

CITY OF GRANITE FALLS

RESOLUTION NO. 03-02

A RESOLUTION OF THE CITY OF GRANITE FALLS APPROVING A CONTRACT WITH WASTE MANAGEMENT OF WASHINGTON, INC. d/b/a WASTE MANAGEMENT NORTHWEST, FOR GARBAGE AND REFUSE COLLECTIONS SERVICES WITHIN THE CITY OF GRANITE FALLS, WASHINGTON.

WHEREAS, the City of Granite Falls has historically contracted for garbage and refuse collection service for its residents; and

WHEREAS, Waste Management of Washington, has provided this service under contract, for and on behalf of the City and its residents; and

WHEREAS, it has been approved by the City Council to continue to contract with Waste Management of Washington to perform such services; and

WHEREAS, it is necessary for the health and welfare of the residents of the City that garbage and refuse collection service be provided on a continuing bases and in the best interests of the City that a single operator be authorized to perform such services.

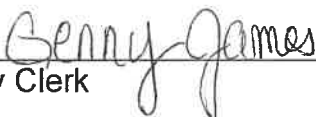
NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein (attached and incorporated by reference), it is agreed that Waste Management of Washington shall provide garbage and refuse collection service for the City of Granite Falls.

ADOPTED by the City Council of the City of Granite Falls, Washington at its regular meeting of May 14, 2003.



Matt Hartman, Mayor

Attest:



City Clerk

GARBAGE, REFUSE, RECYCLING & YARDWASTE COLLECTION CONTRACT

This agreement is made and executed this 1st day of January 2003, by and between The **City of Granite Falls**, Snohomish County, Washington, a municipal corporation (hereafter referred to as "City") and **Waste Management of Washington, Inc. d/b/a Waste Management Northwest**, a Delaware corporation (hereinafter referred to as "Northwest" or "Contractor").

RECITALS

WHEREAS, the City of Granite Falls has historically contracted for garbage and refuse collection service for its residents, and

WHEREAS, Northwest, has provided this services under contract, for and on behalf of the City and its residents; and

WHEREAS, it has been approved by the City Council to continue to contract with Northwest to perform such services; and

WHEREAS, it is necessary for the health and welfare of the residents of the City that garbage and refuse collection service be provided on a continuing basis and in the best interests of the City that a single operator be authorized to perform such services.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, it is agreed as follows.

AGREEMENT

1. **Services.** The City hereby retains Contractor for, and Contractor hereby agrees to provide, collection services of solid waste consisting of garbage, refuse, recycling and yard waste to all residential, commercial and institutional entities within the City limits, in accordance with the terms and conditions set forth in this *Garbage, Refuse, Recycling & Yard Waste Collection Contract* (hereafter referred to as "Agreement").

1.1 The Contractor agrees to do all work and furnish all tools , materials and equipment necessary to perform said work in respect to the collection, transportation and disposal of all solid waste generated in the City in accordance with schedules set forth in Attachment A. Provided, however, the Contractor shall provide at no cost to the City, garbage collection service for City Hall, Police Station, Granite Falls Community Center / Food Bank and the City's litter cans.

1.2 Upon execution of this Agreement, the Contractor shall provide garbage and refuse collection services. The City agrees that Contractor shall be the exclusive garbage and refuse collection company to all residential, commercial and institutional entities within the City. The City or other appropriate governmental authority shall designate the disposal facility to which the Contractor shall deliver all garbage and refuse collected pursuant to this Agreement.

1.3 Immediately following the termination of recycling and yard waste service by the entity currently performing such collection pursuant to the "ESCARC" program, Contractor shall provide recycling collection services to all residential entities within the City, and shall offer subscriptions for yard waste collection services to all residential entities within the City. The City agrees that Contractor shall be the exclusive residential recycling and yard waste collection company within the City. The Contractor may select the processing location to which recyclables and yard waste collected pursuant to this Agreement are delivered.

1.4 Upon request from the Contractor, the City shall use its best efforts to enforce Contractor's exclusive right under this Agreement.

2. **Term.** The term of this Agreement shall be for a period of ten (10) years commencing January 1, 2003, and ending on December 31, 2013. Mutual agreement to extend the Agreement for two additional three-year terms shall be presumed unless either party gives the other written notice at least six (6) months' prior to the termination date then in effect of its intent to terminate the Agreement. In addition, if mutually agreed in writing by the City and the Contractor, the term of this Agreement may be extended for any number of additional years (s).

