



METRO

\* NOTE: Special Meeting. Note different date, day and time. The next regular Council meeting will be held at 4:00 p.m., Thursday, January 13.

DATE: January 4, 1994  
MEETING: Metro Council  
DAY: Tuesday  
TIME: 6:00 p.m.  
PLACE: Metro Council Chamber

Approx.  
Time\*

Presented  
By

6:00

**CALL TO ORDER/ROLL CALL****1. INTRODUCTIONS****2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS****3. EXECUTIVE OFFICER COMMUNICATIONS**

6:05

(20 min.)

**4. ELECTION OF COUNCIL PRESIDING OFFICER** (Action Requested: Elect Presiding Officer for Calendar Year 1994)**5. NON-REFERRED RESOLUTIONS**

6:25

(20 min.)

**5.1 Resolution No. 94-1893, For the Purpose of Reorganizing Council Standing Committees, Making Appointments and Setting Meeting Schedules** (Action Requested: Motion to Adopt the Resolution)

6:45

(5 min.)

**6. ORDINANCES, FIRST READINGS****6.1 Ordinance No. 94-527, For the Purpose of Granting a Franchise Renewal to Ambrose Calcagno, Jr., D/B/A.C. Trucking For the Purpose of Operating a Solid Waste Transfer Station and Declaring an Emergency** (Action Requested: Refer to the Solid Waste Committee)

6:50

(20 min.)

**7. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS****7.1 Discussion of Dates for Council Workshops on 2040 Concepts and Budget Discussions** (Action Requested: Discussion and Selection of Workshop Dates)

7:10

**ADJOURN**

All times listed on the agenda are approximate; items may not be considered in the exact order listed.

For assistance/services per the Americans with Disabilities Act (ADA), dial TDD 797-1804 or 797-1534.

Meeting Date: January 4, 1994  
Agenda Item No. 5.1

RESOLUTION NO. 94-1893

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REORGANIZING )  
COUNCIL STANDING COMMITTEES, )  
MAKING APPOINTMENTS AND SETTING )  
MEETING SCHEDULES )

RESOLUTION NO. 94-1893

Introduced by Presiding Officer Wyers

WHEREAS, The Council of the Metropolitan Service District (Metro Council) adopted Resolution No. 88-840 on January 14, 1988, for the Purpose of Creating Standing Committees of the Council; and

WHEREAS, The Metro Council subsequently adopted Resolutions No. 88-964, 89-1038, 89-1125, 89-1137, 90-1207, 90-1274, 91-1382, 92-1553, 92-1642, 92-1737, and 93-1741 to reorganize Council standing committees and/or make appointments responding to Council needs; and

WHEREAS, There is a need to continue Committee oversight which responds to current policy and program issues, while setting an efficient, effective meeting schedule; now, therefore,

BE IT RESOLVED,

1. That this resolution replaces Resolution No. 93-1741.
2. That the Finance, Governmental Affairs, Planning, Regional Facilities, and Solid Waste Committees are continued.
3. That the purpose of each standing committee shall be as described in Exhibit A attached hereto and that the Council confirms the Presiding Officer's appointment of standing committee members for calendar year 1994 as described in Exhibit B attached hereto.
4. That the Council acknowledges the Presiding Officer's appointment of members to other Council-related committees or positions as described in Exhibit C attached hereto.
5. That the meeting schedule for the Council and each standing committee shall be set as described in Exhibit D attached hereto, except for special meetings and changes necessary to respond to holiday scheduling and/or other needs as determined by the Presiding Officer and each committee chair.

ADOPTED by the Metro Council this 4th day of January, 1994.

---

Judy Wyers, Presiding Officer

## **EXHIBIT A**

### **PURPOSE OF THE COUNCIL STANDING COMMITTEES**

#### **Finance Committee**

The purpose of the Finance Committee shall be to:

1. Act as the annual Budget Committee which reviews and makes recommendations to the Council on the Executive Officer's proposed fiscal year budget and appropriations schedule; and
2. Review and make recommendations to the Council on periodic requests for amendments to the adopted budget and appropriation schedule; and
3. Review and make recommendations to the Council on the annual financial audit and investment and credit policies and practices of Metro; and
4. Review and make recommendations to the Council on revenue proposals of Metro including property tax measures, excise tax measures, other tax measures, bond issue measures, service charges and fees, etc.; and
5. Review and make recommendations to the Council on long-range financial plans and policies of Metro and its various functions; and
6. Oversee the work of the Finance & Management Information Department and the Regional Facilities Department (procurement, building and office management; and construction support programs) to ensure that adopted policies and program goals and objectives are carried out or met; and
7. Review and make recommendations to the Council on other matters referred to the Committee by the Presiding Officer.

#### **Governmental Affairs Committee**

The purpose of the Governmental Affairs Committee shall be to:

1. Review and make recommendations to the Council on the internal and external affairs of Metro not under the purview of other committees; and
2. Review and make recommendations to the Council on internal operations matters including personnel rules, the performance audit program, rules and procedures for the

Council and its committees; Council expenditure guidelines, etc.; and

3. Monitor, develop and review recommendations for Council consideration which will foster and promote good relations with governmental agencies at the federal, state and local levels as well as with citizens, including state and federal legislative programs, the Bi-State Policy Advisory Committee and citizen participation and involvement programs such as proposed by the Metro Committee for Citizen Involvement; and
4. Coordinate the nomination of Portland Metropolitan Area Local Government Boundary Commission members by Metro Councilors and make recommendations to the Council on all Executive Officer appointments to positions and committees not covered by other standing committees; and
5. Oversee the work of the following departments to ensure that adopted policies and program goals and objectives are carried out or met: Council; Executive Management; Office of Government Relations; Office of General Counsel; Public Affairs; and Office of Citizen Involvement; and
6. Review and make recommendations on other matters referred to the committee by the Presiding Officer.

