BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DECLARING METRO'S INTENT TO PROCEED TO IMPLEMENT A TRANSFER STATION IN WASHINGTON COUNTY	))))	RESOLUTION NO. 83-439 Introduced by the Regional Services Committee

WHEREAS, Metro has the authority under ORS 268.317 to construct, operate and maintain transfer facilities necessary for the solid waste disposal system of the District; and

WHEREAS, A transfer station to service Washington County is a recommended element of the adopted Solid Waste Management Plan; and

WHEREAS, Metro sought public input regarding a transfer station in Washington County and was subsequently advised by the Washington County Transfer Station Committee that a transfer station facility was needed in this area; and

WHEREAS, The firm of Price Waterhouse Co. was retained in 1980 and recommended that Metro ownership and operation, or contracting for the operation, of all transfer stations best met Metro's identified objectives; and

WHEREAS, Metro is successfully managing a transfer station in the southern portion of the District; now, therefore,

BE IT RESOLVED,

1. Metro declares its intent to build a transfer station and recycling center in Washington County that will provide transfer and recycling services to both the public and commercial haulers.

2. Metro solid waste staff will develop a process which provides maximum involvement from the solid waste industry and local governments regarding the location and design of the transfer station.

3. Metro solid waste staff will consult with haulers in the western portion of the District to coordinate current or future site requirements of the collection industry.

4. Metro will continue to provide the opportunity for all interested and qualified private sector parties to compete on an equitable basis for design, construction, and operation contracts through a comprehensive, public bid process while maintaining public ownership of the physical facilities.

5. Metro solid waste staff will research and provide information detailing a full-service procurement strategy to the Regional Services Committee.

ADOPTED by the Council of the Metropolitan Service District this 20th day of December, 1983.

Cindy Banzer
Presiding Officer

DD/srb
0404C/366
12/07/83

STAFF REPORT

Agenda Item No. 8.1

Meeting Date Dec. 20, 1983

CONSIDERATION OF OPTIONS FOR IMPLEMENTING A TRANSFER STATION IN WASHINGTON COUNTY

Date: November 10, 1983 Presented by: Solid Waste Staff

FACTUAL BACKGROUND AND ANALYSIS

Anticipating the eventual closure of landfills in and near the urbanized area, the Solid Waste Management Plan adopted in 1975 recommended that a publicly-owned transfer station be constructed in Washington County.

In 1980, the firm of Price Waterhouse & Company was engaged to evaluate alternatives for establishing a comprehensive solid waste management program. Their findings and recommendations were the basis for the development of the management system which includes public ownership and operation and franchising.

In the spring of 1982 the imminent closure of the landfills serving Washington County prompted a renewed effort to begin implementation of a West Transfer Station. The procedures to implement this facility were discussed at several meetings of the Regional Services Committee.

The procurement process recommended by the Executive Officer was Option 2B under which an RFP would be developed by the Metro staff and a Transfer Station Committee. This RFP would be used to select a firm which would site, design, construct and operate the transfer station. While the Staff Reports indicate that an exclusive franchise would be issued, Option 2B left open the decision of whether the agreement between Metro and the firm selected would be a franchise or a contract. The Executive Officer recommended that the Council adopt a resolution which directed the staff to develop a public process, set up a committee, draft criteria and prepare an RFP to implement a transfer station in Washington County.

In July, the Metro Council passed Resolution No. 82-336 establishing a committee to consider the alternatives for implementing a transfer station. The committee, made up of representatives of local jurisdictions, concluded their deliberations by recommending that Metro proceed with the building of a transfer station, and suggested that the actual procurement approach should be decided by Metro.

The recommendation of the local tranfer station committee to support a transfer facility is primarily based upon assuring the public has a place to dispose of their waste. The Hillsboro Landfill, which is the only facility in Washington County serving the general public, is expected to close in three years. Although commercial haulers would still have access to both St. Johns and CTRC, some haulers would experience increased hauling time when the Newberg and Hillsboro Landfills close. These facts, along with the likelihood that any new landfills will require waste be delivered in transfer trailers, resulted in the committee's conclusion to proceed immediately to implement this portion of Metro's plan.

