

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A SOLID ) ORDINANCE NO 97-718  
WASTE FRANCHISE TO USA WASTE OF )  
OREGON, INC., DOING BUSINESS AS ) Introduced by Mike Burton, Executive  
METROPOLITAN DISPOSAL AND RECYCLING ) Officer  
CORPORATION, FOR THE PURPOSE OF )  
OPERATING A SOLID WASTE TRANSFER )  
STATION; AND DECLARING AN EMERGENCY )

WHEREAS, Section 5.01.030 of the Metro Code requires a Metro franchise for any person to own or operate a Metro transfer station for the transfer of solid waste; and

WHEREAS, USA Waste of Oregon, Inc., dba Metropolitan Disposal and Recycling Corporation ("MDRC"), has contracted for the purchase of the Forest Grove Transfer Station and associated properties and operations from the current operator and franchise holder, Ambrose Calcagno, Jr., dba AC Trucking; and

WHEREAS, AC Trucking desires to terminate its franchise to operate the Forest Grove Transfer Station upon the issuance of a new franchise to MDRC; and

WHEREAS, USA Waste of Oregon, Inc. has applied for a new non-exclusive franchise under which it would operate a transfer station located in Forest Grove, Oregon; and

WHEREAS, MDRC has submitted evidence of compliance with Metro Code Section 5.01.060 for franchise applications and operational plans; and

WHEREAS, MDRC will provide disposal services to its own haulers and to other commercial haulers and the public at the Forest Grove Transfer Station; and

WHEREAS, MDRC will provide a surety bond or conditional lien, and the appropriate amount of such surety bond or conditional lien has been determined to be \$100,000; and

WHEREAS, the staff of the Executive Officer has requested a variance for MDRC from Metro rate-setting requirements, as detailed in the staff report to this Ordinance; and

WHEREAS, MDRC has requested a variance from Metro Code Section 5.01.080, to allow it to obtain renewal of the franchise upon the completion of the initial term of the franchise if the franchisee is not then in default under the Franchise Agreement; and

WHEREAS, allowing this Ordinance to take effect immediately is necessary for the public health, safety and welfare of the Metro area, because the franchise for the operation of the Forest Grove Transfer Station constitutes an integral and important part of the regional solid waste disposal system, and no benefit would be derived by delaying the effective date of this Ordinance, and such delay is likely to cause significant system disruption; and

WHEREAS, this Ordinance and the attached franchise were submitted to the Executive Officer for consideration; and

WHEREAS, the Executive Officer recommends that the Council grant the attached franchise to USA Waste of Oregon, dba Metropolitan Disposal and Recycling Corporation; now, therefore,

**THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:**


1. The Council authorizes the Executive Officer to enter into the attached Franchise Agreement (Exhibit A) with USA Waste of Oregon, Inc., dba Metropolitan Disposal and Recycling Corporation, within ten (10) days of the adoption of this Ordinance.
2. MDRC is granted a variance from the rate-setting provisions of Metro Code Section 5.01.110.

3. Notwithstanding the provisions of Metro Code Section 5.01.085, MDRC is granted a variance from the franchise term provisions of Metro Code Section 5.01.080 to allow for automatic extension of the franchise for one additional five-year term at the conclusion of the initial five-year term, if MDRC is not then in default under the Franchise Agreement.

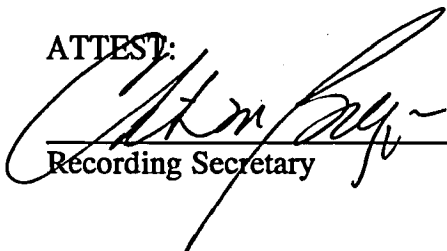
4. The Solid Waste Franchise issued to Ambrose Calcagno, Jr., dba AC Trucking, pursuant to Metro Ordinance No. 94-527A, is terminated simultaneously upon the execution by MDRC of the attached Franchise.

5. This Ordinance being necessary for the public health, safety and welfare of the Metro area, an emergency is hereby declared to exist because the franchise for the operation of the Forest Grove Transfer Station constitutes an integral and important part of the regional solid waste disposal system, and no benefit would be derived by delaying the effective date of this Ordinance, and such delay is likely to cause significant system disruption. This Ordinance shall take effect upon its passage.

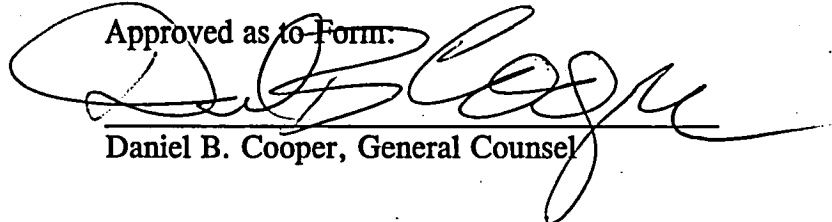
ADOPTED by the Metro Council this 18<sup>th</sup> day of December 1997.

  
\_\_\_\_\_  
Jon Kvistad, Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

Approved as to Form:

  
\_\_\_\_\_  
Daniel B. Cooper, General Counsel

MDF:kaj  
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**SOLID WASTE FRANCHISE**  
**issued by**  
**METRO**  
**600 NE Grand Avenue**  
**Portland, Oregon 97232-2736**  
**(503) 797-1700**

FRANCHISE NUMBER: \_\_\_\_\_  
DATE ISSUED: \_\_\_\_\_  
AMENDMENT DATE: \_\_\_\_\_ N/A \_\_\_\_\_  
EXPIRATION DATE: \_\_\_\_\_  
ISSUED TO: \_\_\_\_\_ USA Waste of Oregon, Inc., dba Metropolitan Disposal & Recycling Corporation \_\_\_\_\_  
NAME OF FACILITY: \_\_\_\_\_ Forest Grove Transfer Station \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ 1525 "B" Street \_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_ Forest Grove, Oregon 97116 \_\_\_\_\_  
LEGAL DESCRIPTION: \_\_\_\_\_ (see application) \_\_\_\_\_  
NAME OF OPERATOR: \_\_\_\_\_ Metropolitan Disposal & Recycling Corporation \_\_\_\_\_  
PERSON IN CHARGE: \_\_\_\_\_ Jonathan M. Angin, District Manager \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ 554 N. Columbia Blvd., P.O. Box 11229 \_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_ Portland, Oregon 97211-0229 \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_ (503) 285-0571 \_\_\_\_\_

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## FRANCHISE AGREEMENT

This Franchise is issued by Metro, a metropolitan service district organized under ORS chapter 268 and the 1992 Metro Charter, referred to herein as "Metro," to USA Waste of Oregon, Inc., dba Metropolitan Disposal & Recycling Corporation, referred to herein as "Franchisee."

In recognition of the promises made by Franchisee as specified herein, Metro issues this Franchise, subject to the following terms and conditions:

### 1. DEFINITIONS

The definitions in Metro Code Section 5.01.010 shall apply to this Franchise, as well as the following definitions. Defined terms are capitalized when used. Where Metro Code, State or Federal law definitions are referenced herein, reference is to the definition as amended or replaced.

**"Battery"** means a portable container of cells for supplying electricity. This term includes, but is not limited to, lead-acid car batteries, as well as dry cell batteries such as nickel cadmium, alkaline, and carbon zinc.

**"Business"** means a commercial enterprise or establishment licensed to do business in the state of Oregon.

**"Clean Fill"** means Inert material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include Putrescible Wastes, Construction and Demolition Wastes or Industrial Solid Wastes.

**"Commercial Solid Waste" or "Commercial Waste"** means Solid Waste generated by stores, offices, including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, and other non-manufacturing entities; but does not include Solid Waste from manufacturing activities. Solid Waste from business, manufacturing or processing activities in residential dwellings is also not included.