#### Planning Committee

The purpose of the Planning Committee shall be to:

1. Review and make recommendations to the Council on policies, programs, and contracts relating to transportation and land use planning, urban growth management, Region 2040 Program, the Regional Framework Plan, Future Vision, economic development, data services, water resource planning and management, local government coordination, housing, earthquake preparedness planning and other matters relating to Metro's planning activities; and
2. Review and make recommendations to the Council on confirmation of Executive Officer appointments to appropriate positions and committees relating to the purpose of this committee; and
3. Act as liaison with the Joint Policy Advisory Committee on Transportation (JPACT), the Metro Policy Advisory Committee (MPAC), and any other committee, task force, project management group, or work group which may be established related to the Planning Committee; and
4. Oversee the work of the Planning Department to ensure that adopted policies and

program goals and objectives, and budgets are carried out or met; and

5. Review and make recommendations to the Council on other matters referred to the Committee by the Presiding Officer.

#### Regional Facilities Committee

The purpose of the Regional Facilities Committee shall be to:

1. Review and make recommendations to the Council on policies and programs relating to the development, construction, renovation and operation of Metro facilities including the Metro Washington Park Zoo, the Oregon Convention Center, City of Portland facilities under Metro management responsibility according to the Consolidation Agreement with the City of Portland, and the Multnomah County Park and Exposition Facilities under Metro management according to the transfer agreement with Multnomah County, and the Metropolitan Greenspaces Program; and
2. Review and make recommendations to the Council on confirmation of Executive Officer appointments to: 1) the Metropolitan Exposition-Recreation Commission (MERC); 2) any other committee or task force created to advise the Council on matters pertaining to the purpose of this committee; and 3) appropriate administrative appointments; and
3. Act as a liaison with MERC, Friends of the Metro Washington Park Zoo (FOZ), Metropolitan Greenspaces Policy Advisory Committee and other organizations or committees which may be created related to the purpose of this committee; and
4. Review and make recommendations to the Council on plans or proposals including long-range financial plans for the continued development, operation and/or consolidation of convention, trade, performing arts and spectator facilities or programs in the region; long range financial plans for the development and operation of the Zoo and Regional Parks and Greenspaces; and
5. Oversee the work of the Zoo Department, MERC, Regional Parks and Greenspaces Department and any other administrative unit which is established to work on the development of regional facilities to ensure that adopted policies and program goals and objectives are carried out or met; and
6. Review and make recommendations to the Council on other matters referred to the Committee by the Presiding Officer.

## Solid Waste Committee

The purpose of the Solid Waste Committee shall be to:

1. Review and make recommendations to the Council on policies and programs relating to the preparation, adoption and implementation of the Regional Solid Waste Management Plan (RSWMP), the development and operation of solid waste disposal facilities, and Metro's waste reduction responsibilities; and
2. Review and make recommendations to the Council on confirmation of Executive Officer appointments to committees and appropriate positions relating to Metro's solid waste responsibilities; and
3. Act as a liaison with the Solid Waste Advisory Committee, the community enhancement committees, and any other solid waste advisory committee which may be established; and
4. Oversee the work of the Solid Waste Department and any other administrative unit which is responsible for undertaking solid waste functions (such as planning and recycling activities) to ensure that adopted policies and program goals and objectives are carried out or met; and
5. Review and make recommendations to the Council on other matters referred to the Committee by the Presiding Officer.

## **EXHIBIT B**

### **COUNCIL STANDING COMMITTEE MEMBERSHIP\***

(January 4, 1994)

#### **Finance Committee**

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
\*\*Councilor \_\_\_\_\_  
\*\*Councilor \_\_\_\_\_

#### **Regional Facilities Committee**

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_

#### **Governmental Affairs Committee**

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_

#### **Solid Waste Committee**

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_

#### **Planning Committee**

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_

\*The Presiding Officer may serve as a member of a committee for which there is a vacancy as a result of a vacancy on the Council.

\*\*May serve as a member of the Budget Committee during deliberations on the Executive Officers Proposed FY 1994-95 Budget.



## EXHIBIT C

Bi-State Policy Advisory Committee

Councilor \_\_\_\_\_, Co-Chair  
Councilor \_\_\_\_\_, Alternate

Council Parliamentarian

Councilor \_\_\_\_\_

Friends of the Washington Park Zoo Board of Directors:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Future Vision Commission:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_

Joint Policy Advisory Committee on Transportation:

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Metro Policy Advisory Committee:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Metropolitan Greenspaces Policy Advisory Committee:

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, V. Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Metro CCL Liaison

Councilor \_\_\_\_\_

One Percent for Art Committee:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Oregon Regional Council Association Board of Directors:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Regional Emergency Management Policy Advisory Committee:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Regional Water Services Leadership Group:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Smith and Bybee Lakes Management Committee:

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, Alternate

Solid Waste Enhancement Committees:

- North Portland Enhancement Committee
- Metro Central Enhancement Committee
- Oregon City Enhancement Committee

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_

Solid Waste Policy Advisory Committee:

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_, Alternate

Solid Waste Rate Review Committee:

Councilor \_\_\_\_\_

SW Washington Regional Transportation Policy Committee:

Councilor \_\_\_\_\_

South/North Steering Committee:

Councilor \_\_\_\_\_

Special District Association of Oregon Board of Directors/Legislative Committee:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Tri-Met Committee on Accessible Transportation:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

Water Resources Policy Advisory Committee:

Councilor \_\_\_\_\_, Chair  
Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_

Westside Corridor Project Steering Group:

Councilor \_\_\_\_\_  
Councilor \_\_\_\_\_, Alternate

## **EXHIBIT D**

### **COUNCIL AND COMMITTEE MEETINGS**

The Metro Council meetings shall be regularly scheduled as outlined below except when the Presiding Officer finds a need to: 1) Convene special meetings; 2) Change meeting dates or times to respond to special scheduling needs, such as during Thanksgiving and Christmas holiday periods; or 3) Cancel a meeting due to a lack of quorum or agenda items or other precipitating events.

Metro Council - Shall meet the second and fourth Thursdays of each month beginning at 4:00 p.m.\*

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The Metro Council standing committee meetings shall be regularly scheduled as outlined below except when the Committee Chair finds a need to:

1) Convene special meetings; 2) Change meeting dates or times to respond to special scheduling needs, such as during holiday periods; or 3) Cancel a meeting due to a lack of quorum or agenda items or other precipitating events.

Finance Committee - Shall meet the second and fourth Wednesdays of each month beginning at 4:00 p.m.\*

Governmental Affairs Committee - Shall meet the second and fourth Tuesdays of each month beginning at 4:00 p.m.\*

Planning Committee - Shall meet the first and third Thursdays of each month beginning at 4:00 p.m.\*

Regional Facilities Committee - Shall meet the first and third Wednesdays of each month beginning at 4:00 p.m.\*

Solid Waste Committee - Shall meet the first and third Tuesdays of each month beginning at 4:00 p.m.\*

\* Meeting call to order times subject to change at the discretion of the Committee Chair or the Presiding Officer

Meeting Date: January 4, 1994  
Agenda Item No. 6.1

ORDINANCE NO. 94-527

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 94-527 FOR THE PURPOSE OF GRANTING A FRANCHISE RENEWAL TO AMBROSE CALCAGNO, JR., D/B/A A. C. TRUCKING FOR THE PURPOSE OF OPERATING A SOLID WASTE TRANSFER STATION AND DECLARING AN EMERGENCY

Date: December 29, 1993

Presented by: Bob Martin

## FACTUAL BACKGROUND AND ANALYSIS

The purpose of this report is to introduce and provide analysis regarding the application filed by Ambrose Calcagno, d/b/a A. C. Trucking for renewal of his franchise to own and operate the Forest Grove Transfer Station (FGTS) located in the City of Forest Grove, Oregon. The application was accepted as complete on November 1, 1993. Metro, pursuant to Code Section 5.01.020 has the authority to grant franchises for private facilities accepting mixed solid waste. As previously approved by the Metro Council, the facility is to transfer mixed solid waste delivered to the facility by commercial haulers and the public.