The Regional Services Committee has received the recommendations of the the transfer station committee. Considering the facility will be built using a competitive bid process the primary issues that remain to be decided in implementing a transfer station in Washington County are:.

1. Should the facility be publicly owned?

2. Should Metro seek a long-term franchise arrangement or contract the operations for a shorter term?

In addition to these two primary issues other factors that need to be considered are:

- Should Metro site the facility?
- Should Metro contract to design the facility or simply approve the concept?
- What are the financial terms required for a long-term commitment?

On Wednesday, October 19, 1983, at a special meeting of the Regional Services Committee, consideration was given to four basic approaches for constructing and operating the Washington County Transfer Station. The options for designing, constructing and operating the facility are:

1. Award a sole source franchise;

2. Request proposals to award a franchise;

3. Request proposals to award full service contracts with an accompanying operation agreement; and

4. Follow the conventional or CTRC approach.

Discussion at the meeting centered on advantages and disadvantages of these approaches. The Committee agreed that the approach should include a competitive process which was not proposed in option 1. The Committee also agreed that option 4 is always an alternative, and since it was used to construct CTRC, it is the approach with which the Council is most familiar. The Services Committee asked the Executive Officer to provide additional information on the processes that would be utilized in awarding either a franchise, or a full service contract (options 2 and 3).

This report includes an outline presenting the process that would be followed when either awarding a franchise or a full service contract (Table A). The outline shown was developed based upon the assumption that the operator would be involved with the design and the private sector would perform the siting and obtain permits. Both processes could be accomplished within relatively the same time frame.

In addition to the steps required to complete these processes, the corresponding Council decisions are also shown in the far right-hand column of Table A. Many of the decisions specific to the design and operation of the facility under either of these options must be made when the initial proposal documents are prepared. In the case of franchising, there are conditions that may require revisions to the existing ordinance or that may be addressed under the variance provisions in Section 5.01.110.

Some of these revisions are as follows:

1. Section 5.01.060 - Application - Changes in the application requirements will need to be made in order to make the award.

2. Section 5.01.080 - Term of franchise - The term of the franchise should be reviewed. It is also recommended that specific conditions for renewal be adopted, and conditions for cancellation be established.

4. Section 5.01.090 - Transfer of franchises - Council currently cannot unreasonably deny transfer of a franchise. Conditions for approval should be developed.

5. Section 5.01.120 - Responsibilities of franchisees - Any specific conditions for this operation should be developed and approved under this section. Also consideration of waiving hauler participation would be under this section.

After awarding a franchise any revisions to the agreement before the renewal date would be on a negotiated basis since they will require consent of the owner. This is partially true under the RFP/contract process except that Metro can incorporate changes into contract documents when the contract is re-bid.

Table B is a summary of the differences in the two procurement approaches. The primary difference is whether or not the facility is publicly owned. As with any public utility, the benefits of public ownership are that it provides the maximum control to ensure the public's interest for providing service. Lower rates can be achieved through the exemption from paying property taxes and use of