**"Commingled Recyclables"** means Source Separated Recyclables that have not been sorted by the generator (or have been only partially sorted) into individual material categories (e.g., cardboard, newsprint, ferrous metal) according to their physical characteristics.

**"Conditionally Exempt Generator Waste"** has the meaning specified in 40 C.F.R. § 261.

**"Construction and Demolition Waste (C/D)"** means Solid Waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other Construction and Demolition Wastes and used as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include Industrial Solid Waste, Residential Solid Waste or Commercial Solid Waste.

**"Contaminated Soils"** means soils resulting from the clean-up of a spill that are not Hazardous Waste.

**"DEQ"** means the Oregon Department of Environmental Quality, which includes the Oregon Environmental Quality Commission.

**"Facility"** means the site where one or more activities that the Franchisee is authorized to conduct under this Franchise occur.

**"Forest Grove Community Enhancement Fee"** means those fees payable to the City of Forest Grove under an agreement with Metro for community enhancement money related to the operation of the Forest Grove Transfer Station.

**"Friable Asbestos"** means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite, but only to the extent that such materials, when dry and subjected to hand-pressure, can be crumbled, pulverized or reduced to powder.

**"General Purpose Landfill"** means any land disposal facility that is required by law, regulation, or permit to utilize a liner and leachate collection system equivalent to or more stringent than that required for municipal solid waste landfills under Subtitle D of the Resource Conservation and Recovery Act and is authorized by law to accept more than incidental quantities of Putrescible Waste.

**"Hazardous Waste"** has the meaning specified in ORS 466.005.

**"Household Hazardous Waste"** has the meaning specified in Metro Code Section 5.02.015(f).

**"Industrial Solid Waste" or "Industrial Waste" means:**

- (1) Solid Waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS chapters 465 and 466 or under Subtitle C of the Federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, the following wastes or wastes resulting from the following processes:
  - (a) electric power generation;
  - (b) fertilizer/agricultural chemicals;
  - (c) food and related products and by-products;
  - (d) inorganic chemicals;
  - (e) iron and steel manufacturing;
  - (f) leather and leather products;
  - (g) nonferrous metals manufacturing/foundries;
  - (h) organic chemicals;
  - (i) plastics and resins manufacturing;
  - (j) pulp and paper industry;
  - (k) rubber and miscellaneous plastic products;
  - (l) stone, glass, clay and concrete products;
  - (m) textile manufacturing;
  - (n) transportation equipment;
  - (o) water treatment;
  - (p) timber products manufacturing.
- (2) This term does not include:
  - (a) Putrescible Waste, or office or lunch room waste from manufacturing or industrial facilities;
  - (b) Construction and Demolition Waste;
  - (c) Contaminated Soils.

**"Inert"** means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

**"Infectious Medical Waste" or "Infectious Waste"** has the meaning specified in ORS 459.386(2).

**"Metro Differential Fee"** shall mean the fee to be paid and established in accordance with Section 15.1 of this Agreement.

**"Metro Regional User Fee"** shall mean the fee(s) established by Metro Code Section 5.02.045(a).

**"Operating Procedures Plan"** means the description of the Facility activities and procedures used at the Franchised facility and required as a submittal under Section 8.3.2 of this Franchise.

**"Putrescible Waste"** means Solid Waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

**"Recoverable Material"** means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused or recycled for the same or other purpose(s).

**"Recovered Material"** means Recoverable Material that has been separated from Solid Waste at the Facility.

**"Recyclable Materials"** has the meaning specified in ORS 459.005(19).

**"Residential Solid Waste"** means the garbage, rubbish, trash, and other Solid Wastes generated by the normal activities of households, including but not limited to, food wastes, ashes, and bulky wastes, but does not include Construction and Demolition Waste. This definition applies to multifamily structures of any size.

**"Residue"** means Solid Waste, resulting from recovery of Recyclable Materials at the Facility, that is transported from the franchised Facility to a Metro Designated Facility or under the authority of a Metro Non-System License.

**"Sludge"** means any solid or semi-Solid Waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

**"Solid Waste"** has the meaning specified in Metro Code Section 5.01.010(x).

**"Source Separate" or "Source Separating" or "Source Separation"** means

- (1) The setting aside of Recyclable Materials at their point of generation by the generator; or
- (2) That the person who last uses Recyclable Material separates the Recyclable Material from Solid Waste.

**"Source-Separated Recyclables"** means Recyclable Material that has been Source-Separated for the purpose of recycling, recovery, or reuse. This term includes Recyclable Materials that are Source-Separated by material type (i.e., source-sorted) and Recyclable Materials that are mixed together in one container (i.e., commingled).

**"Special Waste"** has the meaning specified in Metro Code Section 5.02.015(s).

**"System Rate"** means the Disposal Charge specified in Metro Code Section 5.02.025 total per ton rate, including any additional service fee(s) to be charged at the Metro South and Metro Central transfer stations to persons or entities delivering Solid Waste, which per ton rate shall be established by Metro and amended from time to time in accordance with the Metro Code.



**"Unacceptable Waste Incident Tracking Form" means the form attached to this Franchise as Attachment 1.**

## **2. TERM AND APPLICABILITY OF FRANCHISE**

- 2.1 The initial term of this Franchise shall be five (5) years commencing upon the execution of this Franchise and terminating five (5) years thereafter; provided, however, that if, at the end of the initial term of this Franchise, Franchisee is not then in default under this Agreement, the term of this Agreement shall be automatically extended for an additional five (5) years commencing on the expiration of the initial term.

## **3. LOCATION OF FACILITY**

- 3.1 The franchised Facility is located at 1525 "B" Street, Forest Grove, Oregon 97116, Tax Lots 0500, 0600, 9501, and 9600, Washington County.

## **4. OPERATOR AND OWNER OF FACILITY AND PROPERTY**

- 4.1 The owner of the Facility is USA Waste of Oregon, Inc. Franchisee shall submit to Metro any changes in ownership of the Facility in excess of five percent of ownership, or any change in partnership, within 10 days of the change.
- 4.2 The owner of the property underlying the Facility is USA Waste of Oregon, Inc. Franchisee warrants that it has obtained the owner's consent to operate the Facility as specified in the Franchise.
- 4.3 The operator of the Facility is USA Waste of Oregon, Inc., dba Metropolitan Disposal & Recycling Corporation. Franchisee may contract with another person or entity to operate the Facility only upon 90 days prior written notice to Metro and the written approval of the Executive Officer.

## **5. AUTHORIZED AND PROHIBITED ACTIVITIES AND WASTES**

- 5.1 Subject to the following conditions, Franchisee is authorized to operate and maintain a Solid Waste transfer station and to conduct the following activities in accordance with Section 8 of this Agreement: receive, handle, process, consolidate, transfer, transport and dispose of Solid Waste as permitted by the Facility's Solid Waste Disposal Permit issued by the Oregon Department of Environmental Quality ("DEQ") and this Agreement. Franchisee shall perform recovery of Recyclable Materials from these wastes at the Facility and may accept and transport Commingled Recyclables, Source Separated Recyclables and other Recyclable Materials received at the Facility.
- 5.1.1 Franchisee shall notify Metro of any request to modify the types of Solid Waste it is authorized to accept under its DEQ Facility operating permit.
- 5.1.2 Franchisee may receive Solid Waste consistent with (1) applicable law, (2) the terms of this Franchise, and (3) any other applicable permits and licenses obtained from governmental or regulatory entities.
- 5.1.3 All Solid Waste originating within the Metro Boundary and leaving the facility must be delivered to a Metro designated facility authorized to accept such wastes, or delivered under the authority of a non-system license issued by Metro. Contemporaneous with

the effective date of this Agreement, Metro shall issue to the Facility, a Non-Systems License, which shall be in effect until the earlier of January 1, 1999 or the execution of a Metro Designated Facility Agreement with the Riverbend Landfill.

