

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE	)	ORDINANCE NO. 92-471C
METRO CODE TO ESTABLISH CRITERIA	)	
TO CONSIDER IN DESIGNATING	)	Introduced by Rena Cusma,
DISPOSAL FACILITIES, AND DECLARING	)	Executive Officer
AN EMERGENCY	)	

WHEREAS, Certain solid waste disposal facilities located outside of District boundaries have requested authority to receive wastes generated within District boundaries; and

WHEREAS, Pursuant to Chapter 5.05 of the Metro Code regarding solid waste flow control, it is proper for the Metro Council to "designate" facilities that are appropriate to receive solid waste generated within District boundaries; and

WHEREAS, In order to determine whether a requesting facility is appropriate to receive waste from the service area, it is necessary to establish criteria for consideration by the Council; now, therefore,

**THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:**

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

(a) Designated Facilities. The following described facilities shall constitute the designated facilities to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) ~~Metro-Riedel MSW (Municipal Solid Waste)~~ Compost Facility. The ~~Metro-Riedel MSW~~ Compost Facility located at 5437 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.

- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; provided that except as otherwise provided pursuant to a duly issued non-system license, no waste hauler or other person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport solid waste generated within the service area directly to, or to otherwise dispose of such solid waste at, said Columbia Ridge Landfill unless such solid waste has first been processed at another designated facility.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to ~~or delete a facility from the list of designated facilities-one or more additional facility.~~ In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state, and local requirements;
- (3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;
- (4) The adequacy of operational practices and management controls at the facility;
- (5) The expected impact on the region's recycling and waste reduction efforts;
- (6) The expected impact on Metro's revenue;
- (7) The consistency of the designation with Metro's existing contractual arrangements;
- (8) The need for additional disposal capacity and the effect on existing designated facilities; and
- (9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

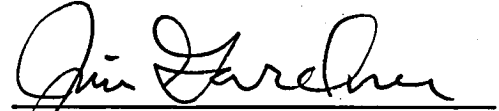
(c) An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro Council prior to execution by the Executive Officer.

(d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(e)(e) Use of Non-System Facilities Prohibited. Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 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 24th day of November, 1992.

  
\_\_\_\_\_  
Jim Gardner, Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Clerk of the Council

1103c

## AGREEMENT

This Agreement is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 2000 S.W. First Avenue, Portland, Oregon 97201-5398, and Finley Buttes Landfill Company, located at P.O. Box 61726, Vancouver, Washington 98666, referred to herein as "Company."

This Agreement is entered into by Metro under the authority of ORS 268.317, and Metro Code Chapter 5.05. Company enters into this Agreement in recognition of the "Designated Facility" status conferred upon the Finley Buttes Regional Landfill in Morrow County, Oregon, by Metro Ordinance No. 93-483.

In exchange for the promises set forth below, the parties agree as follows:

1. Purpose and Authority. The purpose of this Agreement is to establish the terms under which Company may receive, at its Finley Buttes Landfill in Morrow County, Oregon (herein "Facility"), the types of waste specified in section 3 of this Agreement that were generated within Metro boundaries.
2. Duration. Unless terminated sooner as specified herein, this Agreement shall remain in effect for two years from the date of execution by both parties. To avoid unnecessary disruption while Metro considers possible renewal of this Agreement, if Company has not received written notice of termination from Metro on or before the two year anniversary of this Agreement, this Agreement shall continue in effect until such notice is provided to Company.
3. Wastes That May be Accepted at the Facility.
  - a. Pursuant to this Agreement, and to the extent the Facility has legal authority to accept such waste, the Facility may accept only the following types of waste generated within Metro boundaries:
    - (1) Residue from the processing of construction, demolition, and land clearing waste received from a Metro franchised facility.
    - (2) Non-hazardous industrial dust.
    - (3) Asbestos (special requirements for packaging and unloading would apply).

- (4) Contaminated soil and other non-putrescible debris from cleanup of petroleum or other non-hazardous chemical spills.
  - (5) Special waste as defined in section 5.02.015(s) of the Metro Code. A copy of this section of the code is attached as Attachment A, and is incorporated herein by this reference. In all instances, section 5.02.015(s) shall be construed by both parties as limited to wastes that require special handling or testing prior to disposal at a Metro facility or at a landfill.
  - (6) Other waste as described in any future addendum to this Agreement or as authorized by Metro in a non system license. A modification or addendum to this Agreement that adds "other waste" shall not be effective unless approved by the Metro Council.
- b. This Agreement shall not be construed to allow disposal at the Facility of mixed municipal solid waste, or other types of waste not listed in Section 3.a., generated within Metro boundaries.
4. Recordkeeping and Audits.
- a. Company shall maintain complete and accurate records regarding all solid waste transported, treated, disposed of, or otherwise processed pursuant to this Agreement, and shall make such records available to, or send copies to, the Metro Solid Waste Department or its duly designated agents for inspection, auditing and copying upon not less than seven days written notice from Metro. Pre-numbered tickets shall be used for all transactions, in numerical sequence, and voided or canceled tickets shall be retained.
  - b. At Metro's option, Company shall have an independent audit conducted by a firm acceptable to Metro, no more than once each year, at Company's expense. The audit report provided to Metro following an independent audit shall address matters reasonably related to this Agreement, as specified in an audit program approved by Metro and provided to Company prior to the audit.
5. Reports and Information.
- a. Company shall report in writing to the Metro Solid Waste Department no later than the 10th day of each month, for the duration of this Agreement, the number of tons of solid waste transported, disposed of or otherwise processed pursuant to this Agreement during the preceding month. The reports shall provide sufficient detail to adequately identify the waste profile of the various materials transported, treated, and disposed of, and include the names of persons or entities generating and delivering waste to the Facility, and the types and quantities of waste

generated or delivered by such persons or entities. To the extent such information is available in electronic form, Company shall make such information available to Metro on computer disk. Metro shall maintain the confidentiality of all records submitted by Company to the extent public disclosure is not required by ORS ch 192, and otherwise in conformance with section 11 of this Agreement.

- b. Company shall complete a cumulative status review of the waste types and profiles covering each six months of operations under this Agreement and shall provide such report to Metro within 45 days of the expiration of the six-month period covered by the report. The first report shall cover the period of operations from the date of execution of this Agreement through December 31, 1993.
- c. Company shall provide to Metro copies of all permits covering the Facility or operations at the Facility. Copies of revisions to existing permits and newly issued permits shall be provided to Metro within seven business days of receipt. Company shall also provide, within ten business days, a copy of any official enforcement action regarding the Facility or its operation, including but not limited to, a notice of violation or non-compliance with a statute, regulation, or permit condition.

6. User Fee/Excise Tax.

- a. Upon receipt of the reports described in section 5.a., Metro shall transmit an invoice to Company for a fee equal to per ton user fees assessed pursuant to Metro code chapter 5.02 multiplied by the number of tons (or fractions thereof) of solid waste disposed of or processed pursuant to this Agreement during the preceding month. Company shall make payment to Metro in the invoiced amount, not later than 30 days after the date of the invoice. Company shall use reasonable business judgment in allowing generators or transporters of waste to dispose of waste at its Facility on a credit basis and shall use reasonable legal means to collect disposal charges, including all fees and taxes owed to Metro. If Company is unable to collect disposal charges, Company may deduct uncollectible Metro fees and taxes, when an affidavit explaining the status of the uncollectible account is provided that sufficiently documents good faith collection efforts conducted by Company. If Company receives a partial payment and the remainder of the account is uncollectible, the payment received shall be pro-rated between Company's disposal charges and Metro's fees and taxes. All amounts owing to Metro that are deemed "uncollectible" and are ultimately collected, shall be remitted to Metro within 30 days of receipt by Company.
- b. Upon receipt of the reports described in section 5.a., Metro shall transmit an invoice to Company for a fee equal to all excise taxes required to be paid under Metro Code Chapter 7.01, as a result of Company's activities during the preceding

month. Excise taxes shall be due for disposal of waste at the Facility, but shall not be due for transport to the Facility, even if Company arranges that transport.