TABLE A

STEP	OPTION 2 RFP/FRANCHISE	OPTION 3 RFP/CONTRACT	DECISIONS BY COUNCIL
1. Develop/RFP Establish Evaluation Criteria	• Qualifications & Experience requirements • Price to Design, Construct • $/Ton - to Operate • Develop Conditions for Design & long-term operations • Identify General Locations	• Same as Franchise • Conditions for Operations Contract	• Approve Ordinance Changes Applications Process Fiscal Requirements • Gatehouse Operation
2. Firm Prepare Proposals	• Limited Metro Involvement	• Same as Franchise	• No Decision
3. Evaluate and Select Firm	• Review Design & Operation Plan • Evaluate Construction Cost • Evaluate Long-Term Operations & Cost Impacts • Review Qualifications & Experience	• Same as Franchise	• No Decision
Negotiate with Firm	• Operational Conditions (as necessary)	• Not Anticipated at This Time	• Approve of Ordinance Changes if Necessary
4. Award	• Franchise Agreement-Long-Term Operations • Renewed According to Conditions	• Contract to site, Design and Construct • Contract to Operate	• Award (final decisions) Approval of plans, and construction and operation cost.
5. Site Selection	• Private Firm Selects Site (Must be in Metro Predetermined Area.) • Option on Property-Cost Established	• Same as Franchise • Option on Property-Metro Approve of $ Amount	• Must be in predetermined area - no decisions
6. Conditional Use Permit	• Private Firm Obtains Permits	• Same as Franchise • Metro Must Agree with Conditions	• Metro will issue a statement of need and compliance with Solid Waste Management Plan
7. Design Facility	• Firm Designs Transfer Station	• Same as Franchise • Negotiation of changes	• No Decisions with Franchise Must Comply with Requirements. • Council Approval of Changes in Contract
8. Construction	• Building Erected	• Building Erected--Site Inspection by Metro	• No Decision under Franchise
9. Operations Monitor Activities • Waste material accepted	• Metro approves list--monitors site occasionally	• Metro operates gatehouse Inspects operation Approves material on day-to-day basis	
• Fiscal Administration	• Metro Reviews Monthly Reports and Conducts Audit	• Metro Bills Customers[1] and Collects Cash; • Monitors Delinquent Billing	
• Maintenance & Property Protection	• Maintenance as Required by Franchise, Performed by Owner	• Metro Required Maintenance Performed by Contractor	
• Operators Cost & Changes	• Determination of Profits[2] • Operations Cost Submitted to Metro • Metro Complete Rate Analysis & Establish Adequacy of Cost Salaries, Equipment, Etc. • Rate Review Committee to Review Rate Study--Recommend to Council • Metro Renews Franchise and Negotiates Changes	• Prepare One Rate Study Use $/Ton of Contractor • Rate Study Reviewed by Rate Review Committee • Rate Study as Required • Metro Makes Changes and Approves cost • Metro Re-bid or Negotiate	• Council Approves Rates
• Termination	• Metro to assume Owners Equipment and operate or close • Pull Performance Bond	• Metro Assume Control • Rebid Operations • Pull Bond (100% of 1 year Contract)	• Council Approval
• Assignment	• Metro to approve Change in Owner and/or Operator	• Metro Must Approve Contractor or New Contractor • If Sub-Contracted Metro must approve	• Council Approval

(1) Subject to a decision by Metro to operate the gatehouse.
(2) Based on Metro Code Chapter 5.01. Subject to changes upon consideration of revisions in Chapter 5.01

TABLE B

MAJOR DIFFERENCES

		OPTION 2 RFP/FRANCHISE*	OPTION 3 RFP/CONTRACT
1.	Operations Contract	Permanent	Temporary
2.	Property & Building	Owned Privately	Owned Publicly
3.	Fiscal Administration Gatehouse	Private Operation Public Audit	Public Operation
4.	Operator's Cost	Regulate Profit	Pay Contractor's Fee
5.	Termination	Metro must prove violation	Metro Assume Operation
6.	Assignment	Metro must prove reason for denial	Metro Approval
7.	Changes to System	Negotiated with Owner during franchise term	Metro Approval Negotiated only during contract period

* Based on Metro Code, Chapter 5.01

tax exempt financing. Any surplus revenues can be used to expand services or to reduce fees. If the facility is privately owned Metro is relieved of making day-to-day administrative decisions, but still must regulate to protect the interest of public.

Another significant difference in the two options is that a franchise is a relatively permanent arrangement with one firm. Conditions can be written to allow for the public to take control and even buy out the private firm. However, these conditions should be included in the initial franchise agreement.

In summary, the two approaches are very similar in both process and time frame required to accomplish the work. They both allow for substantial participation from private industry and encourage competition to provide incentive to be cost-effective. Bidding is the clearest form of rate regulation, and should be considered important since the facility represents an initial capital cost estimated at $3-5 million while an operating cost of $2-3 million per year is anticipated. Owning and contracting provides the most control and flexibility for Metro. Private ownership and franchising restricts Metro's role to one of regulating.

