

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING	)	RESOLUTION NO. 86-672
CRITERIA FOR DETERMINING THE	)	
AMOUNT OF CORPORATE SURETY BONDS	)	Introduced by the
FOR SOLID WASTE PROCESSING CENTERS	)	Executive Officer
AND TRANSFER STATIONS FRANCHISED	)	
BY METRO AND RESCINDING RESOLUTION	)	
NO. 81-271	)	

WHEREAS, Sections 5.01.060 (b)(1), 5.01.70 (e)(2) and 5.01.120 (e) of the Metro Disposal Franchise Ordinance require that applicants for and holders of solid waste franchises must obtain and maintain a corporate surety bond in an amount established by the Council; and

WHEREAS, Separate criteria have been adopted through Resolution No. 80-192 for determining the amount of surety bonds required for disposal sites; and

WHEREAS, The attached staff report dated July 23, 1986, provides a rationale for requiring surety bonds or other forms of assurance that franchised processing centers and transfer stations will be operated or cleaned up as necessary if the franchisee defaults on the franchise agreement; and

WHEREAS, The formula and criteria adopted below provide an efficient, equitable and reasonable method for determining the amount of a corporate surety bond for processing centers and transfer stations franchised by the District; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District adopts the following formula and criteria for determining the amounts of franchised processing center and transfer station surety

bonds and directs Metro staff to prepare cost estimates and set bond amounts in accordance therewith:


a. If both clean-up and continued operation of the facility may be necessary to avoid significant impact on the total solid waste disposal system, the formula for the amount of a corporate surety bond shall be the sum of the Mobilization Cost<sup>1</sup>, Equipment Cost<sup>2</sup>, Maintenance Cost<sup>3</sup>, Clean-up and Site Maintenance Cost<sup>4</sup>, and Metro Administration and Engineering Cost<sup>5</sup>, but not less than \$25,000.

b. If continued operation of the processing or transfer facility is not considered necessary to the solid waste disposal system because of alternative disposal sites which may be available and potential clean-up and site maintenance costs<sup>4</sup> for the facility are estimated to be less than or equal to \$10,000, then the amount of the required surety bond is \$0.

c. If continued operation of the processing or transfer facility is not necessary to the solid waste disposal system because of alternative disposal sites which may be available and potential clean-up and site maintenance costs<sup>4</sup> for the facility are estimated to be greater than \$10,000, then the amount of the required surety bond is to be equal to the amount of the estimated clean-up and site maintenance costs<sup>4</sup> for the facility. If these conditions exist and the franchisee owns the site on which the facility operates, and the value of the site exceeds the amount required for the bond, the franchisee may elect to issue a conditional lien on the property to Metro guaranteeing performance by the operator in cleaning up the site in lieu of the required bond. The lien shall be in a form satisfactory to Metro.

2. Resolution No. 81-271 is hereby rescinded and Resolution No. 80-192 shall remain in effect for solid waste disposal sites not defined in this resolution.

ADOPTED by the Council of the Metropolitan Service District this 14th day of August, 1986.

  
Richard Waker, Presiding Officer

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<sup>1</sup> Mobilization Cost -- If a solid waste processing/transfer facility suddenly closed, a new operator may be called in by Metro to continue operating the site. If continued operation is necessary, the costs for transporting equipment to the site, setting up facilities, etc., would be mobilization costs. The cost will be dependent on number of personnel and size and type of operation.

<sup>2</sup> Equipment Cost - This cost is based on the direct cost to lease mobile equipment, such as tractor-trailer rigs, for a minimum of one month if continued operation is necessary. The cost is dependent on the type and size of facility.

<sup>3</sup> Maintenance Cost includes maintenance and repair of on-site equipment if continued operation is necessary. The cost will be 20 percent of the initial equipment cost.

<sup>4</sup> Clean-up and Site Maintenance Cost is dependent on the size and design of the facility.

<sup>5</sup> Metro Administration and Engineering Cost is dependent upon type of facility but not less than \$2,000.

RM/gl  
6007C/471-2  
08/04/86

CONSIDERATION OF RESOLUTION NO. 86-672 FOR THE  
PURPOSE OF ADOPTING CRITERIA FOR DETERMINING THE  
AMOUNT OF CORPORATE SURETY BONDS FOR SOLID WASTE  
PROCESSING CENTERS AND TRANSFER STATIONS  
FRANCHISED BY METRO AND REPEALING RESOLUTION  
NO. 81-271.

