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DISCUSSION MEMO

TO: Board of County Commissioners

Jeff Spartz, Marsha Miller, Liane Richardson, Andy Clark

FROM: Patti Hansen, Waste Management Division

MEETING DATE - SEPTEMBER 30, 2009:

DISCUSSION/Board of Commissioners and Emerald People's Utility District Board of Directors Continued Work Together. (Marsha Miller, Public Works Director; Patti Hansen, Waste Management Manager) (estimated 10 minute presentation, 40 minutes Q&A) (TIME CERTAIN 11:10 a.m.)

This memo includes some additional information to assist in your discussion item of the above agenda item for September 30, 2009.

The Emerald People's Utility District has plans to purchase a new CAT 3520 landfill gas combustion engine, and must have this equipment operational by December 31, 2010 in order to gain federal tax incentives. Lane County faces time pressures to relocate this equipment to a new site at the Short Mountain Landfill in order to facilitate this project and future projects utilizing waste heat from this equipment.

Enclosed is a copy of the Memorandum of Understanding (MOU) that EPUD has signed to formally establish a means to facilitate collaboration between the Emerald People's Utility District (EPUD) and Lane County towards the establishment of the Short Mountain Landfill Renewable Energy Park and revisions to the existing landfill gas agreement. This MOU was signed by the EPUD Board on September 8, 2009.

Also enclosed is a draft amendment staff has been working on entitled "Draft Amendment #4" to the Landfill Gas Recovery and Utilization Agreement with the Emerald People's Utility District (EPUD). This draft is simply one possibility for consideration by the Board in your discussion.

Staff will move forward with plans for the Renewable Energy Park at the landfill after direction from the Board.

MEMORANDUM OF UNDERSTANDING

Emerald People's Utility District and Lane County, Oregon

This Memorandum of Understanding (MOU) serves as a facilitating document toward establishing cooperation, between the Emerald People's Utility District and Lane County, Oregon.

All of the provisions of this MOU and attached documents/project proposals/addendum if any are subject to mutual agreement of the parties.

Long Term Objectives:

To formally establish a means to facilitate ongoing collaboration between the Emerald PUD and Lane County towards the establishment of a Renewable Energy Park at the Short Mountain Land Fill site.

Collaborative Partnership Proposed Activity:

To formalize this relationship, initially through this memorandum of understanding, and, once all aspects of this collaborative relationship are agreed upon, through the execution of additional signed addendum or addendums to the current Landfill Gas Recovery and Utilization Agreement between Lane County and the Emerald People's Utility District.

Signatures:

Only the Emerald PUD Board President or the Lane County Commission Chair may make changes to this MOU and future addendum(s) provided that both parties mutually agree upon such changes in writing.

Penny Jordan, Emerald PUD Board President

Date

Peter Sorenson, Lane County Commission Chair

Date

**AMENDMENT #4 TO LANDFILL GAS RECOVERY AND UTILIZATION AGREEMENT
BETWEEN LANE COUNTY AND THE EMERALD PEOPLE'S UTILITY DISTRICT**

This Amendment No. 4 ("Amendment") to the Landfill Gas Recovery and Utilization Agreement, as amended from time to time (the "Agreement"), originally effective September 17, 1986, is entered into between the County of Lane County, Oregon, a political subdivision of the State of Oregon ("County") and the Emerald People's Utility District, a municipal corporation organized pursuant to Chapter 261 of the Oregon Revised Statutes ("Emerald").

1. Amendment. The Agreement is amended as follows:

1.1 Notwithstanding any provision to the contrary in the Agreement, the following provisions govern the rights of County and Emerald under the Agreement as of the effective date of this Amendment:

1.1.1 With respect to all further investments by Emerald in facilities, improvements, equipment, wells, transmission lines, or pipes (collectively "facilities") in connection with landfill gas recovery and utilization under the Agreement, including any lease or purchase by Emerald of one or more additional generators for installation at the Short Mountain Landfill, any such investment will not increase the unamortized value of Emerald's facilities for purposes of calculating any damages under Article 8 (Termination) of the Agreement.

1.1.2 Emerald shall ensure that any lease for facilities that it enters into contains the right to assign the lease to County. In the event the Agreement is terminated, Emerald shall, if requested by County, assign all of its rights and duties under any lease for facilities to County.

1.1.3 In the event the Agreement is terminated and County is required to pay as damages some or all of the unamortized value of any facilities, County thereby acquires an ownership interest in the facilities to the extent of County's payment of the unamortized value.

2. Effective Date. This Amendment is effective October ____, 2009.

3. Effect of Amendment. Except as expressly amended above, all other terms and conditions of the Agreement are still in full force and effect. Except as modified by this Amendment, or the proceeding three amendments, all representations, warranties and certifications contained in the Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

COUNTY OF LANE COUNTY

EMERALD PEOPLE'S UTILITY DISTRICT

BY: _____
Jeff Spartz County Administrator

BY: _____
_____, President

Date: _____

Date: _____

APPROVED AS TO FORM

Date _____ Lane County