- 5.1.4 Wastes received at the Facility which are not permitted by the Solid Waste Disposal Permit shall be managed in accordance with the conditions of Franchisee's DEQ Solid Waste Disposal Permit. Franchisee shall record receipt of such Wastes on Metro's Unacceptable Waste Incident Tracking Form (Attached as Attachment 1). DEQ reporting forms may be substituted if the information requested in Attachment 1 is reported therein.

## **6. LIMITATION ON TONNAGE DISPOSED**

### **6.1 Basic Limitation**

- 6.1.1 Subject to the further limitations in sections 6.2.1 and 6.2.2 below, within any calendar year or portion thereof during which this Franchise is effective, Franchisee may deliver to a General Purpose Landfill, other than the Columbia Ridge Landfill, Solid Waste in volumes not to exceed ten percent (10%) of the total tons of Solid Waste that Metro delivers or directs to any General Purpose Landfill(s) during that time period.
- 6.1.2 For purposes of section 6.1.1, the phrase "Solid Waste that Metro delivers or directs to any General Purpose Landfill(s)" shall mean the sum of all Solid Waste that is delivered to a General Purpose Landfill from Metro South and Metro Central Transfer Stations; Solid Waste hauled directly to the Columbia Ridge Landfill under authority granted by Metro; and any Solid Waste originating within the Metro boundary, transferred at the Forest Grove Transfer Station and disposed at a General Purpose Landfill, other than the Columbia Ridge Landfill.

### **6.2 Further Limitations**

- 6.2.1 The limitation described in sections 6.1.1 and 6.1.2 shall be continuously monitored on a monthly basis. Franchisee shall demonstrate compliance with the ten percent limitation on a calendar year basis, such that the cumulative average of all months' tonnage of Solid Waste, originating from within the Metro boundaries, delivered to a General Purpose Landfill during any one calendar year remains within the tonnage limitations prescribed herein.
- 6.2.2 Franchisee shall have the obligation of ensuring that the limitations described in sections 6.1.1 and 6.1.2 are observed. Metro shall make available to Franchisee information with respect to Solid Waste originating within the Metro boundaries and delivered monthly to General Purpose Landfills as described in section 6.1.2.
- 6.2.3 In the event either Franchisee or Metro determines through reports submitted by Franchisee in accordance with this Agreement, that the cumulative average tonnage of Solid Waste during a calendar year exceeds ten percent (10%) of the total volume of Solid Waste that Metro delivers to any General Purpose Landfill as defined in Section 6.1.2, then, within sixty (60) days, Franchisee shall, at the sole discretion of Metro, (a) refuse to accept such excess Solid Waste and instruct any person or entity attempting to deliver such waste to transport such waste to an alternate approved Metro facility; (b) accept such excess Solid Waste solely for transport to Metro Central Transfer Station or Metro South Transfer Station or the Columbia Ridge Landfill; or (c) arrange for such other transport and disposal as Metro deems appropriate.

- 6.2.4 Nothing in this Franchise prohibits Franchisee from accepting Solid Waste from outside the Metro boundaries so long as Franchisee keeps accurate records of the Solid Waste accepted from outside of the Metro boundaries.

## 7. MINIMUM REPORTING REQUIREMENTS

- 7.1 Franchisee shall effectively monitor Facility operations and shall maintain complete and accurate records of the following information for all transactions:
- 7.1.1 Ticket Number (should be the same as the ticket number on the weight slips);
  - 7.1.2 Incoming Hauler Account Number;
  - 7.1.3 Generator's Account Number or Name (if available);
  - 7.1.4 Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated Recyclable Materials; (2) incoming mixed waste; (3) outgoing Recyclable Materials; (4) outgoing mixed waste;
  - 7.1.5 Code designating the following origin of material: (1) public from inside District boundaries; (2) public from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; (3) commercial from inside District boundaries; (4) commercial from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries;
  - 7.1.6 Date the load was received at or transmitted from the Facilities;
  - 7.1.7 Time the load was received at or transmitted from the Facility;
  - 7.1.8 Indicate whether Franchisee accepted or rejected the load;
  - 7.1.9 Net weight of the load;
  - 7.1.10 Volume of the Load (if applicable);
  - 7.1.11 The fee charged to the generator for the load.
- 7.2 Records required under Section 7.1 shall be transmitted to Metro no later than fifteen (15) days following the end of each month in electronic form compatible with Metro's data processing equipment, in a format prescribed by Metro. A cover letter that certifies the accuracy of the data and is signed by an authorized representative of Franchisee shall accompany the data. The hard copy of the report shall be signed and certified as accurate by an authorized representative of Franchisee.
- 7.3 On a semi-annual basis, Franchisee shall provide Metro with a computer listing that cross-references the Incoming Hauler Account Number with the hauling company's name and address and a computer listing that cross-references the Generator's Account Number or name to the generator's full name and address.
- 7.4 On or before March 31 of each year, Franchisee shall file an annual calendar year operating report detailing the previous year's operation of the Facility which shall include, at Metro's option, an annual review or audit prepared in accordance with generally accepted accounting principles
- 7.5 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this Agreement, Metro's right to inspect shall include the right to review, at an office of Franchisee located in the Portland metropolitan area, all books, records, maps, plans, income tax returns, financial statements, and

other like materials of Franchisee that are directly related to the operation of the Facility. All reports required by this Section 7 are limited to information directly attributable to the transfer station operations and transport services provided under this Agreement

- 7.6 Franchisee may identify any information submitted to or reviewed by Metro under this Section 7 as confidential. Franchisee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked until receipt of any request for disclosure of the information. Within five (5) days of receiving any request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. Franchisee shall have fifteen (15) days within which time to respond in writing to the request before Metro may disclose any requested information. Some information submitted by Franchisee or otherwise reviewed by Metro may constitute trade secrets and be exempt from public disclosure under ORS 192.501(2).
- 7.7 Receipt of any materials encompassed by Section 5.1.4 of this Franchise, utilizing Metro's Unacceptable Waste Incident Tracking Form.
- 7.8 The Franchisee shall participate in an annual review with Metro of the Facility's performance. Within one year after the Facility begins operations, and each year thereafter, Metro will contact Franchisee to schedule the annual review meeting. Metro will provide at least three business weeks advance notice of this meeting. At least one business week prior to this meeting, Franchisee shall submit to the Franchise Administrator a summary, in letter format, addressing the topics listed below. The review will include:
- 7.8.1 Receipt or release of Hazardous Waste or Infectious Waste at the Facility; nuisance complaints as recorded in the log required under Section 8.4.1.2; changes to site equipment, hours of operation and/or staffing; and other significant changes in the Facility's operations that occurred during the previous year; and
- 7.8.2 Any modifications under Section 20 of this Franchise.
- 7.9 Franchisee shall provide the Metro Regional Environmental Management Department copies of all correspondence, exhibits or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this Franchise, within two business days of providing such information to DEQ. In addition, Franchisee shall send to Metro, upon receipt, copies of any notice of non-compliance, citation, or enforcement order received from any local, state or federal entity with jurisdiction over the Facility.
- 7.10 Any periodic modification by Metro of the reporting forms themselves shall not constitute any modification of the terms of Section 7.1 of this Franchise, nor shall Metro include within the reporting forms a request for data not otherwise encompassed within Section 7.1.

