

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF GRANTING A ) RESOLUTION NO. 84-522  
FRANCHISE TO OREGON WASTE MANAGE- )  
MENT, INC. AND GENSTAR CONSERVA- ) Introduced by the  
TION SYSTEMS, INC. FOR THE PURPOSE ) Executive Officer  
OF OPERATING A SOLID WASTE PRO- )  
CESSING FACILITY )

WHEREAS, Section 5.01.030 of the Metropolitan Service District (Metro) Code requires a Metro Franchise for any person to establish, operate, maintain or expand a disposal site, processing facility, transfer station or resource recovery facility within the District; and

WHEREAS, Oregon Waste Management, Inc. and Genstar Conservation Systems, Inc. (OWM/GCS) have jointly applied for a non-exclusive franchise to operate a processing center at 701 N. Hunt Street, Portland, Oregon; and

WHEREAS, OWM/GCS has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans except in areas relating to rate regulation and collection of User Fees and Regional Transfer Charges as discussed in the Staff Report; and

WHEREAS, OWM/GCS has applied for variances from Metro Code sections relating to rate regulation and collection of User Fees and Regional Transfer Charges pursuant to Metro Code Section 5.01.110; and

WHEREAS, OWM/GCS has met the purpose and intent of Metro Code Section 5.01.180 and has met variance criterion (3) under Metro Code Section 5.01.110 as set out in its application for a variance from rate regulation; and

WHEREAS, OWM/GCS has met the purpose and intent of Metro Code Sections 5.02.045 and 5.02.050 and has met variance criterion (3) under Metro Code Section 5.01.110 as set out in its application for a variance from collection of User Fees and Regional Transfer Charges; and

WHEREAS, The variances are granted subject to annual review by the Executive Officer because the innovative nature of the proposed operation makes it impossible to determine that the criteria of the Metro Code will continue to be met; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District authorizes the District to enter into the attached Franchise Agreement with Oregon Waste Management, Inc. and Genstar Conservation Systems, Inc. within ten (10) days of the adoption of the Resolution.

2. That the requested variances from the Metro Code are granted, but they shall be reviewed by the Executive Officer one year from the date of issuance of the Franchise. If, in the opinion of the Executive Officer, the variances warrant review they shall be reconsidered by the Council.

ADOPTED by the Council of the Metropolitan Service District this 13th day of December, 1984.

  
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Presiding Officer

ES/srs  
2449C/402-3  
12/04/84

STAFF REPORT

Agenda Item No. 8.3

Meeting Date Dec. 13, 1984

CONSIDERATION OF RESOLUTION NO. 84-522, FOR THE  
PURPOSE OF GRANTING A PROCESSING FACILITY  
FRANCHISE TO OREGON WASTE MANAGEMENT, INC., AND  
GENSTAR CONSERVATION SYSTEMS, INC.

Date: November 29, 1984

Presented by: Edward K. Stuhr

FACTUAL BACKGROUND AND ANALYSIS

Oregon Waste Management, Inc. currently operates a source-separated buy back center for recyclable materials at 701 N. Hunt Street in Portland. On October 16, 1984, the company initiated an application for a non-exclusive franchise to operate a processing facility at that location as well. The application was accepted as complete on November 23, 1984. The operator of the business wishes to enter into a joint venture with Genstar Conservation Systems, which will allow upgrading the facility so it can accept selected loads of mixed waste from commercial haulers. Only loads which contain a significant percentage of recyclable materials (primarily corrugated cardboard and other paper products) would be accepted.

As the process is planned, mixed loads will be placed on a conveyer belt which will move the material past sorters who will separate out recyclable materials by hand. The recyclable materials will then be warehoused for sale and the remaining solid waste will be taken to a disposal site. The operator anticipates that approximately 7,200 tons of recyclable materials per year will be extracted from the waste stream by the processing facility. The operator also intends to continue the buy back center for source-separated recyclables. It is estimated that there are about 35,000 tons per year of corrugated cardboard in the Metro region's waste stream that currently escape recycling.

Variance Requested from Collection of User Fees and Regional Transfer Charge (RTC) on Mixed Waste

Under Sections 5.02.045 and 5.02.050 of the Metro Code, the operator of a facility which receives mixed waste is required to collect user fees and the RTC on all material which is received. When the remaining waste is disposed of, User Fees and the RTC are charged at the disposal facility. The operator then receives a credit for the charges which were collected at the disposal facility.