FINDINGS

Staff has completed the analysis of the various procurement approaches available for implementing a transfer station in Washington County. This review has resulted in the following findings:

1. Metro has the legal ability to either franchise or contract for the operation of a transfer station.

2. The basic decision to be made is not one of public versus private operation, but rather the more narrow question regarding ownership of the physical plant. It is currently assumed that under either a franchise or contract, the private sector will design, construct and operate the facility.

3. Neither public nor private ownership will result in a significant capital cost advantage. Likewise, the use of inital capital investment for the purpose of reducing ultimate operating cost should be realized under either option.

4. Under the two basic ownership choices available to Metro, facility ownership by a private firm carries with it the implication that the franchising format would be followed.

5. The granting of a franchise creates a substantially different relationship between the franchisee and Metro than does a contract. A franchise carries with it a grant of authority, tenure and value far in excess of that contained in a contract.

6. In issuing a franchise for a transfer station, Metro is making a long-term commitment to one firm.

7. The Metro solid waste system continues in a state of evolution.

8. Solid waste management in the United States is in its formative stages with substantial changes yet to come in technology and private sector organizational structure as well as new developments in the relationships between private and public agencies.

9. When establishing franchise conditions, Metro should have a reasonably good feel for potential future unknowns.

10. The experience gained during the procurement process at CTRC, and recent statements from the industry, clearly indicate that several firms have an interest in competing for building and operating the WTRC.

11. A transfer station (or any other individual solid waste disposal component) is an integral part of the overall solid waste disposal system.

12. Typically, when a public agency is charged with the responsibility to provide a needed service, public ownership is surrendered only when the public agency lacks either the financial resources, legal authority, knowledge base needed to own or operate a public facility, or is unwilling to assume the required level of risk.

13. The recommendations for an optimum Metro solid waste management structure by the firm of Price Waterhouse & Company completed in October, 1980 included the characteristic that Metro own and operate, or contract for the operation of, all transfer stations.

CONCLUSIONS

Based on an evaluation of the procurement options available to Metro and the preceding findings, the following conclusions are drawn. These conclusions are consistent with those developed independently by the management firm of Price Waterhouse and Company in their recommendations to Metro on a comprehensive management program. Section I of their report is attached and made a part of this document.

1. While the legality of franchising transfer stations under Metro's current authority is clear, it is also clear that Metro has the authority to build, construct and operate or contract for these services. The difference between the siting of a transfer station and landfill is substantial. While landfill sites are limited by their very nature with few parties willing to invest the money and time required to reach the permit stage, the same cannot be said of transfer stations. Based upon the "public resource" aspect of landfills, and the necessity to commit substantial capital in the early stages of development, the long-term commitment inherent in franchising is appropriate for landfills. However, numerous corporations have indicated a desire to enter the transfer station business in the Metro region. Based upon the previous discussion, there are sufficient reasons for the franchising of landfills which are not present in transfer station operations.

2. A fixed-term operations contract provides flexiblity to Metro in both a financial and an operational sense. For example, the opportunity to bid the system as a total package in future years is eliminated when a portion is not owned by the agency. The need for system flexibility is constrained when Metro lacks control over the individual system components.

3. The franchisee's interest in the total solid waste system may not always be in harmony with Metro's needs. For example, if an exclusive transfer station franchise were granted for Washington County, a current discussion with another landfill operator, regarding the construction of a smaller reload transfer facility in Washington County for the purpose of directing waste away from St. Johns Landfill could face sustained and lengthy legal opposition. This would not be surprising since the transfer station operator is compensated on the basis of tonnage transferred.

4. Franchising creates a de facto monopoly and then proceeds to regulate in order to protect the public interest. Although it is understandable that this approach be undertaken when considering public utilities such as electric, telephone, gas and water service, it is questionable whether this approach is applicable to a solid waste transfer station. These other utilities require the "physical plant" be spread throughout a specific territory. In the case of a transfer station the "physical plant" location is determined by convenience and hauling efficiencies and not by a set geographical area. It should be noted that the use of franchising for solid waste collection is recognized as serving a valid public purpose.

5. The franchise ordinance, as currently drafted, should be reviewed to bring it into compatibility with previous discussions regarding the siting of transfer stations. In effect, the issues would be better handled through a contract tailored to the particular needs for a transfer station in Washington County rather than the use of the waiver provisions in the Ordinance. It should be noted that the franchise ordinance and any future changes not only apply to existing sites, but would also be used as the benchmark for future limited-purpose landfill siting efforts.