## 8. OPERATIONAL REQUIREMENTS

### 8.1 General Requirements

- 8.1.1 The Franchisee shall provide an operating staff which is qualified to perform the functions required by this Franchise and to otherwise ensure compliance with the conditions of this Franchise.
- 8.1.2 A copy of this Franchise Agreement shall be displayed on the Facility's premises, and in a location where it can be readily referenced by Facility personnel. Additionally, signs shall be erected at a location visible to all haulers prior to tipping a load at the Facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- 8.1.2.1 Name of the Facility;

- 8.1.2.2 Address of the Facility;
- 8.1.2.3 Emergency telephone number for the Facility;
- 8.1.2.4 Operational hours during which the Facility shall be open for the receipt of authorized waste;
- 8.1.2.5 Rates and fees
- 8.1.2.6 Metro's name and telephone number; and
- 8.1.2.7 A list of all Wastes or materials which cannot be accepted under the Facility's Solid Waste Disposal Permit.

## 8.2 General Operating and Service Requirements

- 8.2.1 Franchisee shall provide opportunities for Metro to hold a Household Hazardous Waste collection event on-site at regular intervals, and shall set aside a suitable area for that purpose.
- 8.2.2 If Franchisee contemplates or proposes to close the Facility for 120 consecutive days or more, or proposes to close the Facility permanently, Franchisee shall provide Metro with written notice, at least 90 days prior to closure, of the proposed closure schedule and procedures.
- 8.2.3 If Franchisee contemplates or proposes a closure of the Facility for more than two consecutive business days but less than 120 days, Franchisee shall notify Metro and local government Solid Waste authorities of the closure and its expected duration at least 24 hours before the closure.
- 8.2.4 If a breakdown of equipment, fire, or other occurrence results in a violation of any conditions of this Franchise or of the Metro Code, the Franchisee shall:
  - 8.2.4.1 Take immediate action to correct the unauthorized condition or operation.
  - 8.2.4.2 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.
  - 8.2.4.3 Prepare a report describing all operational irregularities, accidents, and incidents of non-compliance and provide a copy of such report to Metro within ten days of occurrence or sooner if circumstances warrant notification to Metro.
- 8.2.5 Without limiting the generality of the foregoing, Franchisee shall operate the Facility in strict compliance with the Metro Code requirements regarding storage, handling, transportation, and recycling of Solid Waste and Recyclable Materials.
- 8.2.6 The Franchisee shall establish and follow procedures to give reasonable notice and justification prior to refusing service to any customer of the Facility. Copies of notification and procedures for such action will be retained on file for three years for possible review by Metro.

## 8.3 Operating Procedures

- 8.3.1 Unless otherwise allowed by this Franchise or permitted by Metro, all consolidation and recovery of Solid Waste shall occur inside Facility buildings.
- 8.3.2 Franchisee shall establish and follow an Operating Procedures Plan for acceptance, handling, management, consolidation and recovery of loads of Solid Waste received at the Facility. These procedures shall demonstrate compliance with this Franchise, and shall be submitted to Metro in writing for review and approval within 30 calendar days of the effective date of this Franchise. All proposed substantive modifications to the

Facility Operating Procedures Plan shall be submitted to the Metro Regional Environmental Management Department for review and approval, prior to implementation. Plans and procedures developed for OSHA and the DEQ will satisfy the requirement of this paragraph and shall include at least the following:

- 8.3.2.1 Methods of notifying generators not to place Hazardous Wastes, or other Prohibited Wastes in drop boxes or other collection containers destined for the Facility;
- 8.3.2.2 Methods of inspecting incoming loads for the presence of Prohibited Waste;
- 8.3.2.3 Emergency response procedures, including but not limited to:
  - 8.3.2.3.a Methods of detecting Prohibited Waste;
  - 8.3.2.3.b Responding to incidents involving Prohibited Waste;
  - 8.3.2.3.c Documenting the generators or Haulers of such waste.
- 8.3.2.4 Methods for addressing all other operating requirements of Section 8.
- 8.3.2.5 Franchisee shall provide additional information as Metro may reasonably require.
- 8.3.3 All Authorized Solid Wastes received at the Facility must, within a 24-hour period from receipt, be either (1) properly disposed or (2) appropriately stored.
- 8.3.4 Upon discovery, all Prohibited Wastes shall be removed or managed in accordance with Section 5.1.4 and 8.3 of this Franchise.
- 8.3.5 Sorting and recovery areas shall be cleaned on a regular basis.
- 8.3.6 All vehicles and devices transferring or transporting Solid Waste from the Facility shall be constructed, maintained, and operated to prevent leaking, spilling, or blowing of Solid Waste on-site or while in transit.
- 8.3.7 The Franchisee shall not mix any Source-Separated Recyclables brought to the Facility with any other Solid Wastes. Recovered Materials at the Facility may be combined with Source-Separated Recyclables for shipment to markets.
- 8.3.8 The Franchisee shall reuse or recycle all uncontaminated Recyclable Materials brought to the Facility.
- 8.3.9 Franchisee shall take reasonable steps to notify and remind haulers that all loaded trucks coming to or leaving the Facility must be covered to prevent any material from blowing off the load during transit.
- 8.3.10 All Recovered Materials and Residue at the Facility must be stored in bales, drop boxes or otherwise suitably contained. Material storage areas must be maintained in an orderly manner and kept free of litter. Stored materials shall be removed at sufficient frequency to avoid creating nuisance conditions or safety hazards.
- 8.3.11 Contaminated water and sanitary sewage generated on-site shall be disposed of in a manner complying with local, state and federal laws and regulations.
- 8.3.12 Public access to the Facility shall be controlled as necessary to prevent unauthorized entry and dumping.

#### 8.4 Nuisance Prevention and Response Requirements

- 8.4.1 Franchisee shall respond to all citizen complaints on environmental issues (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If Franchisee receives a complaint, Franchisee shall:

- 8.4.1.1 Respond to that complaint within 12 hours, or sooner as circumstances may

require, and retain documentation of unsuccessful attempts; and

- 8.4.1.2 Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year.
- 8.4.2 To control blowing or airborne debris, Franchisee shall keep all areas within the site and along the road frontage of the site as indicated on the map attached as Exhibit A free of litter and debris and shall:
  - 8.4.2.1 Patrol the facility daily;
  - 8.4.2.2 Patrol Highway 47 ("B" Street) from its intersection with the Tualatin Valley Highway to its intersection with Pacific Avenue on a weekly basis.
- 8.4.3 The Franchisee shall manage the Facility in a manner which controls the creation of excessive odor, dust and noise. If excessive odor, dust or noise becomes apparent, Franchisee shall initiate and implement supplemental control measures and bear the costs thereof.
- 8.4.4 With respect to vector control, the Franchisee shall manage the Facility in a manner that is not conducive to infestation of rodents or insects. If rodent or insect activity becomes apparent, Franchisee shall initiate and implement supplemental vector control, and bear all the costs thereof.
- 8.4.5 The Metro Regional Environmental Management Director may call a meeting if specific operational issues require immediate attention

## 9. ANNUAL FRANCHISE FEES

- 9.1 Franchisee shall pay an annual franchise fee, as established under Metro Code Section 5.03.030. Metro reserves the right to change its franchise fees at any time, by action of the Metro Council, to reflect franchise system enforcement and oversight costs.

## 10. INSURANCE

- 10.1 Before the effective date of this Franchise, Franchisee shall purchase and maintain the following types of insurance, insuring Franchisee, its employees, and agents:
  - 10.1.1 Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
  - 10.1.2 Automobile bodily injury and property damage liability insurance.
- 10.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 10.3 Metro, its elected officials, departments, employees, and agents shall be named as Additional Insureds. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- 10.4 Franchisee and contractors of Franchisee, if any, and all employers working under this Franchise, are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation Insurance including employer's liability.