The net result of this process is that Metro charges are collected on both the recyclable materials and the disposed materials. The applicant asks that Metro charges not be collected

on material that he receives, but only when the remaining material is taken to a disposal facility. The variance request is attached (Exhibit A).

Using the applicant's projected volumes (24,000 tons per year) and projected 30 percent recyclable recovery rate, the revenue loss to Metro of this variance taken by itself is 7,200 tons x \$3.68, or about \$26,500. At a 50 percent recovery rate, the revenue loss becomes \$44,160 per year.

The applicant bases the request for variance on the grounds that the extra cost would prevent him from being competitive in the market place. There is no adequate way to verify that assertion since no financial data is presented. A logical argument can be made, however, that the fact that Metro charges are only collected on recyclable materials which are not source-separated would be a disincentive to the kind of business being proposed here.

#### Variance Requested from Rate Regulation

Section 5.01.180 of the Metro Code requires that the Council set rates for franchised facilities. The applicant requests a variance to the Code requirement under Code Section 5.01.110 on grounds that (1) the facility will operate in a competitive climate; (2) disclosure of proprietary agreements as part of rate setting would be detrimental to the business; and (3) the nature and complexity of the business makes empirical rate setting inaccurate. The applicant claims, therefore, that adherence to the Code would be inappropriate because of conditions beyond his control and because it would result in "substantial curtailment or closing down of the business." Detailed arguments are presented in the attached variance request (Exhibit B).

This variance, taken by itself, would have no fiscal effect on Metro. A key operational consideration for the applicant is that he must charge enough less than available disposal facilities to attract customers.

The Solid Waste Rate Review Committee has considered the applicant's requests for variances from rate regulation and from collection of User Fees and Regional Transfer Charges on incoming material. The Committee recommends approval of both variances, provided that the approvals will be reviewed after one year of operation, in accordance with standards to be set by the Executive Officer.

#### EXECUTIVE OFFICER'S RECOMMENDATION

The operation being proposed by OWM/GCS is a positive step for waste reduction in the Metro area. The Council should adopt Resolution No. 84-522, to allow the District to enter into a franchise agreement with OWM/GCS.

The applicants' request for a variance to be exempt from

collecting User Fees and the Regional Transfer Charge from incoming waste should be reviewed with the following questions in mind:

1. Would their imposition have a significant impact on the viability of the project?
2. Will the loss of this revenue source have a significant impact on the Metro solid waste program?
3. Should the Metro fees be applied to any material which will be removed from the waste stream prior to final disposal?

The Solid Waste Department staff has evaluated the economic viability of this project and, at least for the short-term, agrees with the applicant that the imposition of the Metro fees could have a significant negative impact. Current revenues indicate that, during the next year, the loss of an estimated \$25,000 to \$40,000 in Metro fees from this project will be offset by higher than projected volumes. The Executive Officer's recommendation is to grant the requested variance from the User Fee and Regional Transfer Charge for one year, or until the Council has reviewed the policy of exempting recyclable material at any point prior to disposal for the entire region and adopts policies to apply regionwide.

While the agreement would be a non-exclusive franchise, and while the operation will take place in a somewhat competitive environment, it is recommended that a variance be granted to OWM/GCS such that the variance would be reviewed by the Executive Officer annually, according to the criteria contained in Schedule E of the Franchise Agreement. If the Executive Officer determines by the review process that the variance is no longer appropriate, the variance will be brought back to the Council.

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2449C/402-3  
12/04/84

VARIANCE REQUEST  
USER FEE & TRANSFER CHARGE

OWM/GCS is requesting a variance to Metro Code Section 5.02.045 (user fee) and Section 5.02.050 (transfer charge) eliminating the Metro sur-charges on recycled material. By granting this request, the objectives of the State of Oregon's Opportunity to Recycle Act of 1983, Metro's Disposal Franchise Ordinance and Waste Reduction Plan will be met. In addition, this action will allow for the establishment of a major recycling effort which would otherwise not be economically feasible.

The 63rd Oregon Legislative Assembly passed the Opportunity to Recycle Act (SB 405) which requires that the "opportunity to recycle" be made available to all Oregonians. The Act requires in ORS 459.170 (2)(a) through (g) that the following criteria be considered in developing the administrative rules.