6. Metro has the capability to administer the siting, design and construction of a transfer station as evidenced by the successful operation of the CTRC. An extensive base of knowledge, using this option, is available within the solid waste department. While this knowledge has some transferability to the RFP/contract (option 3) and RFP franchise (option 2) models, a significant relearning process would need to be undertaken. Employing the model used to construct CTRC offers a faster start since all key decisions are not required to be made at the very beginning of the process.

7. A fixed-term contract expires at a predetermined date. This enables Metro to unilaterally add, delete or modify conditions to meet changing needs. A franchise is subject to negotiation which suggests that a more thorough and comprehensive set of conditions must be included at the initial franchise award. Due to the evolutionary nature of both the solid waste industry and Metro solid waste system, it is highly unlikely that all contingencies could be identified and incorporated into the original franchise.

8. Should a franchisee encounter substantial litigation or land use delays and decide to abandon any future efforts based upon the financial burden involved, the time consumed between franchise award and abandonment would be lost to Metro. Because of Metro's authority and responsibility in solid waste disposal, this organization does not have the option of walking away from a frustrating or lengthy siting process.

9. A fixed-term contract with Metro ownership is preferable to a franchise because it requires the contractor to periodically compete with other potential operators. This enables Metro (and the public) to judge whether the public is receiving the most economical price in an open, public process that takes advantage of the competitive market place. A franchise essentially eliminates the question of whether someone else can do the job better or more economically and instead only concentrates on the franchisee's level of compliance.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the Metro Council approve a Resolution which recommends a publicly bid fixed-term operations contract with Metro ownership while stressing close cooperation with all affected parties.

While there are benefits to be gained from a franchise arrangement, namely a long-term stable relationship, the flexibility gained through a publicly bid contract process is more beneficial to Metro Solid Waste's needs at this time. If we should decide that the benefits of private ownership/franchising outweigh the current attractiveness of public ownership, we can always divest our holding and institute franchising. However, it is much more difficult to move in the other direction.

This recommendation provides Metro with the flexibility required for responding to future solid waste needs. At the same time, we are in a position to take advantage of the organizational expertise developed during the design, construction and operation of CTRC. The construction of WTRC will be another significant step in the development of our solid waste disposal system.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Services Committee has held four meetings for the purpose of discussing the implementation of the Washington County Transfer Station. The Committee has considered the recommendations of the transfer station committee established under previous action by the Council. After receiving public testimony and reviewing all available information, the Committee voted in favor of Resolution No. 83-439.

This Resolution states Metro's intent to implement a publicly owned solid waste transfer station, to serve the Washington County area. The facility is to be procured through a public bid process and operated under a contract arrangement. Staff is directed to research and provide information detailing a full service strategy to the Regional Services Committee for future discussion.

The Resolution also commits the staff to develop a process that provides maximum involvement from the solid waste industry and local government, regarding the location and design, and to consult with haulers in the western portion to coordinate current and future site requirements of the collection industry.

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METROPOLITAN SERVICE DISTRICT

RECOMMENDATIONS FOR DEVELOPING A COMPREHENSIVE MANAGEMENT PROGRAM TO ADMINISTER A SOLID WASTE FACILITY FRANCHISE AND DISPOSAL RATE CONTROL SYSTEM

OCTOBER 17, 1980

Price Waterhouse & Co.

SYSTEM MANAGEMENT STRUCTURE

Metro involvement alternatives

Regarding Metro's existing and future scope of activities, there are four basic institutional alternatives:

- Metro ownership and operation;
- Metro ownership and private operation;
- Private ownership and operation;
- Private ownership and Metro operation.

Each alternative has its advantages and disadvantages, and each may be more or less appropriate depending upon the function being performed.

These four institutional alternatives are briefly described below. Additionally, the relative pros and cons associated therewith as well as the conditions which favor each are presented at Exhibit I-1. In reviewing this exhibit, it must be kept in mind that the conditions which favor each alternative are intended to be general in nature, with no presumption as to their relative importance or their applicability to Metro. However, to the extent these conditions do apply to Metro, they should be considered in management's evaluation of each of the following institutional alternatives.