- c. Credit terms shall be as specified in the Metro Code as now in effect or as amended.
- d. Company shall not pay the user fees and excise taxes described in this paragraph on waste received at the Facility:
  - (1) which is accepted without charge or fee; and
  - (2) which is intended to be used for a beneficial purpose and which is in fact used for a beneficial purpose.

7. Modification, Suspension, and Termination.

- a. If Company fails to fully and promptly comply with a term or condition of this Agreement, the Executive Officer shall issue to Company a written notice of noncompliance briefly describing such failure. The notice shall state that, within a period specified by the Executive Officer of at least 20 days, Company must demonstrate to the satisfaction of the Executive Officer either that Company has not violated a term or condition of this Agreement, that the violation has been corrected or that Company is making diligent efforts to correct the violation and is likely to succeed in a reasonable period of time. Company shall also, within the same period, pay all fines owing as a result of noncompliance or make arrangements for payment satisfactory to the Executive Officer. Failure to comply with the notice of noncompliance shall be grounds for suspension of this Agreement by the Executive Officer, effective as of 5:00 p.m. on the last day of the compliance period specified by the Executive Officer, until such time as the Executive Officer issues a written finding to Company that the violation has been cured. The Executive Officer may extend the compliance period to a total of no more than 60 days from the date of the notice of noncompliance, upon determining that Company is making good faith efforts to comply and is capable of complying within the extended compliance period.
- b. Metro's Executive Officer may suspend this Agreement without prior notice, as follows:
  - (1) As specified in subsection a. of this section;
  - (2) If necessary in the reasonable opinion of the Executive Officer to protect the public health, safety or welfare, and in the case of an emergency;



- (3) If, due to a binding decision by an arbitrator or court of competent jurisdiction, Metro may be liable for damages for allowing waste of the quantity or type specified in this Agreement to be disposed of at Company's Facility or Metro may no longer allow such waste to be disposed of at Company's Facility.

The Executive Officer's decision to suspend this Agreement shall be reviewable under the contested case procedures of Metro Code Chapter 2.05. Filing of a contested case shall not stay the Executive Officer's decision to suspend this Agreement, unless the Executive Officer agrees to such a stay in writing.

- c. The Metro Council may modify, suspend or terminate this Agreement, for good cause or substantial change of circumstances, upon passage of a resolution specifying the action taken and the effective date. If this Agreement is modified by Council resolution, Company shall have 30 days from the date of the resolution to acknowledge the modification by signing a written instrument containing the terms of the modification. Failure of Company to acknowledge the modification within the 30-day period, unless otherwise excused by Metro's Executive Officer, shall result in suspension of the Agreement at the close of business on the 30th day, until the modification is acknowledged in writing by Company.
- d. If the Metro Council adopts a resolution to modify, suspend, or terminate this Agreement without providing Company with reasonable notice and an opportunity to be heard prior to Council action, Company shall be entitled to a contested case hearing related to the action taken, as specified in Metro Code Chapter 2.05.
- e. Nothing in this section shall be interpreted to hinder or prevent Metro from making and enforcing policy judgments related to the flow of solid waste out of Metro boundaries, regardless of the perceived or actual impact of such decisions on Company's business. A policy judgment by Metro to limit or prevent waste generated within Metro boundaries from entering the Facility shall under no circumstances be the basis for payment of compensation by Metro to Company.

#### 8. Compliance With Law.

Company shall fully comply with the Metro Code, as amended, and with all federal, state, regional and local laws, as amended, rules, regulations, ordinances, orders and permits pertaining in any manner to this Agreement. 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 Agreement by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Agreement, as well as any existing at the time of issuance of this Agreement and not attached, and permits or conditions issued or modified during the term of this Agreement.

9. Right of Inspection.

Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Agreement. Access to inspect is authorized:

- a. During all working hours;
- b. At other reasonable times with notice; and
- c. At any time without notice when, in the reasonable opinion of the Metro Solid Waste Department Director, such notice would defeat the purpose of the entry.

10. Indemnification. Company shall indemnify, defend, and hold Metro, and Metro's 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 Company's performance under this Agreement.

11. Confidentiality.

- a. Metro recognizes and acknowledges the confidential and proprietary nature of the names of persons or entities generating or delivering waste to the Facility and the types and quantities of waste generated or delivered by such persons or entities (herein, "confidential information"), which Company is required to submit to Metro under section 5.a. of this Agreement. Metro recognizes that the confidential information specified herein is a "trade secret" and exempt from public disclosure under Oregon law because it is currently known only by Company, is used by Company in its business, and gives Company a business advantage over others not possessing such information. The ability of competitors of Company to obtain the confidential information specified herein is not in the public interest because it detracts from a relationship of trust that is necessary for Metro to effectively carry out its solid waste management functions. Metro hereby obligates itself in good faith not to disclose such confidential information to any person outside of Metro except as specified herein. Access to, and use of, such information shall only be as specified in this section 11.
- b. At any time during and after the term of this Agreement, Metro shall not, in any manner whatsoever, either directly or indirectly, divulge, disclose, or communicate to any person, partnership, firm, association, corporation, or other entity, or to any person at Metro who does not have a reasonable need to obtain confidential information for Metro's solid waste management purposes, or use for the personal benefit of such party, the confidential information specified in this section 11.

Metro may nevertheless use such information for solid waste management purposes, including solid waste tracking and forecasting, enforcement of the Metro Code, or assistance to other jurisdictions in regulatory or other law enforcement. Metro may also use such confidential information in aggregations or summaries that may be released to the public so long as it is not possible to identify from such aggregations or summaries the persons or other entities generating and delivering waste to the Facility or the types and quantities of waste such persons or other entities generate or deliver to the Facility. Metro shall notify Company within 3 business days of Metro's receipt of a request for confidential information from a third party. If it becomes necessary for Metro to release confidential information to any person outside of Metro, Metro shall so notify Company in writing, at least 15 days prior to releasing such information.

- c. When submitting to Metro the confidential information specified herein, Company shall mark such materials as confidential. Metro shall keep all such material separate from its other records and materials, in the custody and control of the Metro Office of General Counsel, such that it will not be available to members of the public or persons at Metro who do not have a reasonable need to obtain access to the information relative to Metro's solid waste management responsibilities.
- d. If Oregon law is modified such that the confidential information referenced in this section 11 is no longer exempt from public disclosure, or if a court of competent jurisdiction requires release of such information, Company shall no longer be required to submit such information to Metro. In such instance, upon request, Company nevertheless agrees to provide to Metro the names of specific generators or transporters, and the types and quantities of waste delivered by such persons or entities, for Metro's use in enforcing the Metro Code against such persons or entities, when Metro demonstrates a reasonable suspicion that a violation has occurred.

12. General Conditions.

- a. The power and right to regulate, in the public interest, the exercise of the privileges granted by this Agreement 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 Company.