Date: August 4, 1986

Presented by: Rich McConaghy

FACTUAL BACKGROUND AND ANALYSIS

On July 10, the Council directed staff to review current bonding requirements for franchises with an eye to reducing the burden on smaller franchises and the need for frequent approval of variances to the bond requirement. The purpose of this staff report is to present Resolution No. 86-672 which would adopt criteria for determining the amount of surety bonds required for solid waste processing centers and transfer stations franchised by Metro. Existing criteria in Resolution No. 81-271 would be replaced by these new criteria. Adoption of the resolution would eliminate the requirement of a surety bond for small processing and transfer operations (by setting the amount of the required bond at \$0) and would enable some franchisees to issue a lien on their property as a substitute for the required bond. Critically needed facilities would be required to maintain the same bond size as indicated through the existing criteria.

Under Metro Code Sections 5.01.060 (b)(1), 5.01.070 (e)(2) and 5.01.120 (e), holders of solid waste disposal franchises are required to obtain and maintain a surety bond which guarantees that they will fully and faithfully perform the responsibilities assigned to them through the franchise agreement. Resolution No. 80-192 adopted criteria for determining the amount of the bond to be required for franchised disposal sites, while Resolution No. 81-271 adopted criteria for determining the amount of the bond to be required for franchised processing centers and transfer stations. Both of these resolutions are attached. The amounts of the surety bonds required for all existing franchise holders are as follows:

Franchise

Amount of Bond Required

Marine Dropbox Service

\$ 8,000 (through variance,  
if no variance the bond  
would be \$25,000)

<u>Franchise</u>	<u>Amount of Bond Required</u>
Sunflower Recycling	\$ 0 (through variance, if no variance the bond would be \$25,000)
Killingsworth Fast Disposal	\$125,000
Forest Grove Transfer Station	\$ 25,000
Oregon Processing and Recovery Center	\$ 25,000

The intent of the surety bond requirement is to assure that franchisees perform as they are required to in their franchise agreement; the amount of the required bonds has been based on the cost which Metro would pay if it had to take over and operate a franchised facility or clean-up a franchised operation site that was suddenly discontinued and left in an unacceptable condition. Metro has no legal responsibility to continue operating or to clean-up a site used for the disposal, transfer or processing of waste by a person which it franchises. Under Section 5.01.120 (i) of the Metro Code and under the conditions of each franchise, Metro is held harmless from any failure of a franchisee to perform any of its franchise obligations. Alternative disposal sites or options are available for the wastes which go to many of the franchised operations, and Metro would not be likely to take over and operate a franchised facility unless it were critical to the solid waste disposal system. Thus far, it has been assumed that only the Killingsworth Fast Disposal Landfill would require Metro operation if the franchisee defaulted.

As a socially responsive agency, Metro could become involved in the cleanup of an abandoned solid waste facility and might incur some expenses by doing so. Holding a bond on a franchised operation would not guarantee that Metro is reimbursed for its efforts, because bonding companies may be disinclined to pay all necessary costs. Because bonding companies generally investigate the ability of a franchisee to perform before the companies issue bonds, requiring a bond provides some assurance that franchise applicants are financially secure and will run a responsible and quality solid waste operation. However, the required bond may also discourage some smaller businesses from applying for a Metro franchise, as it may be more difficult or expensive for them to obtain a bond. Metro has never collected on a franchise surety bond, though it may have borne expenses for cleanup of non-franchised operations in the past. When Metro issues a franchise, the qualifications of the applicant to perform the activity are reviewed, and this should provide some assurance that the franchisee will behave in a responsible manner.

It is reasonable for Metro (1) to eliminate the bond requirement for those franchises where it provides no significant benefit, and (2) to allow a lien on the property in lieu of the bond when Metro operation of the site would not be required.

Resolution No. 86-672 would remove the burden of having to obtain a surety bond from those franchised processing or transfer operations which handle small amounts of waste or which would require a minor amount of cleanup (less than \$10,000) if their continued operation is not essential to the disposal system. The two franchises which currently hold variances for reduced bond amounts would not have to provide bonds under these criteria. Processing or transfer operations which provide a non-essential service but which would require more than a \$10,000 expense for cleanup must either provide a surety bond equal to the estimated cleanup costs or issue a lien on the property (if it is owned by the franchisee) which would assure that cleanup is accomplished. The amount of the bond required for transfer or processing operations which provide a critically needed service would continue to be based, as it has been in the past, on the estimated cost of Metro cleanup and operation of the site. Criteria for determining the bond amount required of all disposal sites other than transfer stations and processing centers would remain as they are outlined in Resolution No. 80-192 as greater performance assurance is needed on these facilities.