Metro Ownership and Operation. A publicly owned facility (i.e., one owned either by Metro or another governmental unit) would be operated by Metro.

Metro Ownership and Private Operation. A publicly owned facility could be operated privately either by the contractor who built the facility, or by an independent service contractor who had nothing to do with facility design or construction.

Private Ownership and Private Operation. Under this approach a system contractor has full responsibility for financing, design, implementation, continued operation, and ownership of the facility. In reality, this full service contractor is offering Metro a service rather than a facility.

Private Ownership and Metro Operation. This option normally would take the form of a leveraged lease, wherein Metro could lease a facility from private investors who finance the facility in exchange for formal ownership of it and the tax advantages associated therewith.

In addition, there are numerous variations on these four basic institutional alternatives. For example, under the Metro Ownership/Private Operation option, the private operator could be required to make certain leasehold improvements and to acquire operating equipment although Metro would own the land on which the landfill is located.

Regardless of which institutional alternative ultimately is adopted, Metro is responsible for ensuring that needed disposal facilities are provided and are operated in an acceptable manner. As such, Metro must establish regulatory control over these activities. This regulatory program should include (a) developing and implementing ordinances and regulations; (b) establishing inspection, monitoring, and complaint procedures and programs; (c) initiating enforcement procedures and programs as required by the Disposal Franchise Ordinance; and (d) developing bid specifications and awarding contracts or franchises for services to be provided by private firms.

In deciding between private versus public operation and ownership of a given facility, Metro must evaluate factors such as ability to raise capital, the degree of technological risk involved, the management expertise required, and the expected capital and operating costs. The objective of this evaluation must be to balance these often conflicting factors and, in so doing, to structure the optimum institutional arrangement consistent with public policy.

Concerning the issue of costs, it can be argued that governmental systems should cost less since they do not have to earn a profit nor pay taxes, and the costs of tax-exempt financing are less than that of private capital. On the other hand, a private enterprise must earn a profit and pay various taxes. Additionally, the governmental entity will incur expenses to license and monitor the operations of private companies. The most frequently cited reasons for lower private costs are better management and more efficient use of labor. In all cases, the profit motive is considered a key element in reducing costs. The loss of tax revenues under public ownership and operation also must be taken into account.

As readily can be seen from a review of Exhibit I-1, the primary advantage of Metro ownership is maximum control over the solid waste disposal system with the main disadvantage being the requirement for commitment of public capital. Regarding Metro operation of facilities, the primary advantage again is control whereas the primary disadvantage is the requirement to acquire skilled personnel and the associated future displacement of jobs in the private sector.

Based upon discussions with you and your staff, the following objectives were defined regarding Metro's involvement in the solid waste management system:

1. Assurance that needed facilities are available and that they are operated in an acceptable manner;

2. Maximum control over the flow of solid waste and the ability to direct particular types of waste to specific disposal facilities;

3. Maximum utilization of existing and potential disposal facilities to assure the availability of such facilities as far into the future as possible;

4. Control over the number and qualifications of those private enterprises which enter the solid waste disposal industry to provide for flow control as well as efficient and effective operation of the disposal system to the maximum extent possible; and

5. Control over user charges to assure that they are fair, just and reasonable, and that they promote the other objectives enumerated above.

Additionally, through discussions with you and your legal counsel, it was determined that Metro currently has statutory authority to:

1. Direct all, or a portion, of the solid waste stream to selected disposal facilities in order to maximize the efficiency of the region's Solid Waste Management Plan;

2. Limit the number of disposal sites which are in operation at any point in time, and to optimize the geographic dispersion of such facilities;

3. Restrict entry into the solid waste system and to restrict the services provided by those who are granted entry;

4. Provide a coordinated regional disposal program and Solid Waste Management Plan in cooperation with federal, state and local agencies to benefit all citizens of the District;

5. Provide standards for the location, geographical zones and total number of disposal sites, processing facilities, transfer stations and resource recovery facilities to best serve the citizens of the District; and

6. Insure that rates are fair, just, reasonable and adequate to provide necessary public service, and to prohibit rate preferences and other discriminatory practices.