1. The purposes and policy stated in ORS 459.015.
2. Systems and techniques available for recycling, including but not limited to existing recycling programs.
3. Availability of markets for recyclable material.
4. Cost of collecting, sorting, transporting and marketing recyclable material.
5. Avoided cost of disposal.
6. Density and characteristics of the population to be served.
7. Composition and quantity of solid waste generated and potential recyclable material found in each wasteshed.

The Act further states in ORS 459.015;

- (1) The Legislative Assembly finds and declares that:
  - (a) The planning development and operation of recycling programs is a matter of state-wide concern.
  - (b) The opportunity to recycle should be provided to every person in Oregon.
  - (c) There is shortage of appropriate sites for landfills in Oregon.
  - (d) It is in the best interests of the people of Oregon to extend the useful life of existing solid waste disposal sites by encouraging recycling and reuse of materials whenever recycling is economically feasible.
- (2) In the interest of the public health, safety and welfare and in order to conserve energy and natural resources, it is the policy of the State of Oregon to establish a comprehensive state-wide program for solid waste management which will:

- (a) After consideration of technical and economic feasibility, establish priority in methods of managing solid waste in Oregon as follows:
- (A) First, to reduce the amount of solid waste generated;
  - (B) Second, to reuse material for the purpose which it was originally intended;
  - (C) Third, to recycle material that cannot be reused;
  - (D) Fourth, to recover energy from solid waste that cannot be reused or recycled, so long as the energy recovery facility preserves the quality of air, water and land resources; and
  - (E) Fifth, to dispose of solid waste that cannot be reused, recycled or from which energy cannot be recovered by landfilling or other method approved by the Department.
- (j) Encourage utilization of the capabilities and expertise of private industry in accomplishing the purposed of ORS 459.005 to 459.105 and 459.205 to 459.285.

Metro's long term waste reduction goal as stated in the Waste Reduction Plan approved by the Council on January 8, 1981, is to "reduce the amount of solid waste disposed by 83 percent:

- by assuring the handling, processing and reclamation of all separated yard debris;
- by reducing the residential and commercial solid waste by 30 percent through the recovery of all available recyclable materials; and
- by reducing the remaining residential and commercial processible solid waste by 75 percent through resource recovery. (emphasis added)

In addition, Metro's Waste Reduction Policy Statement states:

1. Waste generators possess the primary responsibility for waste reduction.
2. The resources of private industry and local governments should be utilized to reduce waste volumes.
3. The use of incentives for waste reduction is preferred over the use of regulations; if incentives are ineffective in reducing waste volumes, mandatory measures should be adopted.
4. The full costs of disposal should be the basis for

- disposal rates; the basis for incentives for waste reduction should be reduced landfill dependence and a positive economic impact.
5. The reduction in the amount of solid waste generated is the highest and best use of resources over other solid waste management options.
  6. Waste recycling and reuse is the best use of solid waste over mechanical processing or landfilling of waste.
  7. The mechanical processing of solid wastes for the recovery of energy and materials is a better use than disposal.

The OWM/GCS proposal is consistent with the State of Oregon's Opportunity to Recycle Act and in particular ORS 459.015 1(b), 1(d), 2(a)(B), 2(a)(C) and (j) and Metro's Waste Reduction Goals and Waste Reduction Policy Statement especially elements 2, 3, 4, 6 and 7.

In the past, Metro has imposed the user fee and transfer charge on the few small permitted processing centers in operation. These fees are paid by the processing centers based on incoming tonnage and a credit is given for non-recyclable material taken to a disposal site. The effect of this practice is to impose the user fee and transfer charge in the amount of \$3.68 on all recycled material. In some cases, this burdensome sur-charge may eliminate the recovery of recyclables from the waste stream and compound the disposal problems facing Metro today.

In keeping with Metro's goal to encourage recycling and to reduce the amount of material being landfilled, the Council adopted Ordinance 83-163. Among other things, this ordinance waved certain fees for persons delivering recyclable material along with waste to the St. Johns Landfill or to the Clackamas Transfer and Recycling Center. For example, an auto delivering recyclable material and waste to the St. Johns Landfill, the fee will be reduced from \$6.50 to \$3.25. At the CTRC, the fee will be \$3.60 instead of \$7.25.