## 11. INDEMNIFICATION

Franchisee shall indemnify and hold Metro, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with Franchisee's negligent performance under this Franchise, including patent infringement and any claims or disputes involving subcontractors or subfranchisees. Such indemnity shall be limited to exclude claims, demands, damages, actions, losses and expenses, including attorney's fees and patent infringement and any claims or disputes involving subcontractors or subfranchisees, to the extent that they arise as a result of or in connection with any negligent actions or omissions of Metro or its agents, subcontractors, employees, or elected officials.

In the event of any suit or claim against Metro under this section, the Franchisee shall appear and defend such suit provided that the Franchisee is notified by Metro in a timely manner of the suit. Metro shall have the right to approve counsel chosen by the Franchisee to litigate such suit which approval shall not be unreasonably withheld. In the event a dispute exists over whether Metro is entitled to indemnification, each party shall defend itself until the dispute is resolved. Upon resolution of the indemnification dispute, the prevailing party shall be entitled to indemnification for its defense costs incurred prior to resolution. Notwithstanding the foregoing, the Franchisee shall not be obligated to pay for the defense of any claim or suit that any insurer has a duty to defend. If no insurer defends, however, then the Franchisee shall, to the extent obligated to do so by this Agreement, pay for the defense, but shall be entitled to the insured's rights against all insurers with a potential for coverage of such claim.

Nothing in this Agreement shall constitute a waiver or relinquishment of any claims which the parties may have against insurers, nor shall any provision of this Agreement waive or relinquish any subrogation or contribution rights that the parties or their insurers may have against another insurer or other potentially liable party. Any monies received from the insurers shall be used to pay any claims covered by such insurance and reimburse the insured for all reasonable costs and expenses, including attorneys' fees, expended by it to seek recovery of sums from its insurers.

## 12. SURETY BOND/CONDITIONAL LIEN

Before this Franchise shall become effective, Franchisee shall provide a surety bond or letter of credit in the amount of One Hundred Thousand Dollars (\$100,000), in a form acceptable to Metro, or at its option may provide a conditional lien on the franchised property in a form satisfactory to Metro.

## 13. COMPLIANCE WITH LAW

- 13.1 Franchisee shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Franchise, including all applicable Metro Code provisions whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the Facility by federal, state or local governments or agencies having jurisdiction over the Facility are part of this Franchise by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Franchise, as well as any existing at the time of issuance of this Franchise and not attached, and permits or conditions issued or modified during the term of this Franchise.
- 13.2 Metro may reasonably regulate the hours of Facility operation as it finds necessary to ensure compliance with this Agreement. Metro shall exercise best efforts to provide 90 days written notice prior to regulating hours of operation, and shall not unreasonably increase Franchisee's costs of operation of the Facility
- 13.3 Franchisee shall not, by act or omission, unlawfully discriminate against any person on the



ground of race, sex, age, creed, color, religion or national origin or treat unequally or prefer any user of the Facility through application of fees or the operation of the Facility. Notwithstanding the foregoing, Franchisee may charge fees or rates for handling of Non-System Materials and System Waste that are different from the System Rate in its sole discretion,

#### **14. METRO ENFORCEMENT AUTHORITY**

- 14.1 Enforcement of this Franchise shall be as specified in the Metro Code.
- 14.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility 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:
- 14.2.1 During all working hours;
- 14.2.2 At other reasonable times with 24 hours notice;
- 14.2.3 At any time without notice when, in the opinion of the Metro Regional Environmental Management Department Director, such notice would defeat the purpose of the entry. In such instance, the Director shall provide a written statement of the purpose for the entry.
- 14.3 The power and right to regulate, in the public interest, the exercise of the privileges granted by this Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations, fees, or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.
- 14.4 At a minimum, Metro may exercise the following oversight rights in the course of administering this Franchise: (1) perform random on-site inspections in accordance with Section 14.2; (2) conduct franchise audits to assess compliance with operating requirements in this Franchise; (3) analyze monthly transaction data; (4) invoice Franchisee for any fees or penalties arising under this Franchise; (5) perform noncompliance investigations; (6) inspect and visually characterize incoming and outgoing loads for the purpose of assessing Prohibited Waste; and (7) maintain regular contact with the Franchisee. In all instances, Metro shall take reasonable steps to minimize disruptions to operations at the Facility.
- 14.5 Nothing in this Franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in the Metro Code, nor shall this Franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any individual or group of individuals within its jurisdiction, notwithstanding any incidental impact that such ordinances may have upon the terms of this Franchise or the Franchisee's operation of the Facility.

#### **15. DISPOSAL RATES AND FEES**

- 15.1 Franchisee shall pay to Metro a Metro Differential Fee on all Solid Waste generated within the Metro boundary and disposed at a General Purpose Landfill other than the Columbia Ridge Landfill.
- 15.2 The Metro Differential Fee shall, upon the effective date of this Franchise, commence at the rate of \$5.00 per ton, which rate shall continue until such date as any modification is made to the Metro System Rate in effect at the time of the execution of this Franchise.
- 15.3 Until July 1, 2001, the Metro Differential Fee shall be modified by the amount that the System Rate (expressed on a per ton basis), minus the Metro Regional User Fee, is lower than \$51. In the event that the total of the System Rate minus the Metro Regional User Fee exceeds \$51, then the Metro Differential Fee shall be calculated as set forth in section 15.4.

- 15.4 Commencing July 1, 2001, and each year thereafter throughout the term of the Franchise, the Metro Differential Fee shall be adjusted by an amount equal to the product of multiplying the original Metro Differential Fee of \$5.00 by the sum of the then-current Metro System Rate less the Metro Regional User Fee, divided by \$51.
- 15.5 Notwithstanding the provisions of Metro Code 5.01.170, this facility shall be exempt from determination of rates.

## 16. GENERAL CONDITIONS

- 16.1 Franchisee shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Franchise.
- 16.2 Neither the Franchisee nor the parent company of the Franchisee nor their subsidiaries nor any other Solid Waste facilities under their control that do not have Designated Facility Agreements shall knowingly accept System Waste except as authorized by a non-system license issued to the hauler by Metro.
- 16.3 Neither this Franchise nor the Franchisee may be conveyed, transferred or assigned without the prior written approval of Metro. Internal reorganization of the Franchisee shall not constitute a conveyance, transfer or assignment of this Franchise requiring the prior written approval of Metro.
- 16.4 To be effective, a waiver of any term or condition of this Franchise must be in writing and signed by the Executive Officer. Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 16.5 This Franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon and all pertinent provisions of the Metro Code.
- 16.6 If any provision of the Franchise shall be found invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

## 17. NOTICES

- 17.1 All notices required to be given to the Franchisee under this Franchise shall be delivered to:

Jonathan M. Angin, District Manager  
Metropolitan Disposal & Recycling Corporation  
USA Waste of Oregon  
554 N. Columbia Blvd., P.O. Box 11229  
Portland, OR 97211-0229

- 17.2 All notices required to be given to Metro under this Franchise shall be delivered to:

Metro Franchise Administrator  
Regional Environmental Management Department  
Metro  
600 N.E. Grand Avenue  
Portland, Oregon 97232-2736

- 17.3 Notices shall be in writing, effective when delivered, or if mailed, effective on the second

business day after mailed, postage prepaid, to the address for the party stated in this Franchise, or to such other address as a party may specify by notice to the other.