Optimum management structure

In light of the above, it appears that Metro's objectives best can be met by a solid waste management system that has the following characteristics:

1. Metro will own and operate, or contract for the operation of, all transfers stations;

2. Metro will own and operate, or contract for the operation of, all general purpose landfills;

3. Metro may own and operate, or contract for the operation of, limited use landfills restricted to disposal of demolition material. Metro probably will grant a limited number of franchises for the ownership and operation of such facilities to the private sector;

4. Metro may own, or franchise the ownership and operation of, resource recovery facilities. Under Metro ownership, the operation of such facilities will be contracted to the private sector;

5. Metro will establish the rates to be charged at its own facilities and will regulate the rates charged at the privately owned and operated demolition landfills. The rates charged at these privately owned facilities will be established in accordance with generally accepted rate-making principles and probably will vary from one facility to another;

6. Metro will perform the gatehouse monitoring and billing functions at publicly owned disposal facilities and at resource recovery facilities.

The above management structure properly balances the relative advantages and disadvanntages of each institutional alternative presented at Exhibit I-1. In summary, these factors are ability to raise capital, the degree of technological risk involved, the management expertise required, and the expected capital and operating costs. Metro will continue to perform the system-wide planning and monitoring required to ensure that disposal facilities are available when needed and that they are operated in accordance with the Disposal Franchise Ordinance.

We have recommended that Metro own and operate all transfer stations. This function could be provided by the private sector, but there are no overwhelming reasons to do so. The primary purpose of a transfer station is to provide convenient disposal service to the general public in lieu of public access to remote and/or restricted sanitary landfills. As such, quality of service considerations usually are more important than economic criteria. Additionally, in the interest of flow control, a uniform disposal charge should be levied at all transfer stations regardless of their individual capital and operating costs. If all or some transfer stations were privately owned, establishment of a uniform disposal charge would be extremely complex due to the subsidy of one facility by another which invariably would be required (see Section III for discussion of the uniform disposal charge formula). Under these circumstances, such facilities best are owned and operated by Metro rather than the private sector.

The legality of such a subsidy also must be carefully evaluated. In a preliminary draft memorandum dated April 15, 1980, Metro's legal counsel indicated that:

> "As stated in the proposed solid waste disposal franchise ordinance, MSD had limited land and resources for the disposal of solid waste and requires the franchise of disposal sites, transfer stations, processing facilities, and resource recovery facilities in order to provide and protect such resources. Thus, subsidies in connection with this franchise system undoubtedly serve a public purpose and do not violate Article XI, S 9 (of the Oregon Constitution). If MSD does not become a stockholder in a private corporation or encumber general revenues through such subsidies, then Article XI, S 9 is not violated."

Whether Metro or the private sector owns resource recovery facilities will depend upon relative economics and the willingness of private enterprise to own such a facility. As indicated on Exhibit I-1, there are significant tax benefits associated with private ownership of a resource recovery facility. These tax benefits effectively reduce the cost of capital financing and, in turn, the required disposal charge. However, the availability and magnitude of such benefits are project specific. Relative economics may favor Metro ownership in one instance and private ownership in another. In any event, the private sector should operate such a facility, at least for the first few years. Private operation is desirable because of the required management and technical expertise and experience, which normally is not available in the public sector. Who operates a resource recovery facility is an important factor in determining the bond rating, and therefore the interest rate, for any long-term debt incurred to construct the facility.