Metro's Disposal Franchise Ordinance, Section 12, provides that the Council may grant specific variances if they find that the "...purpose and intent...can be achieved without strict compliance and that strict compliance:

- (a) Is inappropriate because of conditions beyond the control of person(s) requesting the variance; or
- (b) Will be rendered extremely burdensome or highly impractical due to special physical conditions or causes; or
- (c) Would result in substantial curtailment or closing



down of a business, plant or operation which furthers the objectives of the District." (emphasis added)

OWM/GCS is requesting a variance to Metro Code Sections 5.02.045 (user fee) and Section 5.02.050 (transfer charge) eliminating the imposition of user fees and transfer charges on the recyclables recovered from mixed loads received and processed. User fee and transfer charges will be paid on all waste not recycled and taken to an authorized disposal site.

Metro initially imposed the user fee at disposal sites for the purpose of generating revenue to operate its solid waste program. At that time it was Metro's only source of revenue and very little, if any, was derived from recycled material. However, since the late seventies, a great deal more emphasis has been placed on recycling as a major part of Metro's overall solid waste program strategy. For example, the Waste Reduction Plan was adopted which, among other things, recommended that economic incentives be used as a method of encouraging recycling. As stated above, Metro adopted an ordinance reducing disposal fees at their facilities in order to encourage recycling. Section 3, (2)(h) of the Disposal Franchise Ordinance, Findings and Purpose, states that it is public policy to "reduce the volume of waste that would be otherwise disposed of in a landfill through source reduction, recycling, reuse and resource recovery."

The regional transfer fee was imposed at all solid waste disposal sites in order to lessen the impact of hauling waste from the CTCRC to St. Johns Landfill on the users of the transfer station.

If the Metro sur-charge of user fees and transfer charges are imposed on the recycled material processed at the OWM/GCS facility, the disposal fee that must be charged will be greater than that levied at the landfills. This is contrary to Metro's goal to encourage recycling, will eliminate the economic advantage necessary to operate the recycling center and will result in the closing of the business.

In conclusion, OWM/GCS is requesting that a variance be granted to Metro Code Section 5.02.045 and Section 5.02.050 eliminating the user fee and transfer charge on recycled material recovered at the OWM/GCS facility. This action is consistent with the Oregon Opportunity to Recycle Act of 1983, Metro's Waste Reduction Plan, adopted Metro policy and furthers the

objectives of the District. Imposing the sur-charges on recycled material creates an economic disincentive to recycling and will result in the elimination of this recycling proposal.

VARIANCE REQUESTRATE SETTING

OWM/GCS is requesting a variance to Metro Code Section 5.01.180 (Determination of Rates). This will eliminate the necessity for Metro to establish a disposal fee to be charged at the recycling facility, provided said fee is less than the disposal rate charged at the nearest Metro authorized solid waste disposal site and that the major source of revenue generated by the OWM/GCS facility is realized from the recycled material.

In order to maximize the recovery of recyclables from the waste stream, the OWM/GCS operation must be able to offer a rate that is lower than conventional disposal, meets operational costs, is flexible enough to reward those haulers for loads with fewer contaminants and recognizes higher than anticipated recovery rates.

As part of the implementation of its Solid Waste Management Plan, Metro adopted the Disposal Franchise Ordinance in 1981. In the Ordinance's Findings & Purpose Statements (Section 3 [2]) the "... council declares it to be in the public policy of the District and the purpose of this Ordinance to establish an exclusive franchise system for disposal of solid waste...in order to:

- (a) Provide a coordinated regional disposal program...to benefit all citizens of the District.
- (c) Ensure that rates are just, fair, reasonable and adequate to provide necessary public service.
- (h) Reduce the volume of waste that would otherwise be disposed of in a landfill through source reduction, recycling, reuse and resource recovery." (emphasis added)

Under Metro's established definition, the OWM/GCS facility is defined as a Processing Center since the primary purpose of the operation is to alter the content of solid waste.(1) In accordance with Metro's Solid Waste Disposal Franchise Ordinance, OWM/GCS must submit and have approved a franchise application before the facility may accept solid waste for processing.

As part of the franchising process, Metro must establish the rate to be charged by OWM/GCS for mixed solid waste. The rate is regulated by Metro to ensure that it is "...just, fair, reasonable and adequate to provide necessary public service".(2) The theory of franchise rate setting and the need to review detail financial information is to insure that the public is not over charged for services provided by government approved monopolistic private business.