A key element of the proposed franchise renewal for the Forest Grove Transfer Station is a contemplated shift for the ultimate disposal of waste from the Riverbend Landfill to the Columbia Ridge Landfill. This proposed transition is contingent on a number of factors including, most particularly, the successful implementation of a contract amendment between Metro and Oregon Waste Systems. The franchise is designed to allow Metro the option of transporting and/or disposing of waste delivered to the facility.

In summary, the proposed franchise includes the following:

1. Transitional language accommodates an arrangement between Metro and Oregon Waste Systems providing for the Forest Grove Transfer Station tonnage to be disposed of at Columbia Ridge Landfill.
2. Franchisee will continue to operate the scalehouse at the Forest Grove facility.
3. Franchisee will continue to pay Metro User Fees and Excise Taxes as required by the Metro Code.
4. Franchisee will pay Metro for transport and disposal (as applicable) if Metro assumes transport or disposal responsibilities.
5. Franchisee will continue to remit community enhancement money to Metro for disbursement to the City of Forest Grove.
6. Franchisee will pay its own DEQ fees associated with operation of the Transfer Station and other associated fees (other DEQ fees are paid as part of the disposal fee).

7. Franchisee will retain compensation for transfer station operations.
8. A compactor will be installed at the Forest Grove facility by the franchisee to accommodate transfer of materials to the Columbia Ridge Facility, if Metro assumes disposal responsibility.
9. Franchisee has not requested any increase in rates as approved by the Metro Council in 1992. The franchise provides for rate review for the facility in 1995, or earlier if the franchisee requests a new rate.

#### LOCATION OF FACILITY

1525 "B" Street, Forest Grove, Oregon

#### SITE DESCRIPTION

All or portions of tax lots 9500, 9501, and 9700; assessor's map 1S-36-BC located in the City of Forest Grove, Oregon.

#### MATERIALS TO BE ACCEPTED

Franchisee is authorized to accept all materials authorized by its DEQ Solid Waste Disposal Permit, from the public and from commercial collection vehicles, for delivery to a Metro-designated disposal facility (or transport and disposal as may be directed by Metro, pursuant to section 7.4 of the franchise) and to separate out recyclable materials such as, but not limited to, wastepaper, cardboard and newspaper. Discarded vehicles, sewage sludge septic tank and cesspool pumpings, or other sludge shall not be accepted at the facility.

Franchisee may accept no more than 300 tons of solid waste per operating day (a day in which the facility accepts solid waste) on a monthly average, with the added condition that franchisee may not accept more than 70,000 tons of waste in any twelve consecutive months or as this amount may otherwise be limited by Metro's agreement with Oregon Waste Systems, Inc. Upon assumption by Metro of responsibility for transport of solid waste from the facility, franchisee may accept an unlimited quantity of solid waste at the facility. However, for each ton of waste transported from the facility or disposed of by Metro in excess of 70,000 tons, from inside or outside of the District, franchisee shall pay increased transport and disposal fees as specified in section 14 of the franchise.

#### PERMITS REQUIRED

The applicant requires:

1. City of Forest Grove Business License
2. Oregon Department of Environmental Quality Solid Waste Disposal Permit
3. Metro Franchise

Status:

1. Has current City of Forest Grove Business License
2. Department of Environmental Quality Solid Waste Permit No. 368 received April 10, 1990.
3. Metro franchise pending.

MISCELLANEOUS OPERATING DATA

Metro may reasonably regulate the hours of site operation as it finds necessary to ensure compliance with the franchise. Metro will attempt to provide 90 days written notice prior to regulating hours of operation, and shall not unreasonably increase franchisee's costs of operation. If Metro is transporting solid waste from the facility, franchisee shall not change its hours of operation in a manner that would increase Metro's transport costs.

ISSUANCE OF A FRANCHISE

Staff has prepared a proposed franchise to be issued to the applicant following Council approval of the franchise application. Metro Code Section 5.01.070 states in part "The Executive Officer shall formulate recommendations regarding whether the applicant is qualified; whether the proposed franchise complies with the district's solid waste management plan; whether the proposed franchise is needed considering the location and number of existing and planned disposal sites, transfer stations, processing facilities, and resource recovery facilities and their remaining capacities and whether or not the applicant has complied or can comply with all other applicable regulatory requirements."

Metro Code Section 5.02.070 (e) (2) provides that a corporate surety bond is required for this type of franchise. This however, is guided by Metro Resolution No. 86-672. The pertinent portions of the Resolution, Section 1 b. and c. read as follows:

"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\* for the facility are estimated to be less than or equal to \$10,000, then the amount of the required surety bond is \$0."

*\*[Footnote 4 from the resolution stated: Clean-up and Site Maintenance Cost is dependent on the size and design of the facility.]*

"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 cost 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 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."

Using the criteria outlined in Metro Resolution No. 86-672 for determining the amount of a surety bond that may be required pursuant to a facility franchise, it is recommended that the franchisee be required to provide a surety bond in the amount of \$100,000, or in the alternative provide a conditional lien if preferred by the franchisee. This recommendation is based on the availability of disposal facilities (Metro transfer stations), that would not make it necessary to continue operation of the facility. Clean up and site maintenance costs are estimated to be approximately One Hundred Thousand Dollars (\$100,000). This estimate is based on:

- Disposal of one weeks' waste (1,350 tons) will cost about \$100,000 for loading, hauling and disposal.

The following staff analysis is submitted to the Council for its review as required.

#### QUALIFICATIONS OF THE APPLICANT

Metro Solid Waste Franchise No. 4 was originally issued to Ambrose Calcagno Jr. on March 22, 1984 to operate the Forest Grove Transfer Station. Operation of the facility began in October 1985 and it was used at that time solely to transfer waste from compactor trucks to transfer trailers, the trucks and trailers all of which were owned by Mr. Calcagno. Final destination of waste from the FGTS was the Riverbend Landfill in Yamhill County.

On August 14, 1986 the Metro Council approved variances requested by Mr. Calcagno and also renewed the franchise for the FGTS to a new expiration date of August 14, 1991. The variances approved by the Council authorized the transfer station to accept wastes from collection companies other than from companies owned by Mr. Calcagno and further relieved Mr. Calcagno from payment of the Regional Transfer Charge. A further Council renewal of the Franchise in September 1988 extended the Franchise to September 22, 1993 and authorized provision of service to public self-haulers. The applicant has successfully operated the facility since its original approval by Metro in 1984.