- b. Company shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Agreement.
- c. The granting of this Agreement shall not confer a property right to Company, nor vest any right or privilege in Company to receive specific quantities of solid waste during the term of this Agreement.
- d. This Agreement may not be transferred or assigned without the prior written approval of Metro. Consent to assignment or transfer shall not be unreasonably withheld.
- e. To be effective, a waiver of any term or condition of or amendment to this Agreement must be in writing, signed by either the Executive Officer or an authorized officer of the Company, as the case may be. Waiver of a term or condition of this Agreement by either party shall not waive nor prejudice that party's right otherwise to require performance of the same term or condition or any other term or condition.
- f. This Agreement shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- g. If any provision of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Agreement shall not be affected.

h. This Agreement is the entire agreement between the parties. This Agreement does not allow receipt of solid waste from within the boundaries of Metro for any purpose other than disposal in accordance with this Agreement.

FINLEY BUTTES LANDFILL COMPANY

METRO

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

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

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

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## AGREEMENT

This Agreement is between the Metropolitan Service District, a municipal corporation organized under ORS chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, Oregon 97201-5398, and Oregon Waste Systems, Inc., 5240 N.E. Skyport Way, Portland, Oregon 97218, referred to herein as "OWS."

This Agreement is entered into by Metro under the authority of ORS 268.317, and Metro Code Chapter 5.05. OWS enters into this Agreement in recognition of the "Designated Facility" status conferred upon the OWS Columbia Ridge Landfill Facility near Arlington, Oregon, as that status was amended by Metro Ordinance No. 92-471.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Purpose and Authority. The purpose of this Agreement is to establish the terms under which Oregon Waste Systems may receive, at its Columbia Ridge Landfill near Arlington, Oregon (herein "Facility"), the types of waste specified in section 4 of this Agreement that were generated within Metro boundaries.
2. Duration. Unless terminated sooner as specified herein, this Agreement shall remain in effect for two years from the date of execution by both parties.
3. Maximum Tonnage. Pursuant to this Agreement, OWS may accept at the Facility up to 150,000 tons per year of the special wastes described in section 4 of this Agreement. All waste entering the Facility from within Metro boundaries for processing, disposal, or any other reason, shall be weighed on certified scales, and records of each transaction maintained.
4. Wastes That May be Accepted at the Facility.
  - a. Pursuant to this Agreement, and to the extent the Facility has legal authority to accept such waste, the Facility may accept the following types of waste generated within Metro boundaries:
    - (1) Construction, demolition, and land clearing waste, and non-hazardous industrial dust.
    - (2) Asbestos (special requirements for packaging and unloading would apply).

- (3) Outdated or Defective Commercial or Industrial Products. Off specification materials could include outdated commercial or industrial products not meeting manufacturing specifications, or commercial product containing contaminants not suited for market conditions or consumer use.
  - (4) Contaminated soil and other non-putrescible debris from cleanup of petroleum or other non-hazardous chemical spills.
  - (5) Special waste as defined in section 5.02.015(s) of the Metro Code.
  - (6) Other waste as described in any future addendum to this Agreement.
- b. This Agreement shall not be construed to allow disposal at the Facility of mixed municipal solid waste from within Metro boundaries.
5. Recordkeeping. OWS shall maintain complete and accurate records regarding all solid waste transported, treated, disposed of, or otherwise processed pursuant to this Agreement, and shall make such records available to, or send copies to, the Metro Solid Waste Department or its duly designated agents for inspection auditing and copying upon not less than seven days written notice from Metro.
6. Reports.
- a. OWS shall report in writing to the Metro Solid Waste Department no later than the 15th day of each month, for the duration of this Agreement, the number of tons of solid waste transported, disposed of or otherwise processed pursuant to this Agreement during the preceding month. The reports shall provide sufficient detail to adequately identify the waste profile of the various materials transported, treated, and disposed of, but need not include the names of persons generating or delivering waste to the Facility. OWS shall not be required to provide to Metro the names of persons generating or delivering waste to the Facility unless Metro requests information regarding a specific generator or hauler for the purpose of enforcing the Metro Code. Metro shall maintain the confidentiality of all records submitted by OWS to the extent public disclosure is not required by ORS ch 192.
  - b. OWS shall complete a cumulative status review of the waste types and profiles covering each six months of operations under this Agreement and shall provide such report to Metro within 45 days of the expiration of the six-month period covered by the report. The first report shall cover the period of operations from the date of execution of this Agreement through December 31, 1992.

- c. OWS shall provide to Metro copies of all permits covering the Facility or operations at the Facility. Copies of revisions to existing permits and newly issued permits shall be provided to Metro within seven business days of receipt. OWS shall also provide, within seven business days, a copy of any official enforcement action regarding the Facility or its operation, including but not limited to, a notice of violation or non-compliance with a statute, regulation, or permit condition.

7. User Fee/Excise Tax.

- a. OWS shall collect and pay to Metro, not later than the 15th day of each month, a fee equal to Metro's Regional User Fee multiplied by the number of tons (or fractions thereof) of solid waste disposed of or processed pursuant to this Agreement during the preceding month. OWS shall use reasonable business judgment in allowing generators or transporters of waste to dispose of waste at its Facility on a credit basis and shall use reasonable legal means to collect disposal charges, including all fees and taxes owed to Metro. If OWS is unable to collect disposal charges, OWS may deduct uncollectible Metro fees and taxes, when an affidavit explaining the status of the uncollectible account is provided. If OWS receives a partial payment and the remainder of the account is uncollectible, the payment received shall be pro-rated between OWS's disposal charges and Metro's fees and taxes. For purposes of this section, an account may be considered "uncollectible" if disposal charges are due but not paid on the first day of the second month following billing. All amounts owing to Metro that are deemed "uncollectible" and are ultimately collected, shall be remitted to Metro within 30 days of receipt of OWS.
- b. OWS shall collect and pay to Metro, not later than the 15th day of each, all excise taxes required to be paid under Metro Code Chapter 7.01, in the manner specified in Chapter 7.01 and forms provided by Metro. Excise taxes shall be due for disposal of waste at the Facility, but shall not be due for transport to the Facility, even if OWS arranges that transport.
- c. A finance charge of one and one-half percent per month (18 percent per annum), computed from the date fees and taxes become 30 days past due, will be assessed on all fees and taxes which become 60 days past due and will be added to the oldest months charges past due. Finance charges will continue to be assessed on negotiated repayment schedules.

8. Modification, Suspension, and Termination.

- a. Metro's Executive Officer may modify, suspend, or terminate this Agreement as follows:



- (1) By giving OWS no less than 45 days written notice of pending suspension, modification or termination, if the Executive Officer determines that there has been sufficient change in any of the circumstances under which this Agreement was entered into, or if the Regional Solid Waste Management Plan is modified or amended in a manner to justify re-evaluation of this Agreement;
  - (2) Without prior notice, if necessary to protect the public health, safety and welfare, and in the case of an emergency; and
  - (3) Except as provided in subsection (2) of this section, if OWS fails to fully and promptly comply with a term or condition of this Agreement, the Executive Officer shall issue to OWS a written notice of non-compliance briefly describing such failure. The notice shall state that, within a period specified by the Executive Officer of at least 20 days, OWS must demonstrate to the satisfaction of the Executive Officer either that OWS has not violated a term or condition of this Agreement, or that the violation has been corrected. OWS shall also, within the same period, pay all fines owing as a result of non-compliance or make arrangements for payment satisfactory to the Executive Officer. Failure to comply with the notice of non-compliance shall be grounds for termination of this Agreement, effective as of 5:00 p.m., PST, on the last day of the compliance period specified by the Executive Officer. The Executive Officer may extend the compliance period to a total of no more than 60 days from the date of the notice of non-compliance, upon determining that OWS is making good faith efforts to comply and is capable of complying within the extended compliance period.
- b. The Executive Officer's decision to modify, suspend, or terminate this Agreement shall be reviewable under the contested case proceedings of Metro Code Chapter 2.05, unless such modification, suspension, or termination is required as a result of an amendment to the Metro Code. Filing of a contested case shall not stay the Executive Officer's decision to modify, suspend or terminate this Agreement, unless the Executive Officer agrees to such a stay in writing.