(1) Metro's Disposal Franchise Ordinance, Section 2 (13) & (14)

(2) Ibid, Section # (2) (C)

## Variance Request - Rate Setting

The rate setting policies and methodologies adopted by Metro to date have been established for facilities designed solely for solid waste disposal or transferring. Public facility rates have essentially been formulated according to an average cost method, while private facility rates have been set using the marginal cost plus profit method. In both cases, the cost for solid waste disposal and transferring have been allocated to the appropriate user and converted into applicable rates, such as per ton, per yard or per trip.

Application of the cost plus rate setting method to OWM/GCS's operation cannot be done effectively. Major differences exist between disposal and processing/recycling operations that make previously used methods of setting rates inaccurate and cumbersome when applied to non-disposal facilities. Three of the primary problem areas are discussed below.

First, OWM/GCS financial success will be based not only on its operational cost efficiency (similar to a landfill) but more importantly, its ability to maximize revenue from the recycled material. These revenues will fluctuate day to day and order by order as the price per ton for each of the materials recovered changes with the secondary markets. For example, the price of cardboard has fallen approximately 30% over the last few months. Any attempt to guess these revenues for any extended period of time and then allocate individual materials' revenues to the appropriate haulers of mixed loads would be complicated and inevitably inaccurate. The majority of the business revenue is derived from the sale of secondary materials and not from disposal fees.

Second, OWM/GCS's proficiency at generating greater revenues lies in its ability to negotiate the best purchasing contracts with the buyers of the recovered material. Such contracts are invaluable to a processing center and are the main financial advantage OWM/GCS has over its competitors. The disclosure of these contracts to Metro, required in a typical marginal cost analysis, will damage OWM/GCS ability to maintain the proprietary value of such agreements. Further, buyers have prohibited such disclosures.

Third, the distribution of costs and revenues between mixed waste and recyclables and source separated material that will occur makes a marginal cost rate setting process difficult and speculative.

In addition, OWM/GCS is not requesting a monopoly or an exclusive franchise. On the contrary, other disposal options are available within a few miles of the recycling facility. The requested rate is lower than that charged for disposal at the St. Johns Landfill.

Given these important factors, it is clear that a full financial analysis of the operation and a marginal cost plus profit rate setting process would serve little or none of its intended purpose. Such an analysis and rate setting process would be technically difficult, potentially damaging to the business and would not be necessary to establish "just, fair and reasonable" rates.

Metro's Disposal Franchise Ordinance, Section 12, provides that the Council may grant specific variances if they find that the "...purpose and intent...can be achieved without strict compliance and that strict compliance:

- (a) Is inappropriate because of conditions beyond the control of person(s) requesting the variance; or
- (b) Will be rendered extremely burdensome or highly impractical due to special physical conditions or causes; or
- (c) Would result in substantial curtailment or closing down of a business, plant or operation which furthers the objections of the District." (emphasis added)

OWM/GCS is requesting a variance to Metro Code Section 5.01.180 (Determination of Rates) for the following reasons:

- (1) The Disposal Franchise Ordinance was adopted to insure the proper disposal of solid waste through the imposition of an exclusive franchise system which includes disposal rate regulations. This is demonstrated by the phase-in plan for the Killingsworth Fast Disposal Landfill and the possible future use of the Waybo Pit and Metro's current policy pertaining to the Washington County Transfer and Recycling Center. At these and other exclusive facilities Metro controls or will control the rates.

The OWM/GCS request is not for an exclusive franchise. While the operation furthers the objectives and policies of both Metro and the State of Oregon by maximizing the recovery of recyclables from solid waste and reduces the impact on the area's landfills, its existence is not as vital as a disposal site or regional transfer station. In addition, the Metro Solid Waste System will continue to function with or without this recycling facility.

- (2) Since the recycling facility will not hold an exclusive franchise, it must compete with other disposal sites regulated by Metro. Therefore, OWM/GCS must charge a rate which is lower than conventional disposal fees.

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Variance Request - Rate Setting

- (3) Unlike conventional disposal sites, the major source of revenue will be derived, not from the disposal fee, but from the sale of recyclable material. The selling price of secondary material fluctuates order by order and is dependent on a dynamic market place. It is impossible to accurately estimate long term selling prices.
- (4) One of OWM/GCS major financial advantages lies in its purchasing agreements. Disclosure of the terms of these agreements which is necessary in Metro's rate setting process is prohibited by the buyers of the secondary material. Therefore, without a variance, this recycling business which furthers the objectives of Metro, will not be able to operate.