#### COMPLIANCE WITH THE SOLID WASTE MANAGEMENT PLAN

Given the conditions imposed by this franchise, this facility will comply with the goals, objectives and policies of the Regional Solid Waste Management Plan. The Regional Solid Waste Management Plan (RSWMP) states in part:

##### IMPLEMENTATION

9.0 Franchising, contracting, licensing policy for solid waste facilities.

The Solid Waste Management Plan shall include methods for regulatory control of solid waste facilities. Such regulatory methods may include a system of franchising, contracting



and/or licensing to ensure that needed disposal facilities are provided and are operated in an acceptable manner.

## **NEED AND COMPATIBILITY**

As this is a continuation of an existing franchise, no other system facilities are expected to be impacted by the proposed franchise. This facility has been in continuous operation since 1985 and has demonstrated its utility and compatibility with the system.

## **REGULATORY COMPLIANCE**

As noted on page 2 of this report, the applicant possesses a Department of Environmental Quality solid waste permit and a City of Forest Grove Business License. The transfer station is a permitted use under City of Forest Grove zoning regulations for the facility property.

## **BUDGET IMPACT**

No direct budget impact is anticipated by renewal of this franchise. If Metro assumes responsibility for transport and disposal of waste delivered to the facility, a budget amendment may be required. It is unlikely that Metro would assume such responsibility until the 1994-95 fiscal year. For information related to Metro exercise of its option to dispose of waste delivered to the facility please refer to fiscal analysis provided by staff related to proposed Amendment No. 4 to Metro's agreement with Oregon Waste Systems.

## **SUMMARY**

It is the conclusion of staff that:

- The applicant possesses sufficient qualifications to establish, operate and maintain the proposed facility in a manner consistent with the provisions of the Metro Code.
- That the facility complies with Metro's Regional Solid Waste Management Plan.

## **STAFF RECOMMENDATION**

Based on the foregoing analysis it is the opinion of staff that Ambrose Calcagno, d/b/a A. C. Trucking should be granted a non-exclusive franchise in accord with the provisions of the franchise agreement shown as Exhibit A of Ordinance No. 94-527.

## **EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 94-527.

s:\north\franchise\staff\229.rpt

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING	)	ORDINANCE NO. 94-527
A FRANCHISE RENEWAL TO AMBROSE	)	
CALCAGNO, JR., D/B/A A. C. TRUCKING	)	INTRODUCED BY
FOR THE PURPOSE OF OPERATING A	)	RENA CUSMA,
SOLID WASTE TRANSFER STATION AND	)	EXECUTIVE OFFICER
DECLARING AN EMERGENCY	)	

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

WHEREAS, Ambrose Calcagno, Jr., d/b/a A. C. Trucking has applied for renewal of a non-exclusive franchise to operate a transfer station (Forest Grove Transfer Station) for mixed solid waste at Forest Grove, Oregon; and,

WHEREAS, A. C. Trucking has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans; and

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

WHEREAS, The appropriate amount of a surety bond or conditional lien to be provided by the franchisee is determined to be \$100,000; and,

WHEREAS, Allowing this ordinance to take effect immediately is necessary for the public health, safety and welfare of the Metro area because:

1. The franchise continues to be an important component of the regional solid waste disposal system; and,
2. No system benefits would be derived by delaying the effective date of this ordinance, and such delay is likely to cause significant system disruption; and,

WHEREAS, The ordinance and attached Franchise was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now, therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the Metro Council authorizes the Metro Executive Officer to issue the attached Franchise (Exhibit A) to Ambrose Calcagno Jr., d/b/a A. C. Trucking within ten (10) days of the adoption of this Ordinance.
2. This Ordinance being necessary for the public health, safety, and welfare of the Metro area, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 1994.

\_\_\_\_\_  
Judy Wyers, Presiding Officer

ATTEST: \_\_\_\_\_  
Clerk of the Council

PN:clk  
S:\NORTH\FRANCHISE\SW94-527.ORD

EXHIBIT A

**SOLID WASTE FRANCHISE**

issued by

**METRO**

600 N.E. Grand Avenue  
Portland, Oregon 97232-2736  
(503) 797-1700

FRANCHISE NUMBER: \_\_\_\_\_  
DATE ISSUED: \_\_\_\_\_  
AMENDMENT DATE: N/A  
EXPIRATION DATE: \_\_\_\_\_  
ISSUED TO: AMBROSE CALCAGNO, JR., dba A. C. TRUCKING  
NAME OF FACILITY: FOREST GROVE TRANSFER STATION  
ADDRESS: 1525 "B" STREET, P.O. BOX 8  
CITY, STATE, ZIP: FOREST GROVE, OREGON 97116  
NAME OF OPERATOR: AMBROSE CALCAGNO, JR.  
PERSON IN CHARGE: AMBROSE CALCAGNO, JR.  
TELEPHONE NUMBER: (503) 357-9222

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## **FRANCHISE AGREEMENT**

This Franchise is issued by Metro, a municipal corporation organized under Oregon Law and the 1992 Metro Charter, referred to herein as "Metro," to Ambrose Calcagno, Jr., dba A. C. Trucking, 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**

As used in this Franchise:

"Acceptable Waste" means solid waste, as defined in ORS 459.005(24) except solid waste that is:

- (a) prohibited from disposal at a sanitary landfill by state, local or federal law;
- (b) Hazardous Waste;
- (c) Special Waste without a Metro approved special waste permit;
- (d) Infectious Medical Waste; or
- (e) Conditionally Exempt Generator Waste.

Latex paints are an Acceptable Waste if they are completely dried out and solidified with lids off. Caulk, construction putty and other construction adhesives must be dry to be Acceptable Waste.

"City of 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

"Code" means the Code of Metro.

"Conditionally Exempt Generator Waste" means waste as defined in 40 CFR 261.5, as amended or replaced, such waste to be handled by Contractor as if it were a fully regulated Hazardous Waste.

"DEQ Fees" mean such fees assessed by the Oregon Department of Environmental Quality related to operation of a solid waste facility

**"DEQ"** means the Department of Environmental Quality of the State of Oregon.

**"Disposal Fee"** means those payments to be made to Metro by the Franchisee for disposal of solid waste at the Columbia Ridge Landfill (and as they may be amended from time to time)

**"Excise Taxes"** mean excise taxes due to Metro from the Franchisee as determined by using the formulas contained on Metro's User Fee and Excise Tax Form (and as it may be amended from time to time)

**"Executive Officer"** means the Executive Officer of Metro or the Executive Officer's designee.

**"Facility"** means the facility described in section 3 of this Franchise.

**"Hazardous Waste"** means any waste (even though it may be part of a delivered load of waste) which:

- (a) is required to be accompanied by a written manifest or shipping document describing the waste as 'hazardous waste,' pursuant to any state or federal law, including, but not limited to the Resource Conservation and Recovery Act, 42 USC 9601, et seq. as amended and the regulations promulgated thereunder;
- (b) contains polychlorinated biphenyls or any other substance whose storage, treatment or disposal is subject to regulation under the Toxic Substance Control Act, 15 USC 2601, et seq. as amended and the regulations promulgated thereunder;
- (c) contains a 'reportable quantity' of one or more 'hazardous substances' (typically identified by the nine hazard classes labeled as explosives, non-flammable gas, flammable, flammable solid, oxidizer, poison, corrosive, radioactive, or dangerous), as identified in the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601, et seq. as amended and the regulations promulgated thereunder and as defined under Oregon Law, ORS 466.605 et seq. and the regulations promulgated thereunder;
- (d) contains a radioactive material the storage or disposal of which is subject to state or federal regulation; or
- (e) is otherwise classified as hazardous pursuant to federal or Oregon law, rule or regulation.