## **18. REVOCATION**

- 18.1 Except as provided in Section 19, herein, this Franchise may be revoked at any time for any violation of the conditions of this Franchise or of the Metro Code, under such revocation procedures as are specified in the Metro Code. This Franchise does not relieve Franchisee from responsibility for compliance with ORS chapter 459, or other applicable federal, state or local statutes, rules, regulations, codes, ordinances, or standards.
- 18.2 This Franchise is subject to suspension, modification, revocation, or nonrenewal upon Metro finding that:
- 18.2.1 The Franchisee has violated the terms or conditions of this Franchise, the Metro Code, ORS chapter 459, or the rules promulgated thereunder or any other applicable law or regulation and has failed to cure in accordance with Section 19; or
- 18.2.2 The Franchisee has misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to Metro; or
- 18.2.4 There has been a significant change in the quantity or character of solid waste received at the Facility, the method of processing solid waste at the Facility, or available methods of processing such waste.

## **19. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE**


If for any reason, either party fails to comply with any material provision of this Agreement or any material obligation assumed hereunder, the other party shall provide to the defaulting party a written notice ("Default Notice") detailing the nature of the default and the steps required to cure such default. The non-defaulting party may terminate this Agreement, upon written notice, if the defaulting party fails to cure such default or commence to cure the default within thirty (30) days after receiving the Default Notice and diligently pursue a cure to completion. In addition, Metro may proceed against the performance and payment bond furnished by the Franchisee pursuant to Section 12 above in the event the Franchisee fails to provide Facility services as required under this Agreement.

## **20. MODIFICATION**

- 20.1 At any time during the life of this Franchise, either the Executive Officer or the Franchisee may propose amendments or modifications to this Franchise. Except as specified in the Metro Code, no amendment or modification shall be effective unless it is in writing, approved by the Metro Council, and executed by the Franchisee and the Executive Officer.
- 20.2 The Executive Officer shall review the Franchise annually, in order to determine whether the terms of this Franchise Agreement should be changed and whether a recommendation to that effect needs to be made to the Metro Council. While not exclusive, the following criteria and factors may be used by the Executive Officer in making a determination whether to conduct more than one review in a given year:
- 20.2.1 Franchisee's compliance history;
- 20.2.2 Changes in waste volume, waste composition, or operations at the Facility;

- 20.2.3 Changes in local, state, or federal laws or regulations that should be specifically incorporated into this Franchise;
- 20.2.4 A significant release into the environment from the Facility;
- 20.2.5 A significant change or changes to the approved site development plan and/or conceptual design;
- 20.2.6 Any change in ownership that Metro finds material or significant, excluding transfers among subsidiaries of Franchisee or Franchisee's parent corporation;
- 20.2.7 Community requests for mitigation of impacts to adjacent property resulting from Facility operations.

FOREST GROVE TRANSFER STATION

  
\_\_\_\_\_

12/30/97  
\_\_\_\_\_  
Date

METRO

  
\_\_\_\_\_  
Mike Burton, Metro Executive Officer

12/31/97  
\_\_\_\_\_  
Date

MDF:kaj  
I:\DOCS#09.SW01FRANCH\05FGTS\08RENEW.97\FGTSFRA.CLN  
12/22/97 10:49 AM



Regional Environmental  
Management  
600 NE Grand Ave  
Portland, OR 97232-2736  
(503) 797-1650  
Fax (503) 797-1795

**METRO**

# Unacceptable Waste Incident Tracking Form

Item Number: \_\_\_\_\_ Date Discovered: \_\_\_\_\_

Description of Unacceptable Waste: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Generator (if known): \_\_\_\_\_

Waste Hauler: \_\_\_\_\_

Waste was determined to be:                     Hazardous                     Non-Hazardous

Disposition: \_\_\_\_\_

Date Disposed: \_\_\_\_\_

cash/metro/unaccept.pm6

original = Franchise Administrator  
yellow = Franchisee  
pink = file










June 1996  
Printed on recycled paper, please recycle!

# Title 3 DRAFT Section 1s3w06

## Proposed Protection Areas Growth Management Functional Plan

**NOTE:**  
This map, which represents proposed protection areas, is not an independent, legal document. It is intended to be used as a guide for delineating sensitive areas, in conjunction with the Title 3 ordinance language, adopted by the Metro Council.

**Water Quality and Flood Management Areas  
Oregon Statewide Planning Goals 6 & 7**

-  Flood Hazard Area
- Water Quality Resource Areas:**
-  Riparian Corridors
-  Wetland Areas
-  Primary Protected Water Features
-  Secondary Protected Water Features
-  Tax Lot Lines
-  Metro Boundary

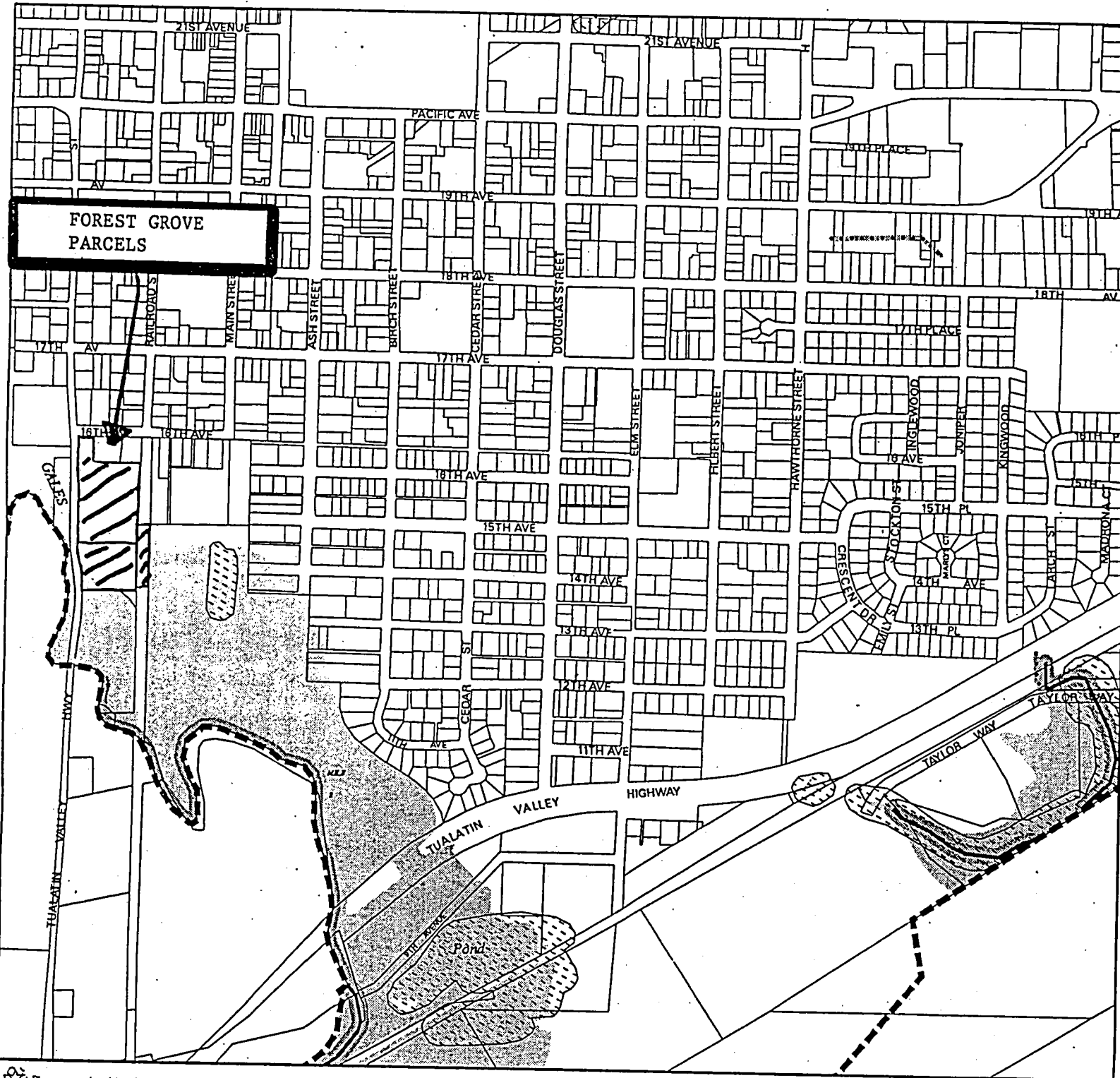
**NOTE:** Due to positional error inherent in mapped data, a field survey is required to determine the precise location of a natural boundary (i.e. wetlands) in relation to tax lot boundaries.