9. Compliance With Law.

OWS shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Agreement. 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

Agreement by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Agreement, as well as any existing at the time of issuance of this Agreement and not attached, and permits or conditions issued or modified during the term of this Agreement.

10. Right of Inspection.

Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Agreement. Access to inspect is authorized:

- (a) During all working hours;
- (b) At other reasonable times with notice; and
- (c) At any time without notice when, in the opinion of the Metro Solid Waste Department Director, such notice would defeat the purpose of the entry.

11. Indemnification. OWS shall indemnify, defend, 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 OWS's performance under this Agreement.

12. Relation to Waste Delivery Guarantee. For purposes of the Waste Disposal Service Agreement ("Agreement") between Metro and OWS, dated April 11, 1988, as amended, waste disposed of by OWS at the Columbia Ridge Landfill pursuant to this Agreement shall not be considered either (1) "acceptable waste which Metro delivers to a general purpose landfill" for purposes of the 90 percent annual waste delivery guarantee (Specifications paragraph 1); or (2) "acceptable waste delivered to OWS during any calendar year quarter" for purposes of the limited guarantee against waste flow fluctuations (Specifications, paragraph 1).

13. General Conditions.

- a. The power and right to regulate, in the public interest, the exercise of the privileges granted by this Agreement 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 OWS.
- b. OWS shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Agreement.

- c. The granting of this Agreement shall not vest any right or privilege in OWS to receive specific quantities of solid waste during the term of this Agreement.
- d. This Agreement may not be transferred or assigned without the prior written approval of Metro. Consent to assignment or transfer shall not be unreasonably withheld.
- e. To be effective, a waiver of any term or condition of this Agreement must be in writing, signed by the Executive Officer. Waiver of a term or condition of this Agreement shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- f. This Agreement shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- g. If any provision of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Agreement shall not be affected.
- h. This Agreement is the entire agreement between the parties. This Agreement does not allow receipt of solid waste from within the boundaries of the Metropolitan Service District for any purpose other than disposal in accordance with this Agreement.

OREGON WASTE SYSTEMS

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

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## AGREEMENT

This Agreement is between the Metropolitan Service District, a municipal corporation organized under ORS chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, Oregon 97201-5398, and Regional Disposal Company, a Washington joint venture, with its home office at 4730 32nd Avenue South, Seattle, Washington 98118, referred to herein as "RDC."

This Agreement is entered into by Metro under the authority of ORS 268.317, and Metro Code Chapter 5.05. RDC enters into this Agreement in recognition of the "Designated Facility" status conferred upon the RDC Roosevelt Regional Landfill Facility in Klickitat County, Washington, by Metro Ordinance No. 92-471.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Purpose and Authority. The purpose of this Agreement is to establish the terms under which Regional Disposal Company may receive, at its Roosevelt Regional Landfill in Klickitat County, Washington (herein "Facility"), the types of waste specified in section 4 of this Agreement that were generated within Metro boundaries.
2. Duration. Unless terminated sooner as specified herein, this Agreement shall remain in effect for two years from the date of execution by both parties.
3. Maximum Tonnage. Pursuant to this Agreement, RDC may accept at the Facility up to 150,000 tons per year of the wastes described in section 4 of this Agreement. All waste entering the Facility from within Metro boundaries for processing, disposal, or any other reason, shall be weighed on certified scales, and records of each transaction maintained.
4. Wastes That May be Accepted at the Facility.
  - a. Pursuant to this Agreement, and to the extent the Facility has legal authority to accept such waste, the Facility may accept the following types of waste generated within Metro boundaries:
    - (1) Construction, demolition, and land clearing waste, and non-hazardous industrial dust.
    - (2) Asbestos (special requirements for packaging and unloading would apply).

- (3) Outdated or Defective Commercial or Industrial Products. Off specification materials could include outdated commercial or industrial products not meeting manufacturing specifications, or commercial product containing contaminants not suited for market conditions or consumer use.
    - (4) Contaminated soil and other non-putrescible debris from cleanup of petroleum or other non-hazardous chemical spills.
    - (5) Special waste as defined in section 5.02.015(s) of the Metro Code.
    - (6) Other waste as described in any future addendum to this Agreement.
  - b. This Agreement shall not be construed to allow disposal at the Facility of mixed municipal solid waste from within Metro boundaries.
5. Recordkeeping. RDC shall maintain complete and accurate records regarding all solid waste transported, treated, disposed of, or otherwise processed pursuant to this Agreement, and shall make such records available to, or send copies to, the Metro Solid Waste Department or its duly designated agents for inspection, auditing and copying upon not less than seven days written notice from Metro.
6. Reports and Information.
- a. RDC shall report in writing to the Metro Solid Waste Department no later than the 15th day of each month, for the duration of this Agreement, the number of tons of solid waste transported, disposed of or otherwise processed pursuant to this Agreement during the preceding month. The reports shall provide sufficient detail to adequately identify the waste profile of the various materials transported, treated, and disposed of, but need not include the names of persons generating or delivering waste to the Facility. RDC shall not be required to provide to Metro the names of persons generating or delivering waste to the Facility unless Metro requests information regarding a specific generator or hauler for the purpose of enforcing the Metro Code. Metro shall maintain the confidentiality of all records submitted by RDC to the extent public disclosure is not required by ORS ch 192.
  - b. RDC shall complete a cumulative status review of the waste types and profiles covering each six months of operations under this Agreement and shall provide such report to Metro within 45 days of the expiration of the six-month period covered by the report. The first report shall cover the period of operations from the date of execution of this Agreement through December 31, 1992.

- c. RDC shall provide to Metro copies of all permits covering the Facility or operations at the Facility. Copies of revisions to existing permits and newly issued permits shall be provided to Metro within seven business days of receipt. RDC shall also provide, within seven business days, a copy of any official enforcement action regarding the Facility or its operation, including but not limited to, a notice of violation or non-compliance with a statute, regulation, or permit condition.

7. User Fee/Excise Tax.

- a. RDC shall collect and pay to Metro, not later than the 15th day of each month, a fee equal to Metro's Regional User Fee multiplied by the number of tons (or fractions thereof) of solid waste disposed of or processed pursuant to this Agreement during the preceding month. RDC shall use reasonable business judgment in allowing generators or transporters of waste to dispose of waste at its Facility on a credit basis and shall use reasonable legal means to collect disposal charges, including all fees and taxes owed to Metro. If RDC is unable to collect disposal charges, RDC may deduct uncollectible Metro fees and taxes, when an affidavit explaining the status of the uncollectible account is provided. If RDC receives a partial payment and the remainder of the account is uncollectible, the payment received shall be pro-rated between RDC's disposal charges and Metro's fees and taxes. For purposes of this section, an account may be considered "uncollectible" if disposal charges are due but not paid on the first day of the second month following billing. All amounts owing to Metro that are deemed "uncollectible" and are ultimately collected, shall be remitted to Metro within 30 days of receipt by RDC.
- b. RDC shall collect and pay to Metro, not later than the 15th day of each month, all excise taxes required to be paid under Metro Code Chapter 7.01, in the manner specified in Chapter 7.01 and forms provided by Metro. Excise taxes shall be due for disposal of waste at the Facility, but shall not be due for transport to the Facility, even if RDC arranges that transport.
- c. A finance charge of one and one-half percent per month (18 percent per annum), computed from the date fees and taxes become 30 days past due, will be assessed on all fees and taxes which become 60 days past due and will be added to the oldest months charges past due. Finance charges will continue to be assessed on negotiated repayment schedules.