**"Infectious Medical Waste"** means waste resulting from medical procedures which may cause or is capable of causing disease such as:

- (a) biological waste, including blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that can not be directly discarded into a municipal sewer system, including solid or liquid waste from renal dialysis and waste materials reasonably contaminated with blood or body fluids;
- (b) cultures and stocks of etiological agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures; wastes from production of biologicals; and serums and discarded live and attenuated vaccines (cultures under this subsection do not include throat and urine cultures);
- (c) pathological waste, including biopsy materials and all human tissues and anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures; animal carcasses exposed to pathogens in research; and the bedding of the animals and other waste from such animals (pathological waste does not include formaldehyde and other such preservative agents); or
- (d) sharps, (which are otherwise regulated as "Special Waste") including needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes.

**"Metro Regional User Fee"** means the Metro User Fee determined to be due to Metro by the Franchisee by using the formulas contained on Metro's User Fee and Excise Tax Form (and as it may be amended from time to time)

**"Processing Facility"** means a place or piece of equipment where or by which solid wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerations, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

**"Special Waste"** shall have the meaning set forth for that term in Metro Code Section 5.02.015;

**"Transfer Fee"** means that amount of money determined by Metro as compensation for the owner/operator of the Facility for operation of the Facility and for associated compensation related to ownership of the Facility.

**"Transport Fee"** means that amount of money to be paid to Metro by the Franchisee for transport of solid waste from the Facility to a disposal site.

**"Unacceptable Waste"** means any waste that is not "Acceptable Waste."



## **2. TERM OF FRANCHISE**

This Franchise is issued for a term of five years from the date signed by Metro and the Franchisee, following approval by the Metro Council.

## **3. LOCATION OF FACILITY**

- 3.1 The franchised Facility is located at 1525 "B" Street, Forest Grove, Oregon. Attached as Exhibit 1 to this agreement is the legal description of the Facility property.

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

- 4.1 The owner of the Facility is Ambrose Calcagno, Jr. dba A. C. Trucking. Franchisee shall submit to Metro any changes in ownership of the Facility in excess of five percent of ownership, or any change in partners if a partnership, within 10 days of the change.
- 4.2 The owner of the property underlying the Facility is Ambrose Calcagno, Jr. and Virginia Calcagno, husband and wife. If Franchisee is not the owner of the underlying property, Franchisee warrants that owner has consented to Franchisee's use of the property as described in this Franchise.
- 4.3 The operator of the Facility is Ambrose Calcagno, Jr. dba A. C. Trucking. Franchisee may contract with another person or entity to operate the Facility only upon ninety (90) days prior written notice to Metro and the written approval of the Executive Officer. Franchisee shall retain primary responsibility for compliance with this Franchise.

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

- 5.1 Franchisee is authorized to accept all materials authorized by its DEQ Solid Waste Disposal Permit, from the public and from commercial collection vehicles, for delivery to a Metro-designated disposal facility (or transport and disposal as may be directed by Metro, pursuant to section 7.4) and to separate out recyclable materials such as, but not limited to, wastepaper, cardboard and newspaper. Discarded vehicles, sewage sludge, septic tank and cesspool pumpings, or other sludge shall not be accepted at the Facility.
- 5.2 All Franchisee vehicles and devices transferring or transporting solid waste via public roads shall be constructed, maintained, and operated to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- 5.3 Franchisee may accept no more than 300 tons of solid waste per operating day (a day in which the Facility accepts solid waste) on a monthly average, with the added condition

that Franchisee may not accept more than 70,000 tons of waste in any twelve consecutive months or as this amount may otherwise be limited by Metro's current agreement with Oregon Waste Systems, Inc. Upon assumption by Metro of responsibility for transport of solid waste from the Facility, Franchisee may accept an unlimited quantity of solid waste at the Facility. However, for each ton of waste transported from the Facility or disposed of by Metro in excess of 70,000 tons, from inside or outside of the District, Franchisee shall pay increased transport and disposal fees as specified in section 14 of this Franchise.

- 5.4 Nothing in this Franchise prohibits Franchisee from accepting waste from outside the Metro District so long as Franchisee keeps accurate records of the waste accepted from outside of the District.

## **6. MINIMUM MONITORING AND REPORTING REQUIREMENTS**

- 6.1 Franchisee shall effectively monitor Facility operation and maintain accurate records of the following information for all transactions:

- (a) Ticket Number (should be the same as the ticket number on the weight slips)
- (b) Incoming Hauler Account Number. On a semi-annual basis, provide Metro with a computer listing that cross-references this account number with the hauling company's name and address.
- (c) Generator's Account Number or Name (if available). On a semi-annual basis, provide Metro with a computer listing that cross-references this number or name to the generator's full name and address.
- (d) Code designating type of material (more detail, such as differentiating yard debris, is acceptable):
  - (1) Incoming source-separated recyclable
  - (2) Mixed waste
  - (3) Outgoing recyclables
  - (4) Outgoing mixed waste
- (e) Code designating origin of material:
  - (1) Public from inside Metro boundaries
  - (2) Public from outside Metro boundaries
  - (3) Commercial from inside Metro boundaries
  - (4) Commercial from outside Metro

- (f) Date the load was received at or transmitted from your Facility.
  - (g) Time the load was received at or transmitted from your Facility.
  - (h) Indicate whether you accepted or rejected the load.
  - (i) Net Weight of the Load.
  - (j) Volume of the Load (if applicable).
  - (k) The fee you charged for the load to the generator (excludes transportation charges).
- 6.2 Records required under section 6.1 shall be reported to Metro no later than fifteen (15) days following the end of each month, in the format prescribed by Metro. Transaction data shall be in electronic form compatible with Metro's data processing equipment. A cover letter shall accompany the data which certifies the accuracy of the data and is signed by an authorized representative of Franchisee. The hard copy of the report shall be signed and certified as accurate by an authorized representative of Franchisee.
- 6.3 Franchisee shall maintain complete and accurate records of all costs, revenues, rates, if applicable, and other information on a form suitable to Metro. These records shall be made available to Metro on request.
- 6.4 The Franchisee shall file an Annual Calendar Year Operating Report detailing the previous year operation of the Facility as outlined in this Franchise, on or before March 30 of each year.
- 6.5 The Franchisee shall submit to Metro duplicate copies of any information submitted to the DEQ pertaining to the Facility, within 30 days of submittal to DEQ.
- 6.6 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours or at other reasonable times with 24-hour notice. 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 the Franchisee that are directly related to the operation of the Franchisee.