In conclusion, the Disposal Franchise Ordinance was adopted to insure a systematic program of providing vital solid waste disposal facilities. To accomplish this, the Council declared it to be public policy of the Ordinance to establish an exclusive franchise system along with rate regulation.

Recognizing that certain conditions or proposals may be forthcoming that will not fall within the context of the Ordinance but still fulfill its intent and objectives, the Council made provisions to grant variances to specific requirements if strict compliance is inappropriate because of conditions beyond the control of persons requesting the variance or would result in the curtailment of a business that furthers the objectives of the District.

The granting of the variance request recognizes the uniqueness of the OWM/GCS proposal and its difference as compared to the existing monopolistic disposal system. This action is consistent with Oregon Opportunity to Recycle Act of 1983, Metro's Waste Reduction Plan, Metro's Franchise Ordinance, adopted Metro policy and furthers the objectives of the District. Failure to grant the variance will prohibit the recycling business to operate.

Franchise No. \_\_\_\_\_  
Date Issued \_\_\_\_\_  
Expiration Date \_\_\_\_\_

SOLID WASTE FRANCHISE  
issued by the  
METROPOLITAN SERVICE DISTRICT  
527 S.W. Hall Street  
Portland, Oregon 97201-5287  
(503) 221-1646

ISSUED TO: Oregon Waste Management, Inc. and Genstar Conservation Systems, Inc.

NAME OF FACILITY: Oregon Processing and Recovery Center

ADDRESS: 701 N. Hunt Street, Portland, Oregon 97217

LEGAL DESCRIPTION: Blocks 1 and 2, Swinton. Block 3, Swinton except south 72.5'. Plus vacated portions of N. Albina and N. Kirby Streets.

CITY, STATE, ZIP: Portland, Oregon 97217

NAME OF OPERATOR: Oregon Waste Management, Inc.

PERSON IN CHARGE: Merle Irvine

ADDRESS: P. O. Box 17561

CITY, STATE, ZIP: Portland, Oregon 97217

TELEPHONE NUMBER: (503) 285-5261

This Franchise will automatically terminate on the expiration date shown above, or upon modification or revocation, whichever occurs first. Until this Franchise terminates, Oregon Waste Management, Inc., and Genstar Conservation Systems, Inc. are authorized to operate and maintain a solid waste processing facility located at 701 N. Hunt Street, Portland, Oregon 97217, for the purpose of accepting and processing solid waste in accordance with the Metro Code and the attached Schedules A, B, C, D and E, and in accordance with the provisions specified in the Solid Waste Disposal Site Permit No. 245 issued by the State of Oregon, Department of Environmental Quality. This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code. This Franchise does not relieve the Franchise Holder from

responsibility for compliance with ORS Chapter 459 or other applicable federal, state or local laws, rules, regulations or standards.

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Merle Irvine  
President  
Oregon Waste Management, Inc.

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Rick Gustafson  
Executive Officer  
Metropolitan Service District

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Alex Cross  
Vice President & Regional Manager  
Genstar Conservation Systems, Inc.

ES/srs  
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12/04/84



FRANCHISE CONDITIONS

Franchise Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

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SCHEDULE A

AUTHORIZED AND PROHIBITED SOLID WASTES

- SA-1 The Franchise Holder is authorized to accept for processing select loads of mixed solid waste containing at least 30 percent, by weight, of recyclable material. No other wastes shall be accepted unless specifically authorized in writing by Metro supplementary to this Franchise.
- SA-2 The following types of materials are specifically prohibited from the processing facility:
- a. Bulky combustible material, car bodies, dead animals, tires, sewage sludges, septic tank pumpings and hospital wastes.
  - b. All chemicals, liquids, explosives, infectious materials and other materials which may be hazardous or difficult to manage, unless specifically authorized by Metro.
- SA-3 Public dumping of mixed waste is not allowed. Dumping by commercial solid waste haulers is allowed. No commercial hauler will be excluded from this site except when the load contains less than 30 percent, by weight, recyclables. Loads of solid waste in compactor trucks and compacting drop boxes or containers will be accepted if said loads contain at least 30 percent, by weight, recyclables.
- SA-4 Salvaging is authorized, if controlled so as to not create unsightly conditions or vector harborage.
- SA-5 Non-recovered material shall be removed from the processing facility and shall be transported to a franchised or authorized disposal site. Storage and transportation shall be carried out to avoid vector production and bird attraction.
- SA-6 The Franchise Holder shall perform litter patrols to keep the facility free of blowing paper and other material on at least a daily basis or more often if necessary.
- SA-7 The Franchise Holder shall operate the processing facility in accordance with the Application and Operation Plan dated October 16, 1984, and the supplemental data in the letter from Merle Irvine to Ed Stuhr dated November 9, 1984.
- SA-8 The Franchise Holder shall not, by act or omission, discriminate against, treat unequally or prefer any user of the processing facility in the fees or the operation of the facility.

