 WHEREAS said amendment to the Agreement with LRI requires an
increase in the maximum total authorized payment from \$11,600,000 to



REQUEST FOR ORDINANCE OR RESOLUTION

CITY CLERK USE

Request #:

6533

Ordinance #:

33826

Resolution #:

1. DATE: September 4, 1997

2. REQUESTING DEPARTMENT/DIVISION/PROGRAM Public Works/Solid Waste Utility	3. CONTACT PERSON (for questions): Terry L. Morrow, P.E.	PHONE/EXTENSION 5543
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4. PREPARATION OF A RESOLUTION IS REQUESTED FOR THE CITY COUNCIL MEETING OF TUESDAY, September 9, 1997.

5. SUMMARY TITLE/RECOMMENDATION:

Authorize the proper City officials to execute an amendment to the existing contractual services agreement with Land Recovery, Inc. (LRI) to: 1) extend the term of the agreement from October 31, 1997 to December 31, 1999; 2) decrease the unit price from \$41.50 per ton to \$32.95 per ton and setting a proposed rate not to exceed \$26.00 per ton for a in-county landfill; and, 3) increase the maximum total authorized payment from \$11,600,000.00 to \$19,900,000.00 to provide for payments through December of 1998 as appropriated in the biennial budget.

6. BACKGROUND INFORMATION/GENERAL DISCUSSION:

The existing agreement with LRI was approved by the City Council in 1989 and amended by the City Council in August 1994 to authorize a price increase to cover the additional costs for transportation, by rail, of a portion of the City's solid waste to a regional landfill in Klickitat County. At the time that action was taken to preserve space at LRI's Hidden Valley Landfill until a new landfill could be constructed in Pierce County. The City's Agreement with LRI is currently scheduled to terminate on October 31, 1997, unless it is extended as provided for in the contract. October 1997 was the scheduled date for closure of the Hidden Valley Landfill. LRI has recently been granted an extension by Ecology to remain open until December 31, 1998. In addition, LRI is pursuing the permitting for construction of a new in-county landfill and has guaranteed Tacoma a rate not to exceed the County rate or \$26.00 per ton whichever is lower. Permitting and construction of the proposed new landfill, if approved, is expected by December of 1999.

The City is currently disposing approximately 125,000 tons a year, or about 59% of its waste stream, to LRI at a cost of \$41.50 per ton. With this proposed extension, LRI has agreed to reduce the rate for longhaul services to \$32.95 per ton which is a rate based on the new Pierce County longhaul rate and the disposal rate at the in-county Hidden Valley landfill.

7. FINANCIAL IMPACT:

This is an anticipated expenditure and is provided for in the Solid Waste Utility's budget. The new disposal rate will save approximately \$1,068,750 annually in disposal costs. Funds for longhaul services are included in the 1997/1998 biennial budget.

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

Source Documents/Backup Material	Location of Document
Existing Agreement, Res. No. 32719	City Clerk's Office
Amended Agreement	City Clerk's Office

9. FUNDING SOURCE:

Fund Number & Name:	State \$	City \$8,300,000.00	Other \$	Total Amount: 8,300,000.00
4200 - Solid Waste Utility Operating Fund				

If an expenditure, is it budgeted? Yes No Where? Org #5141 Acct # 54270-CND-AB6210

	Approved as to Availability of Funds		
10. William L. Pugh, P.E., Public Works Director		Peter C. Luttrupp, Finance Director	James L. Walton, Acting City Manager

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**ADDENDUM TO AGREEMENT BETWEEN
TACOMA PUBLIC WORKS SOLID WASTE UTILITY
AND LAND RECOVERY, INC.**

THIS ADDENDUM TO AGREEMENT is made and entered into as of September ____, 1997 between the City of Tacoma, Washington, a municipal corporation, (hereinafter referred to as the "CITY" and Land Recovery, Inc., a Washington corporation, (hereinafter referred to as the "COMPANY").

WITNESSETH:

WHEREAS, the CITY and the COMPANY are parties to an Amended and Restated Agreement between Public Works Solid Waste Utility and Land Recovery, Inc., for Solid Waste Disposal dated as of August 1, 1994 (the "Agreement"); and,

WHEREAS, the COMPANY is attempting to permit and construct a new landfill at 304th and Meridian in Pierce County. The U.S. Corps of Engineers has denied a Section 404 Permit for filling of wetlands at the site, which decision has been appealed by the COMPANY. A decision on this appeal by the U.S. District Court is expected by the end of 1997. However, this decision could then be appealed to a higher level. In any event, it is possible that a final decision may not be available to allow construction prior to the 1999 construction season; and,

WHEREAS, to take advantage of the lower rates associated with a local landfill, it may, therefore, be necessary to longhaul part of the CITY's waste until late in 1999 and the parties desire to keep that opportunity open into 1999 so long as the possibility of construction of the new in-county landfill remains; and,

WHEREAS, the CITY and the COMPANY therefore desire to amend the Agreement to reduce the Disposal Rate, continue the term of the Agreement and make certain other changes;

NOW, THEREFORE, for and in consideration of the above, except as otherwise specifically set forth in this Addendum, the capitalized terms used in this Addendum shall have the meanings ascribed to them in the Agreement.

Pursuant to Section 10 of the Agreement, in consideration of the mutual covenants and promises contained herein, the receipt and sufficiency of, which are hereby acknowledged by the parties hereto, agree to this Addendum and amendment to the Agreement as follows:

1. Purpose. In accordance with the terms and provisions of this Addendum, the COMPANY shall continue to accept for disposal at the Disposal Facility or for long haul at the Intermodal Facility, all Acceptable Waste delivered by the CITY from its residential, governmental and commercial customers.