## **7. OPERATIONAL REQUIREMENTS**

### **7.1 General Requirements**

- 7.1.1 A copy of this Franchise shall be displayed where it can be readily referred to by Facility operating personnel.
- 7.1.2 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:
- (a) Take immediate 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.
  - (c) 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.
- 7.1.3 If the Processing Facility is to be closed permanently or for a protracted period of time during the term of this Franchise, Franchisee shall provide Metro with written notice, at least 90 days prior to closure, of the proposed time schedule and closure procedures.
- 7.1.4 The Facility shall be in strict compliance with the Metro Code requirements regarding storage, collection, transportation, recycling and disposal of solid waste.
- 7.1.5 The Franchisee 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.
- 7.1.6 Metro may reasonably regulate the hours of site operation as it finds necessary to ensure compliance with this Franchise. Metro will attempt to provide 90 days written notice prior to regulating hours of operation, and shall not unreasonably increase Franchisee's costs of operation. If Metro is transporting solid waste from the Facility, Franchisee shall not change its hours of operation in a manner that would increase Metro's transport costs.
- 7.1.7 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 years for possible review by the District.

7.1.8 The Franchisee shall not, by act or omission, unlawfully discriminate against any person, treat unequally or prefer any user of the Facility through application of fees or the operation of the Facility.

7.1.9 At least one sign shall be erected at the entrance to the 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 wastes will be received for disposal;
- (d) Disposal rates and fees;
- (e) Metro information phone number; and
- (f) Acceptable materials.

## 7.2 Litter, Odor, Dust, Noise and Vector Control

7.2.1 Control of Blowing Debris. The Franchisee shall police all areas within the site and along the road frontage of the site as indicated on the map attached as Exhibit 2 and shall:

- (a) patrol the Facility daily;
- (b) patrol Highway 47 ("B" Street) from its intersection with the relocated Tualatin Valley Highway to its intersection with Pacific Avenue on a weekly basis;
- (c) respond to citizen's complaints on an "on call" basis within 12 hours, or sooner as circumstances may require;
- (d) log all citizen complaints by name, date, time and nature of complaint;
- (e) Apply to the State for approval for signage to direct traffic to the Facility using Highway 47.

7.2.2 Odor, Dust and Noise Control. The Franchisee shall control odor and dust on the site by use of installed dust control and odor systems whenever excessive dust and odor occur or at the direction of Metro. Alternative dust and odor control measures may be performed by the Franchisee with the approval of Metro.

7.2.3 Vector Control. The Franchisee shall conduct the operation of the transfer station in such a manner so as to ensure unfavorable conditions for production of rodents and insects. If rodent and insect activity become apparent to Metro, supplemental vector control measures shall be initiated by the Franchisee at Franchisee's own cost, with the approval of DEQ and Metro.

- 7.3 Franchisee shall meet with representatives of Metro and the City of Forest Grove on a schedule to be determined by Metro and the City of Forest Grove to discuss operational impacts of the transfer station on the City of Forest Grove and any corrective measures that may be necessary to address such impacts. The meetings will be scheduled no more often than once every six months. The Metro Solid Waste Director may call a meeting on a shorter schedule if specific operational issues require immediate attention.
- 7.4 Metro Transport and Disposal Option.
- 7.4.1 Metro reserves the right, at any time during the term of this Franchise, to assume responsibility for transport from the Facility and/or disposal of all Acceptable Waste generated within the district that is to be disposed of in a general purpose landfill. Notice of Metro's intent to assume such responsibility shall be by written notice to Franchisee. The notice shall establish the date, not less than six months from the date of the notice, upon which Metro will begin transporting and/or disposing of solid waste from the Facility.
- 7.4.2 Prior to the date established for Metro to assume transport and/or disposal responsibilities, Franchisee shall install a compactor at the Facility meeting Metro specifications. Franchisee shall submit to Metro within 60 days from the date of notice specified in 7.4.1, its detailed plans for installation of a compactor, including installation and compactor specifications. Metro shall review such plans and notify Franchisee of any objections or proposed revisions within 10 business days of receipt. If Metro does not comment within the time specified, the plans shall be deemed approved, and Franchisee shall commence installation. If Metro objects or proposes revisions, the parties shall in good faith attempt to resolve all issues related to compactor installation such that deliveries to Metro's transport contractor can begin on the date specified in the notice provided under section 7.4.1.
- 7.4.3 As soon as practicable following the notice from Metro specified in section 7.4.1, Franchisee and Metro shall begin making arrangements for Metro assumption of transport and/or ultimate disposal responsibilities. Such arrangements may include planning and coordination meetings between Franchisee, Metro, and Metro's transport and/or disposal contractor.
- 7.4.4 Along with, or at any time following the notice specified in section 7.4.1, Metro may direct Franchisee to begin delivering all solid waste specified in section 7.4.1 to Metro Central Station. The notice shall specify a date, not less than 10 business days from the date of the notice, upon which Franchisee shall begin such deliveries. For each ton of waste generated within the district delivered by Franchisee to Metro Central Station, Franchisee shall pay the disposal fee specified in sections 14.4.1(b) and 14.4.2(b), as applicable, as well as the Regional User Fee and Metro Excise Tax. For each ton of waste generated

outside of the district delivered by Franchisee to Metro Central Station, Franchisee shall pay the disposal fee specified in sections 14.4.1(b) and 14.4.2(b), as applicable, and Metro Excise Tax. The deliveries specified in this section 7.4.4 shall continue until the date upon which Metro assumes responsibility for transport of solid waste from the Facility.

7.4.5 If Franchisee fails to install a compactor as required by this section 7.4 by the date established under section 7.4.1, and the Executive Officer does not grant an extension, which extension shall not be unreasonably withheld, Franchisee shall deliver all solid waste specified in section 7.4.1 to Metro Central Station, and shall pay to Metro the current tip fee at Metro Central on all tons delivered.

7.5 Metro Transport and Disposal Requirements. The requirements of this section 7.5 shall be effective on the date Metro begins transporting Waste from the Facility:

7.5.1 General Metro Requirements

- (a) Franchisee shall weigh each commercial hauling vehicle as it enters the Facility. The empty or tare weight of each commercial vehicle shall be established and recorded so that the vehicles will not be required to re-weigh each time after unloading. The tare weights must be determined at least twice each year without advance notice to the vehicle owners or drivers.
- (b) Franchisee shall weigh all Recovered Materials, Source-Separated Recyclables, compacted waste and Unacceptable Waste prior to removing them from the Facility.