**FLOOD HAZARD AREAS**  
Army Corps of Engineers, FEMA maps, 1971, Feb. 1994 Flood Insurance Map (from aerial photos on 2/9 - 2/11). Local jurisdictional input.

**WETLANDS**  
U.S. Department of Fish and Wildlife, 1983-1993. Local jurisdictional wetland inventory. SOURCE

**TAX LOT MAP**  
City of Beaverton, Multnomah County City and Town; Source: City, 1994. Map accuracy: control point positional accuracy is plus or minus 800 feet or better. Data collection scale: 1"=300' Multnomah County East of Glad Ave. Source: Multnomah County Assessor, 1993. Map accuracy: based on existing cadastral data. Line work created using coordinate geometry. Remotely sensed imagery. Source: Portland General Electric and Metro, 1994. Map accuracy: control point positional accuracy is plus or minus ten feet. Data collection scale: 1"=300', 1"=300' or 1"=400'

The information on this map was derived from digital databases on Metro's GIS. Care was taken to the extent of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, neither Metro nor any other will be appreciated.



## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 97-718 FOR THE PURPOSE OF GRANTING A SOLID WASTE FRANCHISE TO USA WASTE OF OREGON, INC., DOING BUSINESS AS METROPOLITAN DISPOSAL AND RECYCLING CORPORATION, FOR THE PURPOSE OF OPERATING A SOLID WASTE TRANSFER STATION; AND DECLARING AN EMERGENCY.

Date: November 26, 1997

Presented by: Bruce A. Warner, Director  
Regional Environmental Management

## PROPOSED ACTION

Adopt Ordinance No. 97-718

## FACTUAL BACKGROUND AND ANALYSIS

The Forest Grove Transfer Station (FGTS) is a privately owned transfer station, operated by Ambrose Calcagno, Jr. d.b.a. A.C. Trucking, under a franchise granted by Metro. The first franchise for this transfer station was issued by Metro in 1985. It was subsequently renewed in 1988 and 1994 and is scheduled to expire in early 1999. This transfer station is one of three regional transfer stations identified in the Regional Solid Waste Management Plan.

The Forest Grove Transfer Station currently handles about ten percent of the municipal solid waste generated within the region. The waste from the transfer station is currently disposed of at the Riverbend landfill near McMinnville, Oregon. The waste from this transfer station historically has been disposed of at the Riverbend Landfill, except for a short period between June 1994 and May 1995, when the Columbia Ridge Landfill was used. In May of 1995, the station operator negotiated a new arrangement for disposal with the Riverbend landfill and agreed to pass the savings along to the region's ratepayers through payment of a \$4.83 per ton fee to Metro in exchange for a delay in the scheduled annual rate review called for in the franchise. This fee provided savings to Metro's ratepayers similar to Amendment No. 4 to Metro's disposal contract. Under the terms of the current franchise, the \$4.83 fee will terminate at the completion of rate review.

In December of 1995, Metro notified the franchisee of its intent to conduct a review of the rates at the transfer station and requested financial information to begin the process. Metro's Rate Review Committee completed its review of the A.C. Trucking rate and made a recommendation in March 1997. The Executive Officer subsequently proposed a rate to the Metro Council. This rate review is still in progress since the franchisee disagreed with the rate recommended by the Executive Officer and requested a contested case hearing.

Metro was notified in late 1996 that the franchise holder had entered into negotiations for the sale of the facility to USA Waste. In September of 1997, Mr. Calcagno notified Metro of his intent to sell the facility and asked Metro to enter into discussions with USA Waste of Oregon, Inc. for modification of the existing franchise and approval of the transfer of the franchise.

USA Waste of Oregon, Inc. intends to operate the station under the business name of Metropolitan Disposal and Recycling Corporation (MDRC). MDRC filed an application, for a franchise to operate the Forest Grove Transfer Station. The application was deemed administratively complete on October 22,

1997. Metro staff entered into negotiations with MDRC to develop a new franchise to replace the existing franchise with A. C. Trucking.

The franchise agreement attached as Exhibit A to the Ordinance is the document that was developed as a result of MDRC's request for a franchise. The proposed franchise agreement and this ordinance:

1. Grants USA Waste the right to operate the Forest Grove Transfer Station.
2. Establishes a new Metro Differential Fee of \$5.00 per ton based on a specific Metro tipping fee.
3. Provides a method of adjusting the Metro Differential Fee as Metro's tipping fee changes, in lieu of rate review.
4. Grants a five year franchise with automatic renewal for an additional five years, unless Metro determines that the franchisee is operating in violation of its franchise.
5. Limits the tonnage that can be disposed at a general purpose landfill to ten percent of the Region's waste and establishes procedures for monitoring compliance with this requirement.
6. Grants Metro the right to use the site to conduct periodic household hazardous waste collection events at the transfer station.
7. Terminates the existing franchise granted to Ambrose Calcagno, Jr. d.b.a. A.C. Trucking upon the effective date of the new franchise.

#### Operator Qualifications

USA Waste of Oregon, Inc. is a wholly-owned subsidiary of USA Waste Services, Inc., one of the largest waste management firms in the United States. Staff has reviewed their application for a franchise and has determined that the firm and its staff are qualified to operate the Forest Grove Transfer Station and that they can comply with all regulatory requirements.

#### Compliance with the Regional Solid Waste Management Plan.

The Regional Solid Waste Management Plan identifies the Forest Grove Transfer Station as one of the three transfer stations that provide the capacity needed for handling the Region's solid waste. Granting this franchise is consistent with the plan.

#### Economic Analysis of Franchise

Metro Differential Fee. The proposed franchise establishes a fee to be paid by the franchisee on all waste from the Forest Grove Transfer Station that is delivered to a general purpose landfill. Payment of this fee negates the necessity for regular rate review. The franchise does not set a rate for the transfer station. Metro staff believes that the imposition of the Differential Fee along with the reduction in the Metro tip fee will provide adequate controls on the rates charged at the transfer station, without the expense of a formal rate review process.

The Metro Differential Fee meets three major objectives. It produces savings to the Region's ratepayers that are similar to the savings that can be obtained by sending the waste to the Columbia Ridge Landfill under our current contract. Secondly, the fee reflects the difference in cost between hauling the waste to the Riverbend Landfill and Metro's cost to haul waste to Columbia Ridge. Finally, it results in a fair and reasonable rate to the franchisee for the operation of the transfer station.



The Metro Differential Fee is \$5.00 per ton on all waste from the Forest Grove Transfer Station disposed of at a general-purpose landfill other than the Columbia Ridge Landfill. The negotiation of this fee was based on developing a fee that reflected the difference in the costs between Metro's tip fee that includes the cost of a 150-mile haul versus the 30-mile haul to Riverbend. This Differential Fee will change as Metro modifies its tip fee, and any changes will occur according to a methodology established in the franchise agreement.

