

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE FOR THE PURPOSE)	ORDINANCE NO. 91-417
OF AMENDING AND RENEWING THE)	
FRANCHISE AGREEMENT WITH EAST)	Introduced by Rena Cusma,
COUNTY RECYCLING, INC.; AND)	Executive Officer
DECLARING AN EMERGENCY)	

WHEREAS, East County Recycling, Inc. (ECR), Solid Waste Franchise No. 6, has requested a renewal of its franchise agreement with Metro; and

WHEREAS, ECR requests that its authorized processing capacity be amended to permit receipt of 60,000 tons of mixed solid waste; and

WHEREAS, As a processor ECR has been exempt from rate setting and collection of User Fees for incoming waste; and

WHEREAS, Delay in implementing the amended franchise agreement, as shown in Exhibit A attached to this Ordinance, could negatively impact the recycling and processing at the facility; and

WHEREAS, Senate Bill No. 299 and Metro Code Section 2.01.080(i) would result in an implementation date significantly later than desired by ECR and Metro in the absence of declaring an emergency; and

WHEREAS, Avoidance of any processing interruption and encouragement of recycling at ECR are appropriate grounds for declaration of an emergency; NOW, THEREFORE,

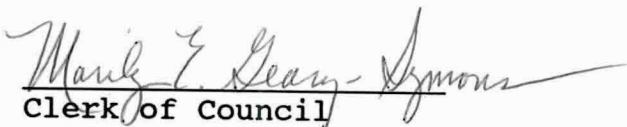
THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That East County Recycling, Inc., franchise agreement shall be amended as shown in Exhibit A attached to and made part of this Ordinance by reference.
2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District
this 8th day of August, 1991.


Tanya Collier, Presiding Officer

ATTEST:


Clerk of Council

FRANCHISE NO.: 6
DATE ISSUED: August 14, 1986
RENEWAL DATE: August 22, 1991
EXPIRATION DATE: August 22, 1996

SOLID WASTE FRANCHISE
issued by the
METROPOLITAN SERVICE DISTRICT
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

ISSUED TO: East County Recycling Company
NAME OF FACILITY: East County Recycling Compnay
ADDRESS: 12409 NE San Rafael Street
Portland, OR 97220
LEGAL DESCRIPTION: Lot 30, Hazelwood Addition
CITY, STATE, ZIP: Portland, OR 97220
NAME OF OPERATOR: East County Recycling Company
PERSON IN CHARGE: Ralph Gilbert, President
ADDRESS: PO BOX 20096
CITY, STATE, ZIP: Portland, OR 97220
TELEPHONE NUMBER: (503) 252-0076

This Franchise Agreement shall not become effective until the City of Portland issues a Conditional Use Permit which is necessary for the intended use of the site, and until the Oregon Department of Environmental Quality issues a Solid Waste Disposal Permit which is necessary for the intended operation.

This Franchise will automatically terminate on the expiration date shown above, or upon modification or revocation, whichever occurs first. Until this Franchise terminates the East County Recycling Company is authorized to operate and maintain a solid waste processing facility located at 12409 NE San Rafael Street, Portland, Oregon 97220, for which purpose of accepting and processing solid waste in accordance with the Metro Code and the attached Schedules A, B, C, D, and E, and in accordance with the provisions specified in the Solid Waste Disposal Site Permit to be issued by the State of Oregon, Department of Environmental Quality. This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code. This Franchise does not relieve the Franchise Holder from responsibility for compliance with ORS 459 or other applicable federal, state or local laws, rules, regulations or standards.