7.5.2 Compaction, Transport, and Loading of Waste.

- (a) Franchisee is responsible for extruding an untied bale of waste from the compactor into the transfer trailer, installing a seal on the transfer trailer door handle and returning the sealed transfer trailer to the staging area with applicable documentation.
- (b) Franchisee is responsible for producing road legal weights, and for unloading and balancing loads which are found to be out of compliance with appropriate regulations. Certified scales will be used to make such a determination.
- (c) Each seal shall be marked with three letters identifying the Facility, Franchisee, and a sequentially increasing set of at least four digits.

Example: FGS-CON-0000

- (d) Franchisee shall also record the transfer trailer I.D. number. The transfer trailer seal will be inspected by both Metro's waste transport contractor and Franchisee prior to removal of the trailer from the Facility.
- (e) It is the responsibility of Metro's waste transport services contractor to ensure that the seal was properly installed before the transfer trailer leaves the Facility. Metro's waste transport services contractor shall be responsible for inspecting the empty transfer trailers for damage before release to Franchisee, inspecting the loaded transfer trailers for damage and verifying that the seal was installed properly before removing the transfer trailer from the Facility, transporting the load of waste from the Facility to the disposal site, and then unloading it.
- (f) If Franchisee improperly installs the seal, Metro's waste transport services contractor is required to notify Franchisee prior to leaving the Facility Site and request a new seal. Franchisee shall comply with any such requests. Failure to request a new seal will preclude Metro's waste transport services contractor from any recovery for damages arising out of any improperly installed seal. Metro's waste transport services contractor and Franchisee shall use an interchange agreement for inspection of transfer trailers, or a similar agreement as approved by Metro. In addition, Metro's waste transport services contractor can request removal of the seal to inspect the interior of the transfer trailer, and its contents, and request and receive a new seal from Franchisee.
- (g) Once the transporter has verified that the seal is properly installed, the waste contained within the transfer trailer is the responsibility of the transporter until the seal is broken by Metro's disposal site operator. If the seal is broken by other than disposal site personnel, the transporter will be responsible for all associated costs and liabilities involved with managing any waste contained within the transfer trailer, above and beyond normal disposal costs.
- (h) Metro reserves the right to contract with parties other than Metro's waste transport services contractor, for the transport of all waste specified in section 7.4.1. All such contracts shall include a requirement that the transport contractor carry insurance in commercially reasonable amounts.

#### 7.5.3 Maximizing the Compacted Load.

- (a) Franchisee shall use best faith efforts to maximize the transporter's payload, without overloading the transfer trailer or the individual road-legal axle combinations. Maximum payload shall be no more than 32 tons



at a density of 900 lbs/cu. yd. The weights should be verified with axle scales available at the Facility.

- (b) Franchisee shall pay to Metro an additional per ton transport amount, for failing to maximize Metro's waste transport services contractor's payloads. The additional payment is to ensure that Franchisee is diligent in fully loading transport trailers at average densities of at least 29 tons or the combined yearly average at Metro owned transfer stations, whichever is less. The formula for determining additional transport payments to Metro is as follows:

(1) Base Tonnage (BT) = (Loads/calendar year) x 29 tons (or combined yearly average)

(2) Tons Transported (TT) = Tons transported/calendar year

(3) Tons on which additional payment is due (APT)  
 $(APT) = (TT - BT) + (\text{Positive APTs from previous year})$

If APT is less than zero, Franchisee shall make an additional per ton transport payment of \$6.75 for each APT for that year, unless (following the first calendar year) the cumulative APT's from the previous year is greater than zero. If the cumulative APT's from previous years is greater than zero, those positive APT's shall serve as a credit against APT's accumulated in a subsequent year. The cost of an APT shall be adjusted beginning in January, 1994, and each January thereafter at the same rate as the CPI adjustment to Metro's waste transport services contract for transporting waste from the Facility, and shall remain effective for the calendar year.

#### 7.5.4 Load Check Program/Unacceptable Waste

- (a) Franchisee shall inspect all waste delivered to the Facility in a manner that is reasonably calculated to determine whether the waste is Unacceptable Waste. Franchisee shall establish procedures for inspecting loads of waste and for excluding Unacceptable Waste from compaction and extrusion into transfer trailers.
- (b) Franchisee's load check program shall, at a minimum, include screening of all incoming loads by personnel trained to spot Unacceptable Waste, and more thorough random load checks, occurring at least once each week.

- (c) Franchisee shall keep accurate records regarding all Unacceptable Waste received, including the following information regarding a known party that unloaded the waste: date, time, vehicle license number, company and/or the individual's name and address, conversation regarding waste, and approximate volume.
- (d) Franchisee shall be responsible for all costs associated with the cleanup and management of Unacceptable Waste that has been loaded into a transfer trailer, properly sealed and transported to a disposal site. If the seal is unbroken upon arrival at the disposal site, Franchisee shall reimburse Metro for any cost associated with the cleanup of the Unacceptable Waste or any material contaminated by it at the disposal site for which Metro is properly billed by its disposal site contractor. Upon billing Franchisee for such costs, Metro shall provide to Franchisee all documentation related to the incident for which Franchisee is being billed.

**7.5.5 Materials Excluded from Compaction.** It is the responsibility of Franchisee to utilize the compactor to develop loads that do not cause above normal wear and tear on the transfer trailers during the transfer of waste from the compactor to the transfer trailer. Franchisee shall be liable for damage to a transfer trailer caused by Franchisee.

#### **7.6 Franchisee Transport/Metro Disposal Option**

- 7.6.1** At any time during the term of this Franchise, Franchisee may submit to Metro a detailed proposal for Franchisee to deliver all waste specified in section 7.4.1 to a disposal facility specified by Metro.
- 7.6.2** By written acknowledgment delivered to Franchisee, the Executive Officer may grant to Franchisee permission to transport solid waste specified in section 7.4.1 to a disposal facility specified by Metro. The acknowledgment shall specify Metro's intent not to exercise its option to transport waste from the Facility, to cease transporting waste from the Facility, or to cease requiring Franchisee to deliver waste to Metro Central, whichever the case may be. The notice shall also acknowledge acceptance of Franchisee's proposal for delivery of such waste, as that proposal may have been amended following discussions with Metro. Upon countersignature by Franchisee, the acknowledgment shall serve as an amendment to this Franchise.
- 7.6.3** If Metro allows Franchisee to transport waste as specified in this section 7.6, Franchisee shall not be required to pay transport fees to Metro. Franchisee shall pay to Metro the disposal charge specified in section 14.4, as well as all fees specified in section 14.3, for each ton of waste generated within the district that is disposed of at Columbia Ridge Landfill.

## **8. ANNUAL FRANCHISE FEES**

Franchisee shall pay an annual franchise fee, as established under Metro Code Section 5.03.030. The fee shall be delivered to Metro within 30 days of the effective date of this Franchise and each year thereafter.