2. Effective Date. Section 1.7 of the Agreement is hereby amended to provide that the "Effective Date" shall mean the date that this Addendum is executed by the parties.

3. Guaranteed Minimum Delivery. The CITY shall deliver to the COMPANY for long haul and disposal under the Agreement all of the Acceptable Waste generated in the CITY that is not disposed by the CITY in the RDF or the Tacoma Landfill, recycled, or composted. The Agreement provides that the Minimum Guaranteed Amount shall at all times equal at least 137 tons of Acceptable Waste per day. The CITY and the COMPANY hereby terminate such requirement and Section 2.2 and Section 2.4.1 are each amended by deleting the provisos in such sections referring to the 137-ton requirement.

4. Container Loads. Section 3.5 of the Agreement is hereby amended to provide that the CITY shall load Containers so that the average weight of Acceptable Waste in all containers received from the CITY at the Intermodal Facility during each month shall equal or exceed 25 tons and the CITY shall pay a Container Surcharge if such average weight is less than 25 tons.

5. Disposal Rate. Section 5.1 of the Agreement is hereby amended in its entirety to read as follows:

Disposal Rate. Commencing on the Effective Date of the Addendum to the Agreement, the CITY shall pay the COMPANY a Disposal Rate of \$32.95 per ton based upon the average weight of 27 tons per container (rounded to the nearest whole number) of Acceptable Waste in all Containers received each month from the CITY by the COMPANY. Such Disposal Rate shall be adjusted at a rate of +\$0.54 per ton for each ton below the monthly average and -\$0.51 per ton for each ton above the monthly average of 30 tons. If the COMPANY provides disposal services to the CITY under this Agreement at the 304th Landfill the Disposal Rate for all Acceptable Waste, other than Special Waste, shall not exceed \$26.00 per ton or the Pierce County rate whichever is less, as adjusted under this Section 5, until the expiration of the term of this Agreement. With the agreement of the CITY, the COMPANY may set, and the CITY shall pay, special Disposal Rates for the long haul and/or disposal of Special Wastes.

The above rates are based on the assumption that a minimum of one-third of the CITY's Acceptable Waste handled by the COMPANY will be landfilled at the Disposal Facility. Therefore, the parties agree that a ratio of one-third landfilled to two-thirds longhauled waste will be maintained on a monthly basis unless and until the CITY receives contrary instructions from the COMPANY pursuant to Section 2.3 of the Agreement.

6. CPI Adjustment. Section 5.2 of the Agreement is hereby amended in its entirety to read as follows:

5.2. CPI Adjustment. The Disposal Rates shall be automatically adjusted each year during the term of this Agreement by the change in the CPI published for June 30 of the year prior to the effective date of the adjustment over the CPI published for June 30 of the year before that such that effective January 1, 1998 and on January 1 of each year thereafter the Disposal Rate shall be increased by , one hundred percent (100%) of such annual increase in the CPI.

7. Container Surcharge Credit. Section 5.6 of the Agreement is amended to provide that the Container Surcharge shall apply only when the monthly average weight of Acceptable Waste in the Containers received is less than 25 tons and that the Container Credit is terminated.

8. Adjustment for Overweight Containers. In addition to all other amounts payable by the CITY to the COMPANY under the Agreement as amended by this Addendum, the CITY shall reimburse the COMPANY for the amount of any fines paid by the COMPANY for overweight Containers of Acceptable Waste received by the COMPANY from the CITY. For this purpose, overweight Containers shall not include any Container with thirty-three and one-half (33-1/2) tons of Acceptable Waste or less. If the COMPANY is required to pay any such fines, the COMPANY shall provide the CITY with written documentation specifying the Container(s) involved and evidence that the COMPANY paid such fine. The CITY shall reimburse the COMPANY for the amount thereof within thirty (30) days of receipt of such documentation.

9. Term. Pursuant to Section 6 of the Agreement, the term of the Agreement is extended to terminate on December 31, 1999, provided, however that at any time after December 31, 1998, the CITY may terminate the Agreement by thirty (30) days prior written notice to the COMPANY. The term of the Agreement may be extended upon written agreement of both parties hereto for additional periods of time as mutually agreed to by the parties, provided that the term of this Agreement shall not be extended beyond and shall terminate on December 31, 2011.

10. Except as specifically amended herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first written above.

CITY OF TACOMA

LAND RECOVERY, INC.

Ray E. Corpuz, Jr., City Manager

Harold E. LeMay, President

Countersigned:

(Address)

Peter C. Luttrupp, Finance Director

Approved as to form:

PUBLIC WORKS DEPARTMENT

Assistant City Attorney

William L. Pugh, P.E., Director

Attest:

Andrew Michels, Risk Manager

Rick Rosenblatt, City Clerk

Resolution No. 33826

SFP 09 1997

Continued to 9-16-97

Adopted: SEP 16 1997 *Substitute*

Maker of Motion: *Miller*

Seconded: *Crowley*

Roll Call vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Mr. Baarsma	✓			
Mr. Crowley	✓			
Mr. DeForrest				✓
Mr. Evans	✓			
Mr. Kirby	✓			
Dr. McGavick	✓			
Mr. Miller	✓			
Dr. Silas	✓			
Mayor Ebersole	✓			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Mr. Baarsma				
Mr. Crowley				
Mr. DeForrest				
Mr. Evans				
Mr. Kirby				
Dr. McGavick				
Mr. Miller				
Dr. Silas				
Mayor Ebersole				