EAST COUNTY RECYCLING COMPANY

METROPOLITAN SERVICE DISTRICT

Ralph Gilbert, President

Rena Cusma, Executive Officer

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE A

AUTHORIZED AND PROHIBITED ACTIVITIES

- SA-1 The Franchise Holder is authorized to accept loads of mixed or source-separated non-putrescible solid waste for processing in order to recover recyclable materials. The Franchisee is allowed to accept clean inert debris for land disposal as currently authorized. No other wastes shall be accepted unless specifically authorized in writing by Metro supplementary to this Franchise.
- SA-2 The following types of materials are specifically prohibited from being accepted at the processing facility:
- a. Putrescible food wastes;
 - b. bulky combustible materials except processible stumps, car bodies, dead animals, sewage sludges, septic tank pumpings and hospital wastes.
 - c. All chemicals, liquids, explosives, infectious materials which may be hazardous or difficult to manage, unless specifically authorized by Metro.
- SA-3 Disposal of mixed non-food wastes by public haulers and by commercial solid waste haulers is allowed. No public or commercial hauler will be excluded from this site except when the load contains less than 30 percent, by weight, recyclables.
- SA-4 Salvaging and hand or mechanical sorting of mixed waste on a tipping floor to recover materials is authorized. Piles of mixed waste on the tipping floor shall be maintained to a reasonable size and shall be controlled so as to not create unsightly conditions or vector harborage. No wastes shall be allowed to remain on the tipping floor for longer than a 24-hour period.
- SA-5 Non-recoverable material shall be removed from the processing tip floor and shall be transported to a franchised or authorized disposal site on a weekly basis or more often if necessary. Storage and transportation shall be carried out to avoid vector production and bird attraction.
- SA-6 Materials separated and recovered for recycling (such as newsprint, waste paper, cardboard, glass, metals, yard debris, tires, appliances, and wood) shall be neatly stored in containers or areas provided for this purpose and shall be transported off-site to materials markets as often as necessary.

- SA-7 In the operation of an approved landfill for inert debris the Franchisee is prohibited from the burial of any materials other than: clean uncontaminated earth, rock, sand, soil and stone, hardened concrete, hardened asphaltic concrete, brick and other similar materials which are inert. The Franchisee shall assure that no woody waste, yard debris, food wastes, paper products, glass, metals or other material accepted as mixed solid waste become incorporated into the material used for landfilling.
- SA-8 Yard debris to be processed and the resulting product shall be stored in a sightly manner which minimizes leaching, vector production or harborage and the potential for incorporation into inert debris being landfilled. No yard debris shall remain on site for longer than thirty (30) days before being processed. No product created from the processing of yard debris shall remain on site for longer than ninety (90) days unless an adequate storage facility is provided.
- SA-9 The Franchise Holder shall perform litter patrols to keep the facility free of blowing paper and other materials on at least a daily basis or more often if necessary.
- SA-10 The Franchise Holder shall operate the processing facility in accordance with the application and Operation Plan dated June 26, 1986, and the supplemental data in the letter from Ralph Gilbert and William Plew to Rich McConaghy dated July 21, 1986. It is understood that the waste processing which the Franchisee will perform is being done on an experimental basis and that modifications to the operation plan may be required. The franchisee shall provide notification and obtain prior approval before deviating from the operation which is outlines in the aforementioned application and letter or before constructing any additional facilities or structures on the site.
- SA-11 The Franchise Holder shall not, by act or omission discriminate against, treat unequally or prefer any user of the processing facility in the fees or the operation of the facility. The Franchisee may accept no more than 60,000 tons of mixed waste per year, without amendment to this franchise agreement. This limit is conditioned upon the requirement that the franchise holder generate no more than 25,000 tons of residue material requiring landfill disposal.
- SA-12 All solid waste transferring vehicles and devices using public roads shall be constructed, maintained, and operated so as to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE B

MINIMUM MONITORING AND REPORTING REQUIREMENTS

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

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

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

SB-2 Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to Metro by the 10th day of the month following the end of each month.

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

SB-4 The Franchise Holder shall report to the District and changes in excess of five percent (5%) of ownership of the Franchisee's corporation or similar entity or of the partners of a partnership within ten (10) day of such changes of ownership.

SB-5 The Franchisee may contract with another person to operate

the disposal facility only upon ninety (90) days prior written notice to the District and the written approval of the Executive Officer. If approved, the Franchisee shall remain responsible for compliance with this Franchise Agreement.

