

Return to:

City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

GRANTOR: City of Oak Harbor

GRANTEE: Island Disposal

LEGAL DESCRIPTIONS:

- A portion of the G.W.L. Allen Donation Land Claim and the Plat of GOLDIE ROAD ACRES, as per plat recorded in Volume 4 of Plats, Page 31, records of Island County, being in Section 35, Township 33 North, Range 1 East of the Willamette Meridian, Island County, Washington, said portion being more particularly described as follows: (See Exhibit "A" attached for entire legal description)
- SITUATED IN THE COUNTY OF ISLAND, STATE OF WASHINGTON: THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: (See Exhibit "B" attached for legal description)
- Situated in the County of Island, State of Washington and contiguous to the City of Oak Harbor, Tracts of land lying within the South ½ of the Northwest ¼ and within the South ½ of the Northeast ¼ of Section 10, Township 32 North, Range 1 East of the Willamette Meridian Parcels within the South ½ of the Northwest ¼ (See Exhibit "C" attached for entire legal description)

PARCEL NUMBERS: S7020-00-00001-1, R13335-394-3060, S7020-00-00002-0, S7020-00-00001-2, S7020-00-00001-3, R13336-508-0480, R13210-298-1650, R13210-298-2300, R13210-324-2530, R13210-364-2330, R13210-364-1900 and R13210-364-1730

ORDINANCE NO. 1580

AN ORDINANCE OF THE CITY OF OAK HARBOR PROVIDING A SOLID WASTE FRANCHISE TO ISLAND DISPOSAL FOR AREAS ANNEXED UNDER ORDINANCE NOS. 1500, 1528 AND 1557

WHEREAS, Island Disposal (hereafter referred to as "Grantee") holds a permit from the State of Washington Utilities and Transportation Commission ("WUTC") to collect solid waste in unincorporated areas within Island County; and

WHEREAS, Ordinance Nos. 1500, 1528 and 1557 annexed certain lands subject to the Grantee's franchise from the WUTC into the City of Oak Harbor; and

WHEREAS, RCW 35.13.280 provides that a solid waste collection franchise in unincorporated areas is canceled for that area upon annexation of the area to a city; and

WHEREAS, RCW 35.13.280 requires the annexing city to grant at least a seven (7) year franchise to a business whose franchise was extinguished by annexation or to purchase or condemn the original franchise rights;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. A franchise to provide solid waste disposal services to certain areas within the city limits of the city of Oak Harbor is hereby granted to Island Disposal on the following terms and conditions:

- (1) **Franchise area.** This franchise applies to the areas annexed into the city through the adoption of Ordinance Nos. 1500, 1528 and 1557, described in Exhibits "A", "B" and "C" hereto attached.

Exhibit "A" -- Legal description of the annexation area under Ordinance No. 1500 (Wright, Littke and Oak Harbor Church of Christ)

Exhibit "B" -- Legal description of the annexation area under Ordinance No. 1528 (Foreman)

Exhibit "C" -- Legal description of the annexation area under Ordinance No. 1557 (Gentry)

- (2) **Nature of the franchise.** Grantee shall hereby have an exclusive right during the term of the franchise granted by this ordinance to collect and haul for hire over the streets

and alleys of the city all solid waste collected from private customers located within the corporate limits of the city in the franchise area described in paragraph (1) above.

"Solid waste", as used herein, shall be interpreted to mean and include all solid waste, animal and vegetable matter, rubbish, trash, debris, ashes, tin cans, and other waste materials generally, including articles ordinarily and customarily hauled away and dumped.

- (3) Duration of the franchise. The franchise shall become effective five (5) days after publication of this ordinance and shall continue for ten (10) years from its effective date. Thereafter, the franchise shall terminate unless extended by written agreement approved by City Council.
- (4) Acceptance of franchise. Acceptance of this franchise shall constitute Grantee's agreement that the ten (10) year franchise period provided herein constitutes full and fair compensation to Grantee for any damages that Grantee may have suffered as a result of the annexations of territory pursuant to Ordinance Nos. 1500, 1528 and 1557.
- (5) Utility tax. The Grantee shall pay utility taxes imposed on solid waste utility services by the City of Oak Harbor for all solid waste utility services provided by the franchise within the city of Oak Harbor and all areas listed in this franchise ordinance in which a franchise is granted or extended or both granted and extended.

It is further provided that such taxes shall apply to this franchise upon its effective date.

- (6) Collection rates. Grantee's collection rates inside the city shall be at the same levels as those filed with and approved by the WUTC for regulated Island County service by Grantee or its successor; provided, nothing in this section shall be construed as preventing Grantee from increasing the collection rates approved by the WUTC to account for the cost of any utility taxes or increases in utility taxes imposed by the City on solid waste services.

Grantee will provide notice to the City of applications for changes in rates or charges made to WUTC which affects rates in the franchise area. Grantee will further notify the City if WUTC ceases to regulate rates for Grantee in Island County.

It is further provided, that if the WUTC ceases regulating rates for Grantee in Island County, then the Grantee's rates for solid waste collection services in the franchise area shall be the same as those rates established by the City for customers of the City solid waste utility; provided, that the Grantee shall have the right to request a public hearing within thirty (30) days of notice of the application of City rates to the franchise area to establish a different rate structure for the franchise area. After public hearing

on the Grantee's proposed rates, the City shall establish such rates as are reasonable based on the charges last approved by the WUTC to cover the cost of service and to allow for sufficient profit in the provision of solid waste collection service.

At the time of enactment of this franchise, the City requires mandatory accounts within all franchise areas. Grantee will cooperate in providing information in this regard unless and until the franchise expires or the City amends its requirements for mandatory accounts.

- (7) Frequency of collections. Grantee shall offer regular collections of solid waste throughout the business areas assigned to the Grantee and shall offer once a week collection in all residential districts assigned to the Grantee in accordance with the franchise issued by the WUTC; provided, that the City may modify this clause as to frequency of collections or solid waste and may prescribe the hours during which collections will be made, and Grantee shall comply with all such regulations so adopted and prescribed.
- (8) Service required. Grantee shall furnish collection service to any person or organization, public or private, within the franchise area within thirty (30) days of receipt of a written request for such service.

Grantee shall not, however, be required to furnish service to any household, dwelling, business establishment or other building requiring service unless the owner thereof shall furnish an opening to his yard or grounds from the alley or street where solid waste is customarily collected, and Grantee shall not be required to service any household, dwelling, business establishment or other building, where a private road must be used to obtain access thereto unless such private road is more than twenty (20) feet in width. The Grantee shall notify the City of addresses and locations of any household, dwelling, business establishment or other building in the area which it is not providing service under this provision with the reason why it is not providing service.

- (9) Customer list. Grantee will advise City of lists of customers on a regular basis to be established by the City so that the City may use such information to assure universal collection of solid waste service for the City of Oak Harbor.
- (10) Yard Waste Services. The City may provide yard waste collection services in the annexation areas.
- (11) Reserved regulations. The City reserves the right to impose additional regulations upon Grantee in its discretion for purposes of health, welfare and safety.

Section Two. Notice of Tax on Utility Business. This ordinance shall establish written notice to Island Disposal that the rate for solid waste utilities is presently set at six and one-quarter percent (6.25%) on the gross income derived from doing business in Oak Harbor. This rate is subject to change by Oak Harbor ordinance.

Section Three. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section Four. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law.

PASSED by the City Council and approved by its Mayor this _____ day of _____, 2010.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