8. Modification, Suspension, and Termination.

- a. Metro's Executive Officer may modify, suspend, or terminate this Agreement as follows:

- (1) By giving RDC no less than 45 days written notice of pending suspension, modification or termination, if the Executive Officer determines that there has been sufficient change in any of the circumstances under which this Agreement was entered into, or if the Regional Solid Waste Management Plan is modified or amended in a manner to justify re-evaluation of this Agreement;
- (2) Without prior notice, if necessary to protect the public health, safety and welfare, and in the case of an emergency; and
- (3) Except as provided in subsection (2) of this section, if RDC fails to fully and promptly comply with a term or condition of this Agreement, the Executive Officer shall issue to RDC a written notice of non-compliance briefly describing such failure. The notice shall state that, within a period specified by the Executive Officer of at least 20 days, RDC must demonstrate to the satisfaction of the Executive Officer either that RDC has not violated a term or condition of this Agreement, or that the violation has been corrected. RDC shall also, within the same period, pay all fines owing as a result of non-compliance or make arrangements for payment satisfactory to the Executive Officer. Failure to comply with the notice of non-compliance shall be grounds for termination of this Agreement, effective as of 5:00 p.m., PST, on the last day of the compliance period specified by the Executive Officer. The Executive Officer may extend the compliance period to a total of no more than 60 days from the date of the notice of non-compliance, upon determining that RDC is making good faith efforts to comply and is capable of complying within the extended compliance period.

- b. The Executive Officer's decision to modify, suspend, or terminate this Agreement shall be reviewable under the contested case proceedings of Metro Code Chapter 2.05, unless such modification, suspension, or termination is required as a result of an amendment to the Metro Code. Filing of a contested case shall not stay the Executive Officer's decision to modify, suspend or terminate this Agreement, unless the Executive Officer agrees to such a stay in writing.

9. Compliance With Law.

RDC shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Agreement. 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 Agreement by reference as if specifically set forth herein. Such conditions and

permits include those attached as exhibits to this Agreement, as well as any existing at the time of issuance of this Agreement and not attached, and permits or conditions issued or modified during the term of this Agreement.

10. Right of Inspection.

Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Agreement. Access to inspect is authorized:

- (a) During all working hours;
- (b) At other reasonable times with notice; and
- (c) At any time without notice when, in the opinion of the Metro Solid Waste Department Director, such notice would defeat the purpose of the entry.

11. Indemnification. RDC shall indemnify, defend, and hold Metro, and Metro's 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 RDC's performance under this Agreement.

12. General Conditions.

- a. The power and right to regulate, in the public interest, the exercise of the privileges granted by this Agreement 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 RDC.
- b. RDC shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Agreement.
- c. The granting of this Agreement shall not vest any right or privilege in RDC to receive specific quantities of solid waste during the term of this Agreement.
- d. This Agreement may not be transferred or assigned without the prior written approval of Metro. Consent to assignment or transfer shall not be unreasonably withheld.
- e. To be effective, a waiver of any term or condition of or amendment to this Agreement must be in writing, signed by the Executive Officer. Waiver of a term or condition of this Agreement shall not waive nor prejudice Metro's



right otherwise to require performance of the same term or condition or any other term or condition.

- f. This Agreement shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- g. If any provision of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Agreement shall not be affected.
- h. This Agreement is the entire agreement between the parties. This Agreement does not allow receipt of solid waste from within the boundaries of the Metropolitan Service District for any purpose other than disposal in accordance with this Agreement.

**REGIONAL DISPOSAL COMPANY,**  
a Washington Joint Venture

**METROPOLITAN SERVICE DISTRICT**

By: \_\_\_\_\_  
Warren J. Razore

By: \_\_\_\_\_

Title: President and WJR Environ-  
mental Inc. Managing Partner

Title: \_\_\_\_\_

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

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

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## SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 92-471B, FOR THE PURPOSE OF AMENDING THE METRO CODE TO ESTABLISH CRITERIA TO CONSIDER IN DESIGNATING DISPOSAL FACILITIES AND DECLARING AN EMERGENCY

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Date: November 18, 1992

Presented by: Councilor Wyers

**Committee Recommendation:** At the November 17 meeting, the Committee voted unanimously to recommend Council adoption of Ordinance No. 92-471B. Voting in favor: Councilors Buchanan, Hansen, McFarland, Van Bergen and Wyers.

**Committee Issues/Discussion:** The Committee held three hearings on the proposed ordinance. The ordinance was initially presented at the September 1 meeting. Metro Code Section 5.05.030 currently lists "designated" facilities to which Metro may direct waste. The list includes existing Metro transfer stations, the Composter, all franchised facilities, Lakeside Reclamation (Grabhorn), Hillsboro Landfill, and Columbia Ridge Landfill. The Code also provides that the Council may add or remove facilities from the list of designated facilities.

Phil North, Solid Waste Staff, provided the committee with a brief history of the development of the ordinance. He noted that, in addition to its designated facility status, the Columbia Ridge Landfill also has a non-system license. Under this license, the facility receives a variety of special wastes. When this license came up for renewal in the spring of 1992, the Office of General Counsel advised that it would be more appropriate to "designate" the facility to receive this material under Section 5.05.030. Counsel staff noted that non-system licenses were intended for generators and haulers and not landfill operators.

Upon learning that Columbia Ridge might receive designated status to accept special wastes, representatives of Regional Disposal Company approached Metro staff to obtain a similar designation for the Roosevelt Landfill which they operate in Klickitat County in eastern Washington. Since other facilities also were likely to request designation, solid waste staff determined that it should recommend that the code be amended to provide criteria that could be used by staff and the Council in determining whether individual facilities should receive "designated" status.

As a result, Ordinance 92-471 was drafted. The original ordinance identified four criteria that were to be used in determining whether a facility should be designated. These were: 1) future risk of environmental contamination, 2) the record of regulatory compliance, 3) compliance with Metro ordinances or assistance in Metro ordinance enforcement and 4) adequacy of operational practices and management controls. The original ordinance also provided for the designation of the Columbia Ridge and Roosevelt Landfills to receive certain special wastes as specified in draft

agreements presented to the committee.

The committee heard testimony from several landfill operators with an interest in receiving "designated" status. Representatives of Regional Disposal Company spoke in favor of the ordinance. They argued that competition in a field of special waste disposal would keep industrial and commercial generator costs down. In addition, they noted the environmental soundness of their facility and expressed a willingness to adequately police the material received from the Metro area. They also contended that the designation of additional facilities would allow Metro to better track material that is now "leaking" out of the system and allow Metro to receive its Tier One user fees for this material. Representatives of Sanifill (operator of the Northern Wasco Landfill) and the operator of the Finley Butte Landfill in eastern Oregon (near Boardman) also expressed interest in receiving designation and asked that their requests be considered at the same time as other potential applicants.

Oregon Waste Systems (operators of the Columbia Ridge Landfill) expressed concern that designation of the Roosevelt Landfill and other facilities would be in violation of the existing contract to send 90% of the region's waste to Columbia Ridge. Todd Sadlo, Office of General Counsel, indicated that he had met with legal representatives of Oregon Waste Systems and that they were in disagreement concerning the effect of designating additional facilities on the Columbia Ridge Contract.