## **9. SURETY BOND OR CONDITIONAL LIEN**

Franchisee shall provide a surety bond in the amount of One Hundred Thousand Dollars (\$100,000), or at its option provide a conditional lien on the franchise property in a form satisfactory to Metro. Without limiting the use to which the proceeds from a bond or from lien foreclosure may be put, such proceeds may be used to clean up or otherwise mitigate damage to the Facility upon closure or resulting from the condition of the Facility upon closure.

## **10. INSURANCE**

10.1 Franchisee shall purchase and maintain the following types of insurance, covering Franchisee, its employees, and agents:

(a) 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

(b) 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 INSURED**S. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

10.4 Franchisee, its contractors, 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 performance under this Franchise, including patent infringement and any claims or disputes involving subcontractors.

## **12. COMPLIANCE WITH LAW**

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. 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. METRO ENFORCEMENT AUTHORITY**

13.1 Metro's authority to direct the flow of solid waste away from the Facility and/or take enforcement action against the Facility shall be as specified in the Metro Code.

13.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections or surveys; collecting samples; obtaining data; examining books, papers, records and equipment; performing any investigation as may be necessary to verify the accuracy of any return made, or if no return is made by the Franchisee, to ascertain and determine the amount required to be paid; and carrying out other necessary functions related to this Franchise and the Metro Code. Access to inspect is authorized:

- (a) during all working hours;
- (b) at other reasonable times with notice;
- (c) at any time without notice, at the discretion of the Metro Solid Waste Division Director, when such notice would defeat the purpose of the entry.

13.3 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 or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.

## **14. DISPOSAL RATES AND FEES**

- 14.1** Franchisee shall be responsible for collecting all fees for disposal at the Facility and remitting fees, charges and taxes to Metro as specified in this agreement. All waste specified in section 7.4.1 shall be charged the same rate. To the extent that Franchisee charges different rates for different categories of waste, such rates shall be included in a published rate schedule, which shall be made available to Metro when adopted or amended. Franchisee shall maintain accounts on wastes received and amounts billed to each commercial hauler as required by Metro Code Section 5.01.130.
- 14.2** All charges shall be calculated on an outbound tonnage basis using certified scale weights at the Facility. If an emergency or malfunction temporarily prevents the use of certified scale weights at the Facility and it is not feasible to use weights obtained at the disposal site, the yardage/tonnage conversion shall be based on the assumption that compacted waste has a density of 600 pounds per cubic yard and that non-compacted waste has a density of 250 pounds per cubic yard.
- 14.3** At all times during this Franchise, Franchisee shall be responsible for payment of the following fees, to the extent those fees are required by law:
- (a) Local enhancement fees; by remitting to Metro;
  - (b) DEQ fees for operation of the Facility, by remitting directly to DEQ;
  - (c) Metro regional user fee, as specified in the Metro Code; and
  - (d) Metro excise tax, as specified in the Metro Code.
- 14.4** Metro Transport and Disposal Charges
- 14.4.1** If transport of waste from the Facility and/or ultimate waste disposal is provided by Metro, Franchisee shall remit to Metro the following additional charges, for each ton of waste transported and disposed of by Metro up to 70,000 tons per year:
- (a) Per ton transport fee of \$7.50; and
  - (b) Per ton disposal fee of \$25.83.
- 14.4.2** For each ton of waste transported from the Facility and/or disposed of by Metro in excess of 70,000 tons per year, Franchisee shall remit to Metro:
- (a) Per ton transport fee of \$15.46; and
  - (b) Per ton disposal fee of \$28.57.

- 14.4.3 The transport and disposal charges specified in section 14.4.1 shall be annually adjusted on each anniversary of the Franchise renewal date for use during the forthcoming year, based on 100 per cent of the change in the Consumer Price Index entitled "West-A" from the U.S. Department of Labor, Bureau of Labor Statistics' publication entitled "Consumer Price Indexes, Pacific Cities and U.S. City Average/All Urban Consumers" or by the actual increase in the transport or disposal fee charged by Metro's contractor, whichever is greater. The transport and disposal charges specified in section 14.4.2 shall be automatically adjusted to reflect, at all times, the per ton fixed and variable transport and disposal fees being remitted by Metro to its transport and disposal contractors, without offset or credit to Franchisee of any kind.
- 14.4.4 All charges specified in this section 14.4 shall be remitted as specified in Metro Code Section 5.02.055, and subject to the credit terms of that section.
- 14.5 Franchisee is authorized to charge no more than \$75 per ton for each ton of solid waste disposed of at the Facility, until such time as Franchisee obtains a different rate through the rate review process of the Metro Code. Franchisee may automatically pass through any increase in Metro fees or DEQ fees without rate review, subject to the \$75 per ton cap. Beginning in 1995, Franchisee shall submit to rate review annually, following or at the time of Metro's adoption of disposal rates for Metro owned facilities.
- 14.6 The Franchisee is authorized to charge a minimum fee of \$15.00 per load for public self-haulers, provided however that if a self-hauler shall bring in one-half (1/2) cubic yard of recyclable material (as defined in ORS 459.005) they shall receive a \$3.00 credit toward their disposal charge.
- 14.7 A surcharge shall be levied against a person who disposes of waste at the transfer station, if when entering the Facility any portion of the waste is visible to Facility scalehouse personnel, unless the waste is only visible through a secure covering. The surcharge shall be \$100.00 for a load delivered by a vehicle greater than three-quarter ton capacity, and \$25.00 for a load delivered by a vehicle of three-quarter ton capacity or less, and shall be collected in the same manner as other disposal fees are collected at the Facility. Franchisee may retain all such surcharges collected.
- 15. REVOCATION**
- 15.1 This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code, as 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.

**15.2** This Franchise is subject to suspension, modification, revocation, or nonrenew upon Metro finding that:

- (a) The Franchisee has violated the terms 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 a timely manner;
- (b) The Franchisee has misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to Metro;
- (c) The Franchisee has refused to provide adequate service at the Facility, after written notification and reasonable opportunity to do so; or
- (d) 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.

## **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** The granting of this Franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste during the term of the Franchise.
- 16.3** This Franchise may not be transferred or assigned without 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, 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.
- 16.6** If any provision of the Franchise shall be 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:

Ambrose Calcagno, Jr.  
Forest Grove Transfer Station  
1525 "B" Street, P.O. Box 8  
Forest Grove, Oregon 97116

with a copy to:

Thompson, Adams, DeBast & Helzer  
Attorneys at Law  
4500 SW Hall Boulevard  
Beaverton, OR 97005

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

Solid Waste Director  
Solid Waste Department  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

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

\_\_\_\_\_  
Ambrose Calcagno, Jr.,  
dba A. C. Trucking

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

\_\_\_\_\_  
Rena Cusma, Executive Officer  
Metro

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

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