- SB-6 The Franchisee shall establish and follow procedures designed to give responsible notice prior to refusing service to any person. Copies of notification and procedures for such action will be retained on file for three (3) years by each Franchisee for possible review by the District.
- SB-7 The Franchisee shall maintain, during the term of the franchise, public liability insurance in the amounts set forth in SC-1 and shall give thirty (30) days written notice to the District of any lapse or proposed cancellation of insurance coverage or performance bond.
- SB-8 The Franchisee shall file an Annual Operating Report detailing the operation as outlined in the Franchise on or before August 14 (anniversary date of Franchise) of each year for the preceding year.
- SB-9 The Franchise Holder shall submit a duplicate copy to the District of any information submitted to, or required by the Department of Environmental Quality pertaining to the solid waste permit for this facility.
- SB-10 The Franchise Holder shall report to Metro the names of solid waste credit customers which are sixty (60) days or more past due in paying their disposal fees at the processing facility. Such report shall be submitted in writing each month on Metro approved forms. For the purposes of this section sixty (60) days past due means disposal charges due, but not paid on the first day of the second month following billing.
- SB-11 In the event a breakdown of equipment, fire or other occurrence causes a violation of any conditions of this Franchise Agreement or of the Metro Code, the Franchise Holder shall:
- a. Immediately take action to correct the unauthorized condition or operation.
 - b. Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
- SB-12 In the event that the processing facility is to be closed permanently or for an indefinite period of time during the effective period of this Franchise, the Franchise Holder shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.
- SB-13 The Franchisee shall file a monthly report on forms approved by the District indicating the types (wood, paper,

cardboard, metal, glass, etc.) and quantities (tonnage/cubic yards) of solid wastes accepted and recovered at the facility.

SB-14

Authorized representatives of Metro shall be permitted to inspect recyclable quantity information during normal working hours or at other reasonable times with notice.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE C

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

- d. Disposal rates;
- e. Metro information phone number; and
- f. Acceptable materials.

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

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

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

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

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

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

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

- a. To ensure a sufficient flow of solid waste to the District's resource recovery facilities, the Executive Officer may, at any time during the term of the Franchise, without hearing, direct solid waste away from

the Franchisee. In such case, the District shall make every reasonable effort to provide notice of such direction to affected haulers of solid waste.

- b. To carry out any other purpose of the Metro Disposal Franchise Ordinance, the Executive Officer may, upon sixty (60) days written notice, direct solid wastes away from the Franchisee or limit the type of solid wastes which the Franchisee may receive.

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

SC-14

All notices required to be given to the Franchisee under this Franchise Agreement shall be given to Ralph Gilbert, East County Recycling Company, PO Box 20096, Portland, Oregon 97220. All notices and correspondence required to be given to Metro under this Agreement shall be given to the Solid Waste Director, Solid Waste Department, Metropolitan Service District, 2000 SW First Avenue, Portland, OR 97201-5398.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE D

WASTE REDUCTION PLAN

SD-1 To fulfill the requirements for a Waste Reduction Plan as stated in Section 5.01.120(k) of the Metro Code and the guidelines adopted through Metro Resolution No. 81-272, the Franchisee shall provide the services described in Attachment K and shall perform other operational functions as described in the Franchise Application date June 26, 1986. The Franchisee shall participate in an annual review with Metro of the facilities' performance in accomplishing waste reduction goals and shall complete annual objectives for waste reduction which may be mutually identified through the process.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE E

DISPOSAL RATES

- SE-1 In accordance with the variance granted by the Metro Council, the rates charged at this facility will be exempt from Metro rate-setting, Metro Use Fee payments and Metro Regional Transfer Charge payments.
- SE-2 Until Metro establishes rates which are to be charged at the facility, the Franchisee shall adhere to the following conditions in the disposal rates which are changed at East County Recycling Company:
- a. The Franchisee may modify rates to be charged and rate schedules on a quarterly basis. Rates may be adjusted on October 1, January 1, April 1, and July 1. Rates will not change more frequently than on these dates. Metro shall be notified ten (10) days prior to any proposed rate changes.
 - b. Rates to be charged at the facility shall be posted on a sign near where fees are collected. All customers within a given disposal class shall receive equal, consistent and non-discriminatory treatment in the collection of fees.
 - c. The Franchisee shall maintain complete records of all costs, revenues, rates, waste flows, and other information on the franchised operation which would be helpful to the Metro staff and Rate Review Committee for reviews of the operation's financial performance and for possible future rate-setting. These records shall be made available on request and summary reports shall be provided to Metro on a quarterly basis (fourth quarter reports are due February 1, first quarter reports are due May 1, and so on).