There may be some fiscal impact to Metro from removing the requirement that smaller franchisees provide a performance bond. It is unlikely that the potential impact would be very great. Alternatives which might be considered in place of the approach of the criteria presented in Resolution No. 86-672 include:

- The status quo - variances to the bonding requirement are granted on a case by case basis, or
- Modification of the Disposal Franchise Ordinance to eliminate the surety bond requirement.

#### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 86-672.

RM/gl  
6007C/471-2  
08/04/86

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING ) RESOLUTION NO. 81-271  
CRITERIA FOR DETERMINING THE )  
AMOUNT OF CORPORATE SURETY BONDS) Introduced by the Regional  
FOR SOLID WASTE PROCESSING ) Services Committee  
CENTERS AND TRANSFER STATIONS )  
FRANCHISED BY METRO. )

WHEREAS, Section 7(2)(a) of the Disposal Franchise Ordinance requires that applicants for solid waste franchises must submit a corporate surety bond in an amount established by the Council; and

WHEREAS, the formula for the amount of a corporate surety bond is determined to be the sum of the Mobilization Cost,<sup>1</sup> Equipment Cost,<sup>2</sup> Maintenance Cost,<sup>3</sup> Cleanup and Site Maintenance Cost,<sup>4</sup> and Metro Administration and Engineering Cost,<sup>5</sup> but not less than \$25,000; and

WHEREAS, this formula is determined to be an efficient and equitable method for determining the amount of a corporate surety bond; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the above formula and directs Metro staff to prepare cost estimates and set bond amounts in accordance therewith.

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<sup>1</sup>Mobilization Cost -- If a solid waste processing/transfer facility suddenly closed, a new operator may be called in by Metro to continue operating the site. The costs for transporting equipment to the site, setting up facilities, etc., would be mobilization costs. The cost will be dependent on number of personnel and size and type of operation.

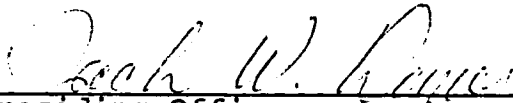
<sup>2</sup>Equipment Cost -- This cost is based on the direct cost to lease mobile equipment, such as tractor-trailer rigs, for a minimum of one month. The cost is dependent on the type and size of facility.

3 Maintenance Cost includes maintenance and repair of on-site equipment. The cost will be 20 percent of the initial equipment cost.

4 Clean-up and Site Maintenance Cost is dependent on the size and design of the facility but not less than \$10,000.

5 Metro Administration and Engineering Cost is dependent upon type of facility but not less than \$2,000.

ADOPTED by the Council of the Metropolitan Service District  
this 3rd day of September, 1981.

  
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Presiding Officer

KT/srb  
3303B/236  
08/20/81



BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING ) RESOLUTION NO. 80-192  
CRITERIA FOR DETERMINING THE )  
AMOUNT OF CORPORATE SURETY )  
BONDS FOR SOLID WASTE DISPOSAL ) Introduced by the  
SITES REGULATED BY METRO ) Regional Services Committee

WHEREAS, Section 4.02.090(d) of the Metro Code requires that applicants for solid waste disposal site Certificates must submit a corporate surety bond in an amount established by the Council; and

WHEREAS, the formula for the amount of a corporate surety bond is determined to be the sum of the Mobilization Cost<sup>1</sup> and the Final Closing Cost<sup>2</sup> (based on current estimates by Metro staff); and

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<sup>1</sup>Mobilization Cost -- If a solid waste disposal site suddenly closed, a new operator could be called in by Metro to continue operating the site. The costs for transporting equipment to the site, setting up facilities, etc. would be mobilization costs.


<sup>2</sup>Final Closing Costs would include purchase and spreading of final cover, final drainage, temporary roads, seeding and erosion control. Final Closing Cost would be on a per acre basis. Calculated total acreage for closing costs would include acres already filled with waste but without final cover at the time the bond is issued (or renewed) plus additional acreage expected to be filled during the term of the bond. This additional acreage would be specified in an operation plan approved by Metro.

WHEREAS, this formula is determined to be an efficient and equitable method for determining the amount of a corporate surety bond; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the above formula and directs Metro staff to prepare cost estimates and set bond amounts in accordance therewith.

ADOPTED by the Council of the Metropolitan Service District this 23rd day of October, 1980.

  
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Presiding Officer