Numerous issues emerged during the hearing and the Committee and staff agreed that staff needed to review these concerns and respond at a future hearing. The issue generally related to: 1) the need and effect of competition in the special waste disposal marketplace and Metro's role in this marketplace, 2) the effect of lower cost disposal options on the recycling of certain special wastes, 3) the effect of additional facilities on existing in-region special waste disposal facilities, 4) Metro's ability to police newly designated facilities and the cost of such policing, 5) the effect of designating facilities on Metro's efforts to control "leakage" of waste from the region, and 6) the effect of the ordinance on the Columbia Ridge contract with Oregon Waste Systems.

Following the hearing, the chair and the department agreed to separate the issue of developing facility designation evaluation criteria from the actual designation of specific facilities. At the November 3 meeting, staff presented Ordinance 92-471A. The amended ordinance eliminated all language relating to the designation of the Roosevelt and Columbia Ridge Landfills. In addition, the evaluation criteria were expanded to include: 1) the impact of a designation on the region's recycling and waste reduction efforts, 2) impact on Metro's revenues, 3) consistency with existing contractual obligations and 4) other benefits.

Bob Martin reviewed the department's intent concerning the revised ordinance. He noted that the ordinance would not affect existing

designated facilities. He observed that the criteria in the ordinance are simply factors that must be addressed by staff and the Council in determining whether to designate a particular facility. They are not rigid standards and give staff and the Council needed flexibility in examining issues concerning each individual facility. He noted that if the staff were given authority to designate facilities, he would request more rigid standards.

The committee received limited testimony due to the need to adjourn the meeting by a specific time. Representatives from Regional Disposal reiterated their position that approving the ordinance would establish a more competitive marketplace, allow Metro to capture its fees on material that is now escaping the system, and that they would institute strict policing procedures at their landfill. Mike Sandberg, representing Hillsboro Landfill expressed concern that smaller facilities like Hillsboro could not compete with larger regional landfills like Roosevelt, Columbia Ridge and Finley Butte.

Representatives of Oregon Waste Systems continued to express concern that the designation of additional facilities would violate their Columbia Ridge agreement with Metro. They also argued that designating additional facilities could disrupt Metro's disposal system planning efforts. In addition, they contended that a lack of specific evaluation criteria could cause legal and enforcement problems.

Councilor Wyers offered two potential amendments. These were: 1) adding language that would require Council approval of any agreements between Metro and a designated facility, and 2) requiring that such agreements include language outlining the types of waste that can be accepted at each designated facility. A "B" version of the ordinance was drafted that included these amendments. In addition, a third amendment was included in the "B" version which provides that the Council must consider the need for additional disposal capacity and the effect of any new designations on existing designated facilities.

The "B" version of the ordinance was considered at the November 17 meeting. Representatives from Regional Disposal Company reiterated their earlier position. They also noted that they believe that existing in-region landfill and recycling operators will be cost-competitive with them. They also offered to pay for an independent annual audit of the operation of the Roosevelt Landfill as it relates to the acceptance of waste from the Metro region. Representatives of the Finley Butte Landfill also expressed support for the ordinance. Peter Cramer, representing Schnitzer Steel Products, testified in favor of the ordinance, noting that increased competition for special waste disposal would reduce costs and make firms like his more competitive.

Each of those who testified expressed concern about the addition of the "need" criteria, noting that it could be used to restrict

competition. Councilor Van Bergen indicated that, while he would vote for the amended ordinance, if the "need" criteria were used to eliminate competition, he would act to have that criteria removed.

Bob Martin indicated his support of the proposed amendments. He also noted that he would be developing a budgetary proposal related to the need for policing and auditing any new designated facilities. He expressed optimism that additional revenue received from newly designated facilities could potentially cover the cost of additional policing. Councilor Wyers expressed support for the idea that designated facilities could pay for an independent audit.

Todd Sadlo, Office of General Counsel indicated that, while he and legal representatives of Oregon Waste Systems have not been able to agree on the effect of the ordinance on the Columbia Ridge agreement, he felt the committee could take action of the ordinance.

**BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT**

<b>FOR THE PURPOSE OF AMENDING</b>	)	<b>ORDINANCE NO. 92-471</b>
<b>THE METRO CODE TO MODIFY THE</b>	)	
<b>DESIGNATED FACILITY STATUS OF</b>	)	<b>Introduced by Rena Cusma,</b>
<b>COLUMBIA RIDGE LANDFILL FOR</b>	)	<b>Executive Officer</b>
<b>PURPOSES OF FLOW CONTROL, TO ADD</b>	)	
<b>ROOSEVELT REGIONAL LANDFILL TO</b>	)	
<b>THE LIST OF DESIGNATED FACILITIES,</b>	)	
<b>TO ESTABLISH CRITERIA TO CONSIDER</b>	)	
<b>IN DESIGNATING DISPOSAL FACILITIES,</b>	)	
<b>AND DECLARING AN EMERGENCY</b>	)	

WHEREAS, Columbia Ridge Landfill is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Columbia Ridge is currently allowed to accept solid waste as specified in its existing contract with Metro, and pursuant to duly issued non-system licenses; and

WHEREAS, Oregon Waste Systems (OWS), the owner of Columbia Ridge, was issued a non-system license on May 23, 1991, allowing it to accept special waste from the Metro area under certain conditions; and

WHEREAS, It is more appropriate, under the solid waste flow control chapter of the Metro Code, to "designate" facilities located outside of the District that are appropriate to receive waste from the Metro service area; and

WHEREAS, Regional Disposal Company (RDC), a Washington joint venture, with its home office at 4730 32nd Avenue South, Seattle, Washington 98118, owns and operates the Roosevelt Regional Landfill located in Klickitat County, Washington; and

WHEREAS, Both OWS and RDC have requested from Metro authority to accept special waste generated within the Metro service area; and

WHEREAS, In order to determine whether either of the above-referenced facilities are appropriate to receive special waste from the service area, it is necessary to establish criteria for consideration by the Council of the Metropolitan Service District; and

WHEREAS, Based on findings contained in the staff report accompanying this Ordinance and additional information provided during the hearing on this Ordinance, the Council has determined that it is appropriate to designate the Columbia Ridge Landfill and Roosevelt Regional Landfill for receipt of special waste from the District; and

WHEREAS, Both OWS and RDC are willing to enter into an agreement with Metro establishing the terms under which such waste can be accepted at their respective facilities; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

(a) Designated Facilities. The following described facilities shall constitute the designated facilities to which a waste hauler may deliver waste or to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) ~~Metro-Riedel MSW (Municipal Solid Waste) Compost Facility.~~ The Metro-Riedel MSW Compost Facility located at 5437 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.
- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.

(8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; ~~provided that except as otherwise provided pursuant to a duly issued non-system license, no waste hauler or other person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport solid waste generated within the service area directly to, or to otherwise dispose of such solid waste at, said Columbia Ridge Landfill unless such solid waste has first been processed at another designated facility. In addition, Columbia Ridge Landfill may accept special waste generated within the service area:~~

~~(A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or~~

~~(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.~~

(9) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, owned and operated by Regional Disposal Company of Seattle and located in Klickitat County, Washington. Roosevelt Regional Landfill may accept special waste generated within the service area only as follows:

(A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to the list of designated facilities one or more additional facility. ~~In deciding whether to designate any additional facility, the Council shall consider:~~



- (1) the degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) the record of regulatory compliance of the facility with federal, state, and local requirements;
- (3) the record of the facility regarding compliance with Metro ordinances or assistance to Metro in Metro ordinance enforcement; and
- (4) the adequacy of operational practices and management controls at the facility.