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METROPOLITAN SERVICE DISTRICT

SYSTEM MANAGEMENT STRUCTURE

METRO OWNERSHIP AND OPERATION

Potential advantages	Potential disadvantages	Conditions which favor alternative
Tax exempt	Monopolistic	A financial feasibility study shows this to be more cost-effective
Nonprofit	Lack of incentive to maximize efficiency	Past history of contractual operations for public service is unsatisfactory
Availability of low-interest financing and/or government grants for needed capital acquisitions	Financing and operations often influenced by political constraints	Public predisposition towards government operation of public services
Economies of scale	Labor pressures may result in inefficient labor practices and/or strikes	Quality of service provided is valued more highly than economics
Metro has administrative control	Restrictive budget policies may inhibit innovation, and reduce efficiency due to inadequate equipment replacement and maintenance	Creation of public jobs is desirable
Management and policies are continuous over time, resulting in experienced personnel and permitting long-range planning	Policies of job-support inflate labor costs	Government employees are available to operate facilities
Records can be kept over on extended period of time	Community may not have expertise to operate sophisticated capital-intensive facilities	Implementation may be easier because government ownership is compatible with existing public policy
	Government may lack expertise to market recovered materials and/or energy	

METRO OWNERSHIP AND PRIVATE OPERATION

Potential advantages	Potential disadvantages	Conditions which favor alternative
Competitive bidding for contracts(s) helps keep prices down	Danger of collusion in bidding	A financial feasibility study shows this to be more cost-effective
Metro has administrative control	Metro must regulate contractors	Public predisposition towards both public and private sector involvement in public services
Community does not bear entire risk associated with new technology	Metro must identify acceptable firms and negotiate contracts	Qualified private contractors are available
Availability of low-intrest financing and/or government grants for needed capital acquisitions	Private operators may pursue profits in lieu of service to the community	Flexibility is needed to make changes in operations that would result in labor savings and other cost reductions
Economies of scale	Displacement of public employees	Desire of local government to avoid administrative details in operation of disposal facilities
		Community lacks sufficient technical and management expertise for efficient operation of the type of system it would like to implement

PRIVATE OWNERSHIP AND OPERATION

Potential advantages	Potential disadvantages	Conditions which favor alternative
Competition may reduce costs	Metro has no administrative control*	A financial feasibility study shows this to be more cost-effective
Local community does not have to finance the system	Danger of collusion among disposal sites to reduce competition and maintain high prices*	Public policy favors private sector involvement in public services .
Often easier for private firms to buy land for disposal facilities	Cutthroat competition can result in business failures and service interruptions*	Borrowing power of community and/or voter approvals for bond issues needed for capital improvements are limited or not available
Community does not bear entire risk associated with new technology	Overlapping service areas*	Flexibility is needed to make changes in operations that would result in labor savings and other cost reductions
Private firms tend to have greater expertise in management of capital-intensive facilities	Community will have no control over fees if only privately owned and operated facilities are available*	Desire of local government to avoid administrative details in operation of disposal facilities
	Metro may have to regulate private firms	
	Metro may have to identify acceptable firms and grant franchises	

*Potential disadvantage assumes that there is no regulatory control system. If such a system exists, this disadvantage is eliminated.

PRIVATE OWNERSHIP AND OPERATION

(Continued)

Potential advantages	Potential disadvantages	Conditions which favor alternative
	Private interests may pursue profits in lieu of service to the community	Public sector lacks sufficient technical and management expertise for efficient operation of the type of system it would like to implement
	Substandard disposal practices may occur	
	Displacement of public employees	Qualified private firms are available

PRIVATE OWNERSHIP AND METRO OPERATION

Potential advantages	Potential disadvantages	Conditions which favor alternative
Local community does not have to finance the system	Monopolistic	A financial feasibility study shows this to be more cost-effective
Metro has administrative control	Lack of incentive to maximize efficiency	Past history of contractual operations for public service is unsatisfactory
Often easier for private firms to buy land for disposal facilities	Operations often influenced by political constraints	Public predisposition towards both public and private sector involvement in public services
Community does not bear entire risk associated with new technology	Labor pressures may result in inefficient labor practices and and strikes	Quality of service provided is valued more highly than economics
	Restrictive budget polices may inhibit innovation, and reduce efficiency due to inadequate equipment replacement and maintenance	Government employees are available to operate facilities
	Policies of job-support inflate labor costs	Creation of public jobs is desirable
	Public sector may not have expertise to operate sophisticated capital-intensive facilities	Borrowing power of community and/or voter approvals for bond issues needed for capital improvements are limited or not available
	Government may lack expertise to market recovered materials and/or energy	

Exhibit I-1
(5)