FRANCHISE NO.: 6
DATE ISSUED: August 14, 1986
RENEWAL DATE: [~~September 22, 1988~~] August 22, 1991
EXPIRATION DATE: [~~September 22, 1993~~] August 22, 1996

SOLID WASTE FRANCHISE
issued by the
METROPOLITAN SERVICE DISTRICT
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

ISSUED TO: East County Recycling Company
NAME OF FACILITY: East County Recycling Company
ADDRESS: 12409 NE San Rafael Street
Portland, OR 97220
LEGAL DESCRIPTION: Lot 30, Hazelwood Addition
CITY, STATE, ZIP: Portland, OR 97220
NAME OF OPERATOR: East County Recycling Company
PERSON IN CHARGE: Ralph Gilbert, President
ADDRESS: PO BOX 20096
CITY, STATE, ZIP: Portland, OR 97220
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EAST COUNTY RECYCLING COMPANY

METROPOLITAN SERVICE DISTRICT

Ralph Gilbert, President

Rena Cusma, Executive Officer

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE A

AUTHORIZED AND PROHIBITED ACTIVITIES

- SA-1 The Franchise Holder is authorized to accept loads of mixed or source-separated non-putrescible solid waste for processing in order to recover recyclable materials. The Franchisee is allowed to accept clean inert debris for land disposal as currently authorized. No other wastes shall be accepted unless specifically authorized in writing by Metro supplementary to this Franchise.
- SA-2 The following types of materials are specifically prohibited from being accepted at the processing facility:
- a. Putrescible food wastes;
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- SA-9 The Franchise Holder shall perform litter patrols to keep the facility free of blowing paper and other materials on at least a daily basis or more often if necessary.
- SA-10 The Franchise Holder shall operate the processing facility in accordance with the application and Operation Plan dated June 26, 1986, and the supplemental data in the letter from Ralph Gilbert and William Plew to Rich McConaghy dated July 21, 1986. It is understood that the waste processing which the Franchisee will perform is being done on an experimental basis and that modifications to the operation plan may be required. The franchisee shall provide notification and obtain prior approval before deviating from the operation which is outlines in the aforementioned application and letter or before constructing any additional facilities or structures on the site.
- SA-11 The Franchise Holder shall not, by act or omission discriminate against, treat unequally or prefer any user of the processing facility in the fees or the operation of the facility. The Franchisee may accept no more than ~~[±]60,000 [cubic yards] tons~~ of mixed waste per year, ~~[no more than 500 cubic yards of mixed waste per day, on a monthly average,]~~ without amendment to this franchise agreement. ~~This limit is conditioned upon the requirement that the franchise holder generate no more than 25,000 tons of residue material requiring landfill disposal.~~
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FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE B

MINIMUM MONITORING AND REPORTING REQUIREMENTS

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

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

<u>Item of Parameter</u>	<u>Minimum Monitoring Frequency</u>
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SB-2 Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to Metro by the [2]10th day of the month following the end of each month.

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SB-4 The Franchise Holder shall report to the District and changes in excess of five percent (5%) of ownership of the Franchisee's corporation or similar entity or of the partners of a partnership within ten (10) day of such changes of ownership.

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written notice to the District and the written approval of the Executive Officer. If approved, the Franchisee shall remain responsible for compliance with this Franchise Agreement.