(c) Use of Non-System Facilities Prohibited. Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 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 \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Jim Gardner, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

TSS 1103



**METRO**

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

# Memorandum

DATE: November 27, 1992  
TO: Rena Cusma, Executive Officer  
FROM: Paulette Allen, Clerk of the Council *PA*  
RE: TRANSMITTAL OF ORDINANCE NOS. 92-471C and 92-473A

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on November 24, 1992.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Wednesday, December 2, 1992. 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, these ordinances will be considered finally adopted.

-----  
I, *Paulette Allen*, received this memo and true copies of Ordinance Nos. 92-471C and 92-473A from the Clerk of the Council on

*11-27-92*.




**METRO**

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

# Memorandum

Metro Council  
Agenda Item No. 6.1  
November 24, 1992

Date: November 24, 1992  
To: Clerk of the Council  
From: Todd Sadlo, Senior Assistant Counsel   
Regarding: **PROPOSED ORDINANCE NO. 92-471B, CORRECTED**  
**SECOND READING, NOVEMBER 24, 1992**

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Attached is a corrected version of proposed Ordinance No. 92-471B. The copy of this proposal included in the agenda packet omitted a line of text that is currently in the Code, and is not being deleted through amendment (Section 5.05.030(a)(8), following the semicolon).

My apologies for any inconvenience this may have caused.

dr  
1206

Attachment

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE	)	ORDINANCE NO. 92-471B
METRO CODE TO ESTABLISH CRITERIA	)	
TO CONSIDER IN DESIGNATING	)	Introduced by Rena Cusma,
DISPOSAL FACILITIES, AND DECLARING	)	Executive Officer
AN EMERGENCY	)	

WHEREAS, Certain solid waste disposal facilities located outside of District boundaries have requested authority to receive wastes generated within District boundaries; and

WHEREAS, Pursuant to Chapter 5.05 of the Metro Code regarding solid waste flow control, it is proper for the Metro Council to "designate" facilities that are appropriate to receive solid waste generated within District boundaries; and

WHEREAS, In order to determine whether a requesting facility is appropriate to receive waste from the service area, it is necessary to establish criteria for consideration by the Council; now, therefore,

**THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:**

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

(a) Designated Facilities. The following described facilities shall constitute the designated facilities to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) ~~Metro-Riedel MSW (Municipal Solid Waste)~~ Compost Facility. The Metro-Riedel ~~MSW~~ Compost Facility located at 5437 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.

- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; provided that except as otherwise provided pursuant to a duly issued non-system license, no waste hauler or other person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport solid waste generated within the service area directly to, or to otherwise dispose of such solid waste at, said Columbia Ridge Landfill unless such solid waste has first been processed at another designated facility.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to ~~or delete a facility from the list of designated facilities~~ ~~one or more additional facility.~~ In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) the degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) the record of regulatory compliance of the facility's owner and operator with federal, state, and local requirements;
- (3) the record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;
- (4) the adequacy of operational practices and management controls at the facility;
- (5) the expected impact on the region's recycling and waste reduction efforts;
- (6) the expected impact on Metro's revenue;
- (7) the consistency of the designation with Metro's existing contractual arrangements;
- (8) the need for additional disposal capacity and the effect on existing designated facilities; and
- (9) other benefits accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

(c) An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro Council prior to execution by the Executive Officer.

(d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

**(e)(e) Use of Non-System Facilities Prohibited.** Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 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 \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Jim Gardner, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

1103b

## **SUPPLEMENTAL STAFF REPORT**

### **CONSIDERATION OF AMENDING THE METRO CODE TO ESTABLISH CRITERIA TO CONSIDER IN DESIGNATING DISPOSAL FACILITIES, AND DECLARING AN EMERGENCY**

Date: October 27, 1992

Presented by: Bob Martin

Metro code currently provides for the designation of future facilities by Council, however, the criteria for such decisions is not included in the code. We currently have three requests from facilities wishing to be on our designated facility list, and the Code lacks any clear basis for accepting or rejecting them. The proposed ordinance will provide the basis for future decision for adding or deleting designated facilities. Once these criteria are adopted we will be able to make recommendations to Council on any pending applications.

The key provisions under the ordinance for consideration of facility designation are:

1. The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
2. The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements;
3. The record of the facility regarding compliance with Metro ordinances and agreements of assistance to Metro in Metro ordinance enforcement;
4. The adequacy of operational practices and management controls at the facility;
5. The expected impact on the region's recycling and waste reduction efforts;
6. The expected impact on Metro's revenue;
7. The consistency of the designation with Metro's existing contractual arrangements; and,
8. Other benefits accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

The foregoing list of evaluation criteria will be used for consideration of facility designation under the ordinance. They will provide an orderly, objective and fair means by which to consider future additions to Metro's list of designated facilities. Such designations will be done by ordinance and the evaluation criteria as it applies to each specific facility will be provided on a case by case basis.



In order for this ordinance to take effect immediately upon passage, an emergency clause has been added to the ordinance.

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends adoption of Ordinance No. 92-471A



**METRO**

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

# Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: August 26, 1992

Re: Ordinance No. 92-471, For the Purpose of Considering an Ordinance Amending the Metro Code to Modify the Designated Facility Status of Columbia Ridge Landfill for Purposes of Flow Control, To Add Roosevelt Regional Landfill to the List of Designated Facilities, to Establish Criteria to Consider in Designating Disposal Facilities, and Declaring an Emergency

Ordinance No. 92-471 is scheduled for consideration by the Committee at the September 1 meeting.

## Background

This ordinance has three principal purposes:

1) Clarification of the method by which Metro regulates the disposal of certain special wastes from the region at the Columbia Ridge Landfill. Certain special wastes are now disposed of at the Columbia Ridge Landfill under a non-system license granted to Oregon Waste Systems (OWS), the operator of the facility. These wastes are not under the agreement with OWS to send 90% of the region's municipal solid waste to Columbia Ridge.

Department and legal staff believe that non-system licenses were intended to be issued to generators and haulers of special wastes that dispose of this material at designated landfill sites. Since OWS neither generates or haulers the material to Columbia Ridge, staff believes that it is more appropriate to identify Columbia Ridge as a designated facility to receive the material. This is provided for in the ordinance.

The ordinance would not change OWS's authority to accept these types of wastes, nor would it affect the municipal solid waste agreement with OWS.

2) The Regional Disposal Company's (Rabanco) Roosevelt Landfill in Eastern Washington would be recognized as a designated facility. The facility would be able to accept those types of special wastes as designated in an agreement between Metro and the company. It is Metro's intent that both the Columbia Ridge and Roosevelt Landfills be authorized to accept the same types of materials. These would include: 1) construction and demolition debris, 2) asbestos, 3)

outdated or defective commercial or industrial products, 4) contaminated soils and 5) certain special wastes as defined in the Metro Code.

3) Criteria would be established to determine if a facility should be recognized as a designated facility. These criteria would include: 1) the degree to which prior wastes disposed of at a facility constitute an environmental risk, 2) the facility's regulatory compliance record, 3) compliance with the Metro Code and prior assistance in Metro enforcement efforts and 4) operational and management practices at the facility.

I have attached copies of draft designated facilities between Metro and OWS and Rabanco. According to Todd Sadlo, these documents will likely be revised prior to any final agreement being signed. (Note: At this point any final agreement would not be subject to Council review and approval.)

### Issues and Questions

The committee may wish to address the following issues and questions relating to this ordinance:

1) Is staff aware of any other facilities that may request recognition as a designated facility?