- SA-9 All solid waste transferring vehicles and devices using public roads shall be constructed, maintained, and operated so as to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- SA-10 All mixed loads containing food waste shall be processed and the reject material removed within 24 hours of receipt to a Metro authorized disposal site.
- SA-11 All mixed waste will be stored in an enclosed structure.

FRANCHISE CONDITIONS

Franchise Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

SCHEDULE B

MINIMUM MONITORING AND REPORTING REQUIREMENTS

SB-1 The Franchise Holder or his/her Contractor shall effectively monitor the processing facility operation and maintain records of the following required data to be submitted to Metro:

- a. Name and address of the Franchisee
- b. Month and year of each report

<u>Item or Parameter</u>	<u>Minimum Monitoring Frequency</u>
c. Tons of solid waste delivered by commercial collection vehicles	Daily
d. Number of commercial collection vehicles	Daily
e. Unusual occurrences affecting processing facility operation	Each Occurrence
f. Tons of reject material disposed at an authorized disposal site	Monthly
g. Disposal rate charged for mixed solid waste	Daily
h. Tons of waste salvaged by type of material	Monthly
i. Signature and title of the Franchisee or its agent	

SB-2 Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to Metro by the 20th day of the month following the end of each month.

SB-3 The Franchise Holder shall pay an annual franchise fee established by the Council within 30 days of the effective date of the Franchise Agreement.

SB-4 The Franchise Holder shall report to the District any changes in excess of five (5%) percent of ownership of the Franchisee's corporation or similar entity, or of the

partners of a partnership within ten (10) days of such changes of ownership.

- SB-5 The Franchisee may contract with another person to operate the disposal facility only upon ninety (90) days prior written notice to the District and the written approval of the Executive Officer. If approved, the Franchisee shall remain responsible for compliance with this Franchise Agreement.
- SB-6 The Franchisee shall establish and follow procedures designed to give reasonable notice prior to refusing service to any person. Copies of notification and procedures for such action will be retained on file for three (3) years by each Franchisee for possible review by the District.
- SB-7 The Franchisee shall maintain during the term of the franchise public liability insurance in the amounts set forth in SC-1 and shall give thirty (30) days written notice to the District of any lapse or proposed cancellation of insurance coverage or performance bond.
- SB-8 The Franchisee shall file an Annual Operating Report detailing the operation as outlined in this Franchise on or before \_\_\_\_\_ (anniversary date of Franchise) of each year for the preceeding year.
- SB-9 The Franchise Holder shall submit a duplicate copy to the District of any information submitted to, or required by the Department of Environmental Quality pertaining to the solid waste permit for this facility.
- SB-10 The Franchise Holder shall report to Metro the names of solid waste credit customers which are sixty (60) days or more past due in paying their disposal fees at the processing facility. Such report shall be submitted in writing each month on Metro approved forms. For the purposes of this section sixty (60) days past due means disposal charges due, but not paid on the first day of the second month following billing.
- SB-11 In the event a breakdown of equipment, fire or other occurrence causes a violation of any conditions of this Franchise Agreement or of the Metro Code, the Franchise Holder shall:
- a. Immediately take action to correct the unauthorized condition or operation.
  - b. Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.

SB-12 In the event that the processing facility is to be closed permanently or for an indefinite period of time during the effective period of this Franchise, the Franchise Holder shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.

SB-13 The Franchisee shall file a monthly report on forms approved by the District indicating the types (wood, paper, cardboard, metal, glass, etc.) and quantities (tonnage/cubic yards) of source separated and non-source separated solid wastes accepted at the facility and not disposed at the franchised site.