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- SB-8 The Franchisee shall file an Annual Operating Report detailing the operation as outlined in the Franchise on or before August 14 (anniversary date of Franchise) of each year for the preceding year.
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- SB-11 In the event a breakdown of equipment, fire or other occurrence causes a violation of any conditions of this Franchise Agreement or of the Metro Code, the Franchise Holder shall:
- a. Immediately take action to correct the unauthorized condition or operation.
 - b. Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
- SB-12 In the event that the processing facility is to be closed permanently or for an indefinite period of time during the effective period of this Franchise, the Franchise Holder shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.
- SB-13 The Franchisee shall file a monthly report on forms approved by the District indicating the types (wood, paper, cardboard, metal, glass, etc.) and quantities (tonnage/cubic

yards) of solid wastes accepted and recovered at the facility.

SB-14

Authorized representatives of Metro shall be permitted to inspect recyclable quantity information during normal working hours or at other reasonable times with notice.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE C

- SC-1 The Franchise Holder shall furnish Metro with proof of public liability insurance, including automotive coverage, in the amounts of not less than \$300,000 for any number of claims arising out of a single accident or occurrence, \$50,000 to any claimant for any number of claims for damage to or destruction of property, and \$100,000 to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by State law for public contracts. The District shall be named as an additional insured in this insurance policy.
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- SC-3 The term processing facility is used in this Franchise as defined in Metro Code Section 5.01.010(n).
- SC-4 The conditions of this Franchise shall be binding upon, and the Franchise Holder shall be responsible for all acts and omissions of, all contractors and agents of the Franchise Holder.
- SC-5 The processing facility operation shall be in strict compliance with the Metro Code regarding storage, collection, transportation, recycling and disposal of solid waste.
- SC-6 The Franchise Holder shall provide an adequate operating staff which is duly qualified to carry out the reporting functions required to ensure compliance with the conditions of this Franchise Agreement.
- SC-7 Metro may reasonably regular the hours of site operation as it finds necessary to ensure compliance with this Franchise Agreement.
- SC-8 At least one sign shall be erected at the entrance to the processing facility. This sign shall be easily visible, legible, and shall contain at least the following:
- a. Name of the facility;
 - b. Emergency phone number;
 - c. Operational hours during which material will be received;

- d. Disposal rates;
- e. Metro information phone number; and
- f. Acceptable materials.

SC-9

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

SC-10

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

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

SC-11

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

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

SC-12

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

SC-13

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

- a. To ensure a sufficient flow of solid waste to the District's resource recovery facilities, the Executive Officer may, at any time during the term of the Franchise, without hearing, direct solid waste away from

the Franchisee. In such case, the District shall make every reasonable effort to provide notice of such direction to affected haulers of solid waste.

- b. To carry out any other purpose of the Metro Disposal Franchise Ordinance, the Executive Officer may, upon sixty (60) days written notice, direct solid wastes away from the Franchisee or limit the type of solid wastes which the Franchisee may receive.

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

SC-14

All notices required to be given to the Franchisee under this Franchise Agreement shall be given to Ralph Gilbert, East County Recycling Company, PO Box 20096, Portland, Oregon 97220. All notices and correspondence required to be given to Metro under this Agreement shall be given to the Solid Waste Director, Solid Waste Department, Metropolitan Service District, 2000 SW First Avenue, Portland, OR 97201-5398.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE D

WASTE REDUCTION PLAN

SD-1

To fulfill the requirements for a Waste Reduction Plan as stated in Section 5.01.120(k) of the Metro Code and the guidelines adopted through Metro Resolution No. 81-272, the Franchisee shall provide the services described in Attachment K and shall perform other operational functions as described in the Franchise Application date June 26, 1986. The Franchisee shall participate in an annual review with Metro of the facilities' performance in accomplishing waste reduction goals and shall complete annual objectives for waste reduction which may be mutually identified through the process.