3. **Compensation.** As its compensation under this Contract, the Contractor shall have the right to charge Customers the rates set forth on Appendix A, as adjusted in accordance with this Agreement. Rates charged to Customers shall constitute the total compensation to the Contractor hereunder, unless otherwise expressly provided herein. The Contractor shall be responsible for all billing, collection and other customer services.

4. **Rates.** Upon commencement of services under this Agreement, the Contractor shall charge the rates in effect at the time of execution of this Agreement, as set forth in attached Appendix A, which Appendix is incorporated herein by this reference. Those rates shall remain in effect until such time as rate adjustments are made pursuant to the terms of this Agreement.

4.1 **CPI Adjustment.** Automatically each year, commencing on January 1, 2005, and annually each January 1 thereafter for the term of this Agreement, Contractor's rates shall be adjusted by seventy-five percent (75%) of the annual percentage increase, if any, in the Consumer Price Index of all Urban Consumers for the Seattle-Tacoma-Bremerton, Washington Standard Metropolitan Statistical Area (1982-84 = 100), as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index ("CPI") for the twelve-month period ending on the preceding June 30. The CPI adjustment under this section shall be effective automatically on January 1 unless the Contractor elects, in writing, to defer an increase until the following year. Under no circumstances shall the increase in the rates under this section in any year be greater than five percent (5%) unless upon agreement with the City.

4.2 **Disposal Fee Adjustments.** If the Contractor or the City receives notice of any change in the disposal fee at the facility designated for delivery of garbage and refuse collected by Contractor under this Agreement, it shall notify the other party in writing of such change as soon as possible. Upon the occurrence of a disposal fee change, the Contractor shall promptly advise the City and shall propose increased or decreased rates and, upon request of the City, will provide the City with documentation supporting the change in the rates hereunder. If the disposal fees which are charged to the Contractor to dispose of the City's garbage and refuse

at the City-designated disposal site are increased or decreased at any time, the rates shall be adjusted in an amount sufficient to reflect and pass through any such disposal fee change. Any such change in rates shall be effective January 1 of the following year; provided, if the disposal fee change is effective on any date other than January 1, then (a) any increase in rates shall be sufficient to compensate the Contractor fully for the disposal fees it is required to pay before the January 1 effective date of the change to the rates and (b) any decrease shall be sufficient to enable customers to fully recoup the Contractor's decreased expenses from reductions in disposal fees.

4.3 Other Rate Adjustments. Rates shall be adjusted if the Contractor, at any time, has increased, or reduced, expenses or revenues resulting from the following:

- (a) Any change in or additional taxes or fees payable by the Contractor to the City;
- (b) Any change in or additional taxes or fees assessed or levied by any other governmental entity that materially increase the cost of Contractor's operations performed under this Agreement; and
- (c) Other circumstances for which a rate adjustment is expressly authorized hereunder.

4.4 Timing And Approval. For any rate adjustment other than the automatic annual adjustment for CPI and disposal fee pass-throughs, Contractor shall submit a petition for rate adjustments with supporting information to the City no later than ninety (90) days prior to the requested date of rate change. Such petition shall be deemed approved if the City does not elect, by written notice to Contractor, to review the proposed adjustment within thirty (30) days following receipt by the City of Contractor's petition. Contractor's petition shall include detailed bases for the proposed adjustment.

5. City Rate Control. The parties acknowledge the City's right in the management of solid waste handling to effectuate policy goals by increasing or decreasing rates for the various customer classes or types of service. The Contractor understands that the City's determinations regarding rates may be influenced by public health, safety and welfare including policies to encourage waste reduction and recycling. Such determination shall be in the City's sole discretion, but will be made only following agreement by the Contractor. In no event shall the City's rate determinations under this section diminish the total rate base or otherwise reduce the compensation due to Contractor for services performed hereunder.

6. City Fee. At any time following January 31, 2004, and during the term of this Agreement, the City and the Contractor may agree to the terms and amount of an annual franchise fee to be paid by the Contractor to the City. Any such fee shall be effective on January 1 of the year following adoption of an ordinance implementing the agreement by the City. Thereafter, the Contractor shall not be subject to any other taxes, fees, charges or assessments by the City in respect to the conducting of such business during the term of this Agreement.

7. General Provisions.

7.1 Indemnification. The Contractor agrees to indemnify and hold harmless the City from and against any loss, cost or expense of any kind of nature whatsoever arising from or relating to any claim for personal injury or property damage as a result of Contractor's negligence or willful misconduct in performing the services under this Agreement.