Comparison of Savings with Amendment No. 7

The following table shows the savings that would be available to the region's ratepayers if the waste from Forest Grove were sent to the Columbia Ridge Landfill under the terms established in Amendment No. 7. The analysis is based on current disposal contract rates and Metro's most recent estimates of the amount of waste that will be landfilled during 1997-98. The analysis assumes that waste from Forest Grove would be hauled by Metro's current transport contractor at the same rates as from Metro's transfer stations. Negotiation of an amendment to the transport contract would be required to accomplish this.

**Table 1 — Comparison of Savings**

	1997-98	<i>Riverbend/Columbia Ridge</i>		<i>Columbia Ridge Only</i>		<i>Savings</i>
		<i>Disposal Rate</i>	<i>Disposal Cost</i>	<i>Disposal Rate (Average)</i>	<i>Disposal Cost</i>	
Metro Disposal Tons	756,000	\$22.66	\$17,132,390	\$21.15	\$15,986,798	\$1,145,592
Forest Grove Tons	85,000	\$19.70	\$1,674,500	\$21.15	\$1,797,457	(\$122,957)
<b>Totals</b>	<b>841,000</b>	<b>\$22.36</b>	<b>\$18,806,890</b>	<b>\$21.15</b>	<b>\$17,784,255</b>	<b>\$1,022,635</b>
Additional Transportation Cost to Columbia Ridge		\$0	\$0	\$6.49	\$551,650	(\$551,650)
Additional Cost to Install and Operate Compactor		\$0	\$0	\$2.50	\$212,500	(\$212,500)
<b>Total Disposal Cost Including Added Costs</b>			<b>\$18,806,890</b>		<b>\$18,548,405</b>	<b>\$258,485</b>
<b>Savings per ton on Forest Grove Waste</b>						<b>\$3.04</b>

**Notes:**

The added transportation cost to Columbia Ridge is estimated to be \$13.49 per ton.

The cost of transporting waste from Forest Grove to Riverbend is estimated to be \$7.00 per ton.

The estimated cost of compaction is based on capital costs of \$900,000 and operating costs of \$1.00 per ton.

Per ton disposal costs for Columbia Ridge are averages computed by dividing total cost by total tons.

The analysis presented in Table 1 shows that while the savings at the landfill as a result of using Metro's existing disposal contract would be over \$1 million, the additional costs to get the waste to Columbia Ridge would reduce those savings to about \$260,000, or about \$3.00 per ton on the Forest Grove waste.

The Metro Differential Fee of \$5.00 per ton provides savings to the ratepayers that exceed the savings available under Amendment No. 7. The Differential Fee will be reduced to \$3.50 per ton if the Metro Council adopts the Metro tip fee recommended by the Rate Review Committee. Even this lower fee compares favorably with the savings that could result from diverting the waste to Columbia Ridge.

Metro has contracted with Willow Creek Associates to review the Staff's estimate of the savings available by sending the waste from Forest Grove to the Columbia Ridge Landfill in light of the proposed changes to the Metro tip fee. Their initial analysis indicates general agreement with the analysis presented above. A copy of their analysis will be provided to the Metro Council when completed.

### **Other Franchise Terms**

Waiver of Rate Review Requirement. The proposed franchise for the Forest Grove Transfer Station waives the requirement for rate review. The Differential Fee provides a method to keep the transfer rate at a fair and reasonable level. The estimated transfer station rate, following a reduction in Metro's tip fee, is \$20.83 per ton. This rate is between the Executive Officer's recommendation of \$19.25 per ton for A.C. Trucking and the \$23.03 per ton rate recommended by the Rate Review Committee. It is substantially less than the \$28.39 per ton rate requested by the current franchisee.

Disposal Limitation. The franchisee has agreed to a limitation on the amount of waste that can be disposed of at a general-purpose landfill. The franchisee is limited to disposing of no more than ten percent of the region's waste at a general-purpose landfill other than the Columbia Ridge Landfill. This limitation is worded so that Metro can meet its obligations under its current disposal contract. The franchisee has agreed to correct any violation of this provision by disposing of the amount in excess of ten percent as Metro directs.

Franchise Term. The term of this franchise is five years with an automatic five-year renewal, unless Metro determines that the franchisee is in default of the Franchise Agreement. This relieves the franchisee of the obligation to submit an application for an extension of the franchise in 2003.

Household Hazardous Waste Collection. The franchise agreement calls for the franchisee to provide Metro with the opportunity to hold periodic household hazardous waste events at the transfer station. Metro plans to provide regularly scheduled collection events for the residents in the vicinity of the transfer station. The frequency of these events has not been determined and will ultimately be based on the demand for these services and available funding.

Designated Facility Agreement for the Riverbend Landfill. USA Waste Services, Inc. has agreed to enter into a "Designated Facility Agreement" for the Riverbend Landfill. Metro staff has wanted an agreement with Riverbend for some time to provide better information on the disposal of waste from the region. This agreement will improve our ability to collect Metro fees and our ability to comply with the terms of Metro's contract for disposal services with Oregon Waste Systems. Metro has received a letter from USA Waste confirming this agreement in writing.

Termination of Existing Franchise. The current franchise for the Forest Grove Transfer Station, held by Ambrose Calcagno, Jr., d.b.a. A. C. Trucking, will terminate upon execution of the proposed franchise. The contract for sale of the facility is contingent on the purchaser obtaining a new franchise, rather than simply obtaining approval to operate under the existing franchise.

BUDGET IMPACT

Approval of this agreement will ensure that the region's ratepayers will continue to share the reduced disposal costs from the Forest Grove waste. During the remainder of 1997-98, the savings will increase by \$0.17 per ton or about \$7000 over the budgeted amount. In following years the savings will be vary with Metro's tip fee and will range from \$300,000 to \$425,000 per year.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 97-718

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3205 SE Minter Bridge Road  
Hillsboro, Oregon 97123  
(503) 648-0817  
(503) 681-9618 Fax  
(800) 685-8001

November 26, 1997

Bruce A. Warner, P.E., Director  
Regional Environmental Management Department  
METRO  
600 Grand Avenue  
Portland, OR 97232-2736

Subject: Designated Facility Agreement - Riverbend Landfill

Dear Bruce:

As you are aware, USA Waste of Oregon, Inc. (d/b/a Metropolitan Disposal & Recycling Corporation) has entered a binding agreement to purchase the Forest Grove Transfer Facility ("FGTS"). The purchase is conditioned upon USA Waste reaching an agreement with Metro on a new franchise agreement with respect to the operation of the facility. The Metro Executive and staff and USA Waste have now agreed upon a proposed new franchise, which agreement will now be considered by the Metro Counsel.

The proposed franchise authorizes FGTS to continue disposal of up to ten percent (10%) of the Solid Waste delivered or directed by Metro to a general purpose landfill, at the Riverbend Landfill located in Yamhill County. Historically, since FGTS has operated with a Metro Non-System License, Riverbend Landfill has not been required to enter a "Designated Facility Agreement" with Metro in order to receive Metro waste. However, as part of USA's agreement, USA has committed that upon approval of the proposed franchise for FGTS, Riverbend Landfill will immediately commence negotiations with Metro and execute a Designated Facility Agreement not later than the expiration of FGTS's Non-System License in December of 1999. Metro staff has committed to work in good faith toward a Designated Facility Agreement that will not impose a significant administrative burden or cost to the Landfill or additional inconvenience on the local users of Riverbend Landfill.

This letter is to confirm our commitment to proceed with the negotiation of a Designated Facility Agreement between Riverbend Landfill, Inc. and Metro if the proposed franchise is approved.

If you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "SAB", written over a light-colored background.

Scott A. Bradley  
Manager of Landfill Operations  
Cascade Division

cc: Jon Angin  
Joe Cassin  
Duane Woods