FRANCHISE CONDITIONS

Franchise Number: 6

Expiration Date: August 22, 1996

SCHEDULE E

DISPOSAL RATES

- SE-1 In accordance with the variance granted by the Metro Council, the rates charged at this facility will be exempt from Metro rate-setting, Metro Use Fee payments and Metro Regional Transfer Charge payments, ~~[except that the Executive Officer and Rate Review Committee shall review the variance from rate setting prior to August 22, 1987, and make a recommendation to the Council on the appropriateness of continuing the variance or the need to establish disposal rates for the facility.]~~
- SE-2 Until Metro establishes rates which are to be charged at the facility, the Franchisee shall adhere to the following conditions in the disposal rates which are changed at East County Recycling Company:
- ~~[a. Between the effective date of this franchise and October 1, 1986, the rate schedule included as Attachment "E" of the June 26, 1986, franchise application is to be in effect.]~~
 - [b] ~~a.~~ The Franchisee may modify rates to be charged and rate schedules on a quarterly basis. Rates may be adjusted on October 1, January 1, April 1, and July 1. Rates will not change more frequently than on these dates. Metro shall be notified ten (10) days prior to any proposed rate changes.
 - [e] ~~b.~~ Rates to be charged at the facility shall be posted on a sign near where fees are collected. All customers within a given disposal class shall receive equal, consistent and non-discriminatory treatment in the collection of fees.
 - [d] ~~c.~~ The Franchisee shall maintain complete records of all costs, revenues, rates, waste flows, and other information on the franchised operation which would be helpful to the Metro staff and Rate Review Committee for reviews of the operation's financial performance and for possible future rate-setting. These records shall be made available on request and summary reports shall be provided to Metro on a quarterly basis (fourth quarter reports are due February 1, first quarter reports are due May 1, and so on).
 - ~~[e. After the first two quarterly reports are provided, Metro staff and the Rate Review Committee will develop a recommendation on the appropriateness of further rate regulation under this Franchise Agreement.]~~

STAFF REPORT

FOR THE PURPOSE OF AMENDING AND RENEWING THE FRANCHISE
AGREEMENT WITH EAST COUNTY RECYCLING, INC.; AND DECLARING AN
EMERGENCY

Date: July 16, 1991

Presented by: Roosevelt Carter
Phil North

FACTUAL BACKGROUND AND ANALYSIS

East County Recycling, Inc. (ECR) does business at 2409 NE Raphael St., Portland, Oregon. The current franchise agreement expires in August 1991. The franchise holder has requested a renewal of the franchise. The main consideration for renewal is that ECR's processing limit be raised from the current "100,000 yards" to 60,000 tons. No other substantive changes were requested.

ECR processes non-putrescible mixed solid waste to recover corrugated cardboard, aluminum, and ferrous metals. Also, ECR accepts a variety of mixed yard debris, construction debris and wood waste. Most materials received at ECR are of lower quality (greater contamination) than those acceptable at other area processors.

Public and commercial vehicles are weighed in and out. ECR's processing consists of hand picking and machine processing. Materials are spread out with a front end loader. Hand pickers remove corrugated cardboard, metals and wood debris. Appliances are segregated and stripped in a separate area. Aluminum is melted into ingots in a small "sweat furnace."

Woody debris and other wood waste are processed in a large tub grinder. The tub grinder, installed in 1990, is mounted on its own semi-trailer and has the capacity to chip 30 tons per hour. The machine is capable of chipping materials up to the size of split stumps. Presently, woody waste is ground and sized for use as hog fuel. The hog fuel obtained is satisfactory for both conveyor fed and pneumatically fed boilers.

East County Recycling has been exempted from Metro rate setting due to the need for rate flexibility to respond to changing materials markets. Also, as a processor ECR is exempt from Metro User Fees except on the residue disposed. The only materials that remain on site are inert materials such as dirt and stone.

Presently, residue materials are disposed at the Northern Wasco County Landfill per a Non-System License issued under Metro's flow control ordinance. Formerly, the residue was disposed at

the Killingsworth Fast Disposal limited purpose landfill before its closure.

ECR's current franchise capacity is described as 100,000 cubic yards of mixed waste per year. Since scales are now used to weigh all loads coming into the facility, description of the operation's capacity in yards is outdated. ECR has requested a facility limitation to receive 60,000 tons of mixed waste with the limitation that it may not send more than 25,000 tons of residue for disposal per year. These dual limitations would allow the facility to achieve approximately a fifty eight percent (58%) recovery rate. The facility presently has a recycling rate in excess of fifty percent (50%).