7.2 Default. In the event that Contractor shall be in default in the performance of any work for any reason other than a Force Majeure, and the default is not cured or the subject of Contractor's good faith efforts to cure, within thirty (30) days after receiving written notice thereof from the City, then the City shall be authorized to terminate this Agreement with no further obligation to the Contractor and all rights to the Contractor shall cease and be extinguished.

7.3 Assignment. This Agreement shall not be assigned without the prior written consent of the City; provided, however, that Contractor shall have the right, without seeking or obtaining approval or authority from the City, to assign or transfer this Agreement to any affiliate of Contractor or its parent corporation.

7.4 Force Majeure. Contractor shall not be deemed to be in default and shall not be liable for failure to perform under this Agreement to the extent Contractor's performance is prevented or delayed or limited by acts of God including landslides, lightning, forest fires, storms, floods, freezing, unusual weather conditions and earthquakes, civil disturbances, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, public riots, breakage, explosions, accident to machinery, equipment or materials, unavailability of required materials or disposal site, governmental restraint or other causes, whether of the kind enumerated or otherwise, which are not reasonably within the control of the party affected by the Force Majeure event.

7.5 Dispute Resolution. In the event of any dispute between the parties hereto, then the parties agree that this matter shall be referred to arbitration with each party to name one arbitrator and those two arbitrators to name a third arbitrator and the decision of such three arbitrators shall be final and binding upon the parties.

7.6 Prevailing Party. In case of any dispute between the parties hereto resulting in arbitration or legal action, then the prevailing party in said action shall be entitled to reasonable attorneys fees in addition to any other cost of disbursement therein.

7.7 Governing Law. This Agreement shall be governed by the laws of the State of Washington and in case of any dispute between the parties hereto which results in legal action all parties agree to the jurisdiction and venue of the Superior Court of Washington for Snohomish County.

7.8 Annexation. If, during the term of the Agreement, additional territory is added to the City through annexation, the Contractor shall perform solid waste collection services in such annexed areas in accordance with all provisions of this Agreement and at the rates then in effect in the City. The term of the Agreement shall be extended with respect to newly annexed areas to the extent necessary to enable the Contractor to serve the newly annexed

areas under this Contract for a period of seven (7) years, commencing thirty (30) days following written notice by the City to it and to the Washington Utilities and Transportation Commission, asserting the City's jurisdiction over solid waste collection in the annexed territories.

CITY OF GRANITE FALLS:

WASTE MANAGEMENT-
NORTHWEST

By Wally Paul

By _____

Mayor

Division President & General Manager

Attest _____

City Clerk Gerry James

Date May 14, 2003

*Approved as to form
Donald J. Lyderson
City Attorney*

	Resi 901 Granite Falls	Coml 902 Granite Falls	Roll Off 902 Granite Falls	
Jan	\$ 6,473.74	\$ 10,026.20	\$ 580.38	
Feb	\$ 9,758.28	\$ 10,140.88	\$ 803.79	
Mar	\$ 7,179.72	\$ 9,617.32	\$ 602.79	
Apr	\$ 6,939.78	\$ 9,534.57	\$ 634.13	
May	\$ 9,583.56	\$ 9,800.88	\$ 398.65	
Jun	\$ 8,993.95	\$ 9,670.77	\$ 772.44	
Jul	\$ 7,194.64	\$ 7,181.33	\$ 378.37	
Aug	\$ 10,095.11	\$ 8,015.54	\$ 1,044.93	
Sep	\$ 7,611.48	\$ 9,626.38	\$ 669.55	
Oct	\$ 7,452.04	\$ 9,534.84	\$ 386.39	
Nov	\$ 9,378.49	\$ 9,835.42	\$ 658.49	
Dec	\$ 7,277.61	\$ 9,883.69	\$ 462.00	
Total	\$ 95,918.40	\$ 112,867.60	\$ 7,371.91	\$ 215,957.91

EXAMPLE OF PROPOSED FRANCHISE FEE

Year	Year	City Fee	Based on 02, Rev	Waste Management Pass Through
Year 1	2003	0%		0% + CPI
Year 2	2004	1%	\$ 2,159.58	0% + CPI
Year 3	2005	1%	\$ 2,159.58	0% + CPI
Year 4	2006	2%	\$ 4,319.16	1% + CPI
Year 5	2007	3%	\$ 6,478.74	2% + CPI
Year 6	2008	4%	\$ 8,638.32	3% + CPI
Year 7	2009	5%	\$ 10,797.90	4% + CPI
Year 8	2010	5%	\$ 10,797.90	5% + CPI
Year 9	2011	5%	\$ 10,797.90	0% + CPI
Year 10	2012	5%	\$ 10,797.90	0% + CPI