## FRANCHISE CONDITIONS

Franchise Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

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### SCHEDULE C

#### GENERAL CONDITIONS

- SC-1 The Franchise Holder shall furnish Metro with public liability insurance, including automotive coverage, in the amounts of not less than \$300,000 for any number of claims arising out of a single accident or occurrence, \$50,000 to any claimant for any number of claims for damage to or destruction of property, and \$100,000 to any claimant for all other claims arising out of a single accident or occurrence, or such other amounts as may be required by State law for public contracts. Name the District as an additional insured in this insurance policy.
- SC-2 The Franchise Holder shall obtain a corporate surety bond in the amount of \$25,000 guaranteeing full and faithful performance during the term of this Franchise of the duties and obligations of the Franchisee under the Solid Waste Code, applicable federal, state and local laws, rules and regulations.
- SC-3 The term processing facility is used in this Franchise as defined in Section 5.01.010(n) of the Metro Code.
- SC-4 The conditions of this Franchise shall be binding upon, and the Franchise Holder shall be responsible for all acts and omissions of, all contractors and agents of the Franchise Holder.
- SC-5 The processing facility operation shall be in strict compliance with the Metro Code regarding storage, collection, transportation, recycling and disposal of solid waste.
- SC-6 The Franchise Holder shall provide an adequate operating staff which is duly qualified to carry out the reporting functions required to ensure compliance with the conditions of this Franchise Agreement.
- SC-7 Metro may reasonably regulate the hours of site operation as it finds necessary to ensure compliance with this Franchise Agreement.
- SC-8 At least one sign shall be erected at the entrance to the processing facility. This sign shall be easily visible, legible, and shall contain at least the following:
- a. Name of facility;

- b. Emergency phone number;
- c. Operational hours during which material will be received;
- d. Disposal rates;
- e. Metro information phone number; and
- f. Acceptable materials.

SC-9 If the Executive Officer finds that there is a serious danger to the public health or safety as a result of the actions or inactions of a Franchisee, he/she may take whatever steps necessary to abate the danger without notice to the Franchisee.

SC-10 Authorized representatives of Metro shall be permitted access to the premises of the processing facility owned or operated by the Franchise Holder at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Franchise. Access to inspect is authorized:

- a. during all working hours;
- b. at other reasonable times with notice;
- c. at any time without notice where, at the discretion of the Metro Solid Waste Division Director, such notice would defeat the purpose of the entry.
- d. That there has been a significant change in the quantity or character of solid waste received or the method of solid waste processing.

SC-11 This Franchise Agreement is subject to suspension, modification, revocation or nonrenewal upon finding that a Franchisee has:

- a. Violated the Disposal Franchise Ordinance, the Franchise Agreement, the Metro Code, ORS Chapter 459 or the rules promulgated thereunder or any other applicable law or regulation; or
- b. Misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to the District;
- c. Refused to provide adequate service at the franchised site, facility or station, after written notification and reasonable opportunity to do so.
- d. That there has been a significant change in the quantity or character of solid waste received or the method of solid waste processing.

SC-12 This Franchise Agreement, or a photocopy thereof, shall be displayed where it can be readily referred to by operating personnel.

SC-13 The granting of a Franchise shall not vest any right or privilege in the Franchisee to receive specific types of quantities of solid waste during the term of the Franchise.

- a. To ensure a sufficient flow of solid waste to the District's resource recovery facilities, the Executive Officer may, at any time during the term of the Franchise, without hearing, direct solid wastes away from the Franchisee. In such case, the District shall make every reasonable effort to provide notice of such direction to affected haulers of solid waste.
- b. To carry out any other purpose of the Metro Disposal Franchise Ordinance, the Executive Officer may, upon sixty (60) days prior written notice, direct solid wastes away from the Franchisee or limit the type of solid wastes which the Franchisee may receive.

Any Franchisee receiving said notice shall have the right to a contested case hearing pursuant to Code Chapter 2.05. A request for a hearing shall not stay action by the Executive Officer. Prior notice shall not be required if the Executive Officer finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.



FRANCHISE CONDITIONS

Franchise Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

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SCHEDULE D

WASTE REDUCTION PLAN

The Franchisee shall implement the following waste reduction plan:

- SD-1 To fulfill the requirements of the Waste Reduction Plan as stated in Section 5.01.120(k) of the Metro Code, the Franchisee shall continue to operate the existing recycling buy-back center as outlined in the application dated October 16, 1984, and supplemental data submitted November 9, 1984.