ECR's request for renewal is consistent with the provisions of Metro Code Sections 5.01.080 and 5.01.070. It complies with the Regional Solid Waste Management Plan and there has been no change of circumstances that would impact the need for the facility relative to its site, other existing and planned facility sites, transfer stations, processing facilities or resource recovery facilities.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 91-417.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

To: Solid Waste Committee Members

From: John Houser²⁵⁴, Council Analyst

Date: July 25, 1991

Re: Ordinance 91-417, for the purpose of renewing the franchise of East County Recycling, Inc.

Ordinance No. 91-417 has been scheduled for consideration by the Committee at the August 6, 1991 meeting.

Background

East County Recycling (ERC) is currently franchised by Metro to accept non-putrescible mixed solid waste from which recyclable materials such as cardboard, aluminum, and ferrous metals are recovered. ERC also accepts yard debris, construction debris and wood waste. Wood debris and waste is processed into hog fuel in boilers.

The current franchise expires on August 22, 1991 and the franchisee has requested a five-year renewal. There are three principal changes proposed in the existing franchise agreement. First, the franchisee has proposed that the current annual limit on the amount of material that can be accepted at the ERC facility be changed from 100,000 yards to 60,000 tons. The facility now uses scaling equipment that measures incoming loads by weight and therefore it is more appropriate to set limitations on the facility based on weight rather than size.

The second proposed change in the franchise agreement would be to eliminate the limit of 500 yards per day on material that may be accepted at the facility. The final change would be to set an annual limit of 25,000 tons of material that could be landfilled from the facility. The effect of this limitation would be to require the franchisee to have a recycling rate of up to 58%, if it accepts the permitted maximum amount of material under the agreement.

Issues and Questions

In considering the franchise renewal request the committee may wish to address several issues:

1) There is no rationale or justification for the increase in the limit on the amount of material that may be processed at the facility. It is difficult to estimate the level of this increase

because the weight of an average yard of material may vary greatly. But, it would appear that the 60,000 ton limit would allow at least a 20% increase, though the actual increase could be 100% or more. The staff report does not provide any assessment of whether the current facility has the capacity to effectively process large amounts of new material or what effect increased traffic to the facility would have on the local neighborhood.

2) There also is no justification for completely removing the daily limit on the amount of material that may be accepted at the facility. The Solid Waste Department could be asked to explain why the original limitation was set and what circumstances have changed to allow the elimination of a limit. For example, why could a new limit based on tonnage not be set?

3) The staff report notes that the facility is not subject to rate regulation to allow "flexibility to respond to changing materials markets." The RSWMP Waste Reduction Chapter makes at least two references to regulation of rates to assist in the development of yard debris disposal programs. For example, in describing the recycling program for yard debris (pg. I-24) it is noted that a rate structure should be adopted "at appropriate regional disposal sites that will provide an incentive for yard debris recycling." And, in discussing Metro regulation of yard debris processors (pg I-165) it is noted that the program "at a minimum" should include "establishing stability in rate adjustments for incoming material."

Since the ERC facility processes a significant amount of yard debris, the department could be asked to discuss how the goals from the Waste Reduction Chapter noted above are to be addressed at the ERC facility.

4) In justifying the need for an emergency clause, the ordinance notes that "Whereas, Delay in implementing the amended franchise agreement, ... could negatively impact the recycling and processing at the facility." It should be noted that based on the date of receipt of the proposed ordinance, the earliest date that the full Council could take action will be the actual date on which the existing franchise agreement expires. Should any questions emerge that would delay consideration of the ordinance, action would not be complete until after the expiration date. As the Council has clear authority to review such agreements, earlier submittal of such documents would permit Council review, without jeopardizing the operation of franchisee facilities.

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 91-417, FOR THE PURPOSE OF AMENDING AND RENEWING THE FRANCHISE AGREEMENT WITH EAST COUNTY RECYCLING, INC.; AND DECLARING AN EMERGENCY

Date: August 7, 1991

Presented by: Wyers

Committee Recommendation: At the August 6 meeting, th Committee voted unanimously to recomend Council adoption of Ordinance No. 91-417. Voting in favor: Councilors Gardner, McLain, and Wyers.