2) What type of evaluation process was conducted to determine to suitability of the Roosevelt Landfill to serve as a designated facility?

3) What types of material does the Roosevelt Landfill wish to receive from the Metro region? How much material does the landfill anticipate receiving?

4) Why is there a need for an emergency clause with this ordinance?



# METRO

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

August 26, 1992

Executive Officer  
Rena Cusma

Metro Council

Jim Gardner  
Presiding Officer  
District 3

Judy Wyers  
Deputy Presiding  
Officer  
District 8

Susan McLain  
District 1

Lawrence Bauer  
District 2

Richard Devlin  
District 4

Edward P. Gronke  
District 5

George Van Bergen  
District 6

Ruth McFarland  
District 7

Tanya Collier  
District 9

Roger Buchanan  
District 10

Ed Washington  
District 11

Sandi Hansen  
District 12

Mr. John Houser  
Council Analyst  
Metropolitan Service District  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Re: Draft Designated Facility Agreement (See Ordinance No. 92-471)

Dear John:

Attached are two draft designated Facility Agreements, one between Metro and Regional Disposal Company (RDC), and the other between Metro and Oregon Waste Systems (OWS). There have been some modifications since these agreements were reviewed by RDC and OWS, and there may be additional modifications or additions prior to execution by the Executive Officer. The agreements are very similar, and intended to be essentially regulatory.

Please contact me if you have any questions or concerns.

Sincerely,

Todd Sadlo  
Senior Assistant Counsel

gl  
1172/9. §16.E

Attachment

## STAFF REPORT

**IN CONSIDERATION OF ORDINANCE NO. 92-471 FOR THE PURPOSE OF CONSIDERING AN ORDINANCE AMENDING THE METRO CODE TO MODIFY THE DESIGNATED FACILITY STATUS OF COLUMBIA RIDGE LANDFILL FOR PURPOSES OF FLOW CONTROL, TO ADD ROOSEVELT REGIONAL LANDFILL TO THE LIST OF DESIGNATED FACILITIES, TO ESTABLISH CRITERIA TO CONSIDER IN DESIGNATING DISPOSAL FACILITIES, AND DECLARING AN EMERGENCY.**

---

Date: August 19, 1992

Presented by: Bob Martin  
Roosevelt Carter  
Phil North

### FACTUAL BACKGROUND AND ANALYSIS

Oregon Waste Systems (OWS) was issued a Non-System License on May 23, 1991 under Metro's Flow Control Ordinance, Chapter 5.05 of the Metro Code. This license authorized various special wastes to be transported and disposed at the Columbia Ridge Landfill other than those being reviewed under Oregon Waste Systems contract with Metro.

Metro has also received a request from Regional Disposal Company of Seattle, Washington that it be permitted to receive certain types of special waste from the District to be disposed at its Roosevelt Regional Landfill located in Klickitat County, Washington. Previously such a request has been viewed as a request to transport solid waste out of the region under the authority of a Non-System License issued under Metro's Flow Control Ordinance.

Non-System Licenses are more appropriately issued to generators or haulers as contrasted with disposal sites/landfills and that landfills desiring authority to receive certain types of waste should become designated facilities under the Flow Control Ordinance. The conditions of the Landfill's receipt of waste would be determined by an agreement entered into between Metro and the facility.

A key element to the ordinance amendment is the addition of criteria to be considered relative to facility designation. One criteria is assessment of future risk to Metro based on the facility history of waste acceptance and the degree to which prior areas and waste types received at the facility are known.

Also considered is the facility's record of regulatory compliance and its record of cooperation with Metro regarding compliance with Metro ordinances. A final criterion is adequacy of operational practices and management control at the facility

The designation of Columbia Ridge Landfill under the ordinance as modified maintains the existing relationship between Metro and Oregon Waste Systems (OWS) relative to the materials being received under OWS's Non-System License. Procedurally, the proposed ordinance

distinguishes between facilities being "designated" versus generators or haulers being eligible to apply for a Non-System License. This is consistent with current legal interpretation of Metro's Flow Control Ordinance.

The present request for facility designation by Regional Disposal Company is similar to the request by Oregon Waste Systems to be designated as an approved facility under our Flow Control Ordinance. The types of material sought to be approved for disposal at the Roosevelt Regional Landfill are similar to those being sought for the Columbia Ridge Landfill.

This staff report will be supplemented prior to public hearing at the Council Solid Waste Committee (CSWC) with respect to the facility evaluation criteria as they pertain to the particular facilities. Also, copies of the proposed agreements will be available to the CSWC.

In order for this ordinance to take effect immediately upon passage, an emergency clause has been added to the ordinance;

#### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 92-471.

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE )  
METRO CODE TO ESTABLISH CRITERIA )  
TO CONSIDER IN DESIGNATING )  
DISPOSAL FACILITIES, AND DECLARING )  
AN EMERGENCY )

ORDINANCE NO. 92-471A  
Introduced by Rena Cusma,  
Executive Officer

WHEREAS, Certain solid waste disposal facilities located outside of District boundaries have requested authority to receive wastes generated within District boundaries; and

WHEREAS, Pursuant to Chapter 5.05 of the Metro Code regarding solid waste flow control, it is proper for the Metro Council to "designate" facilities that are appropriate to receive solid waste generated within District boundaries; and

WHEREAS, In order to determine whether a requesting facility is appropriate to receive waste from the service area, it is necessary to establish criteria for consideration by the Council; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

(a) Designated Facilities. The following described facilities shall constitute the designated facilities to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) ~~Metro-Riedel MSW (Municipal Solid Waste)~~ Compost Facility. The ~~Metro-Riedel MSW~~ Compost Facility located at 5437 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.

- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to ~~or delete a facility from the list of designated facilities~~ ~~one or more additional facility.~~ In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) the degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) the record of regulatory compliance of the facility's owner and operator with federal, state, and local requirements;



- (3) the record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;
- (4) the adequacy of operational practices and management controls at the facility;
- (5) the expected impact on the region's recycling and waste reduction efforts;
- (6) the expected impact on Metro's revenue;
- (7) the consistency of the designation with Metro's existing contractual arrangements; and
- (8) other benefits accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

(c) Use of Non-System Facilities Prohibited. Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 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 \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Jim Gardner, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

TSS 1103a

Ordinance No. 92-471 -- For the purpose of designating the Roosevelt Landfill and the Columbia Ridge Landfill as designated facilities the Metro solid waste system.

Phil North: By way of background, the genesis of this ordinance was a desire to establish a uniform way of dealing with a couple of issues, waste that was going to a particular facility, in this case Columbia Ridge Landfill under a non-system license that was issued under our flow control ordinance and the essence of that was it authorized certain types of materials to flow directly to that facility with certain reporting requirements and also submission of Metro fees and excise taxes. In late spring early summer of this year we had interest expressed by the Roosevelt Regional Landfill to be able to receive certain wastes from our region. At that time it was felt that perhaps we should look at a more broadly based way of addressing the flow of material out of our district that is not within the 90% contract which we have with Oregon Waste Systems. The process that we developed was the designated facility ordinance which is presently before the committee. The idea was to try to have uniform agreements that would be substantially similar in all respects to most of the facilities which would be an ease in the administration and also you might say have a level playing field for the facilities that would be given the opportunity to receive waste from our region.

From that beginning with the Roosevelt Region Landfill and the Columbia Ridge Landfill, two other entities, namely the Sanifill Landfill (the Northern Wasco County Landfill) and the Columbia Resources group that runs the Finley Buttes Landfill also expressed an interest in such a designation. We are not at the present time bring those two forward but potentially will be bringing them forward