Committee Issues/Discussion: Bob Martin, Director of Solid Waste, reviewed the proposed franchise agreement and responded to questions raised in a Council staff memo. He noted that the new agreement will allow the franchisee to accept up to 60,000 tons of material per year compared with the annual limit of 100,000 yards imposed under the present agreement. This change is being made because new scaling equipment at the facility permits tipping fees to be based on the weight of the material instead of its volume.

This change will permit the franchisee to accept more material, though it is difficult to determine the amount of the increase because of the wide range of material accepted by East County Recycling. Martin noted that new equipment at the facility will allow the operator to process more material. The agreement will limit the amount of material that can be landfilled from the facility to 25,000 tons.

The franchisee, Mr. Ralph Gilbert, noted that he was not aware of any complaints concerning the operation of the facility and he did not believe that accepting additional material would cause any traffic or other problems in the adjacent neighborhood. He explained that the original daily and annual limits on the amount of material that could be accepted were based on best estimates of the facility capacity and material supply made by himself and Metro staff. He noted that new equipment would allow the recycling rate to remain at 50+ percent even though additional material would be processed.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: August 9, 1991
TO: Rena Cusma, Executive Officer
FROM: Marilyn Geary-Symons, ^{mcg} Acting Clerk of The Council
RE: TRANSMITTAL OF ORDINANCE NO. 91-417

Attached for your consideration is a true copy of the ordinance referred above adopted by the Council on August 8, 1991.

If you wish to veto the above referenced ordinance, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, August 15, 1991. The veto message, if submitted will become part of the permanent record. If no veto message is received by the time and date stated above, this ordinance will be considered finally adopted.

I, *U. A. Owen*, received this memo and a true copy of Ordinance No. 91-417 from the Acting Clerk of the Council on August 9, 1991.

Date: 8-9-91.

mgc\MMO\VETO.MMO



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

91-417

August 16, 1991

Clerk of the Board
Multnomah County Courthouse
1021 S.W. Fourth Avenue
Portland, OR 97204

Dear Clerk of the Board:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your County.

Executive Officer
Rena Cusma

Metro Council

Tanya Collier
Presiding Officer
District 9

Jim Gardner
Deputy Presiding
Officer
District 3

Susan McLain
District 1

Lawrence Bauer
District 2

Richard Devlin
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Ruth McFarland
District 7

Judy Wyers
District 8

Roger Buchanan
District 10

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Sincerely,



Paulette Allen
Clerk of the Council



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

August 16, 1991

Charles D. Cameron
County Administrator
150 N. First Avenue
Hillsboro, OR 97124

Dear Mr. Kauffman:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your County.

1. Ordinance No. 91-382, Amending the FY 1990-91 Budget and Appropriations Schedule to Increase the Convention Center Capital Fund Personal Services Appropriations
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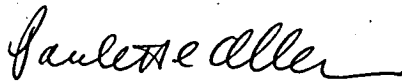
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Sincerely,



Paulette Allen
Clerk of the Council



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

August 16, 1991

John Kauffman
County Clerk
Clackamas County Courthouse
807 Main Street
Oregon City, OR 97045

Dear Mr. Kauffman:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your County.

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Metro Council

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23. Ordinance No. 91-414, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Modifications for the STRAP Project
24. Ordinance No. 91-413, For the Purpose of Approving an Increase in the Transfer Rate for the Forest Grove Transfer Station
25. Ordinance No. 91-409, For the Purpose of Amending Chapter 2 of the Metro Code to Establish the Appointment Process, Qualifications, and Terms of Office for Members of the Portland Metropolitan Area Local Government Boundary Commission
26. Ordinance No. 91-417, An Ordinance for the Purpose of Amending and Renewing the Franchise Agreement with East County Recycling, Inc.; and Declaring an Emergency

Sincerely,



Paulette Allen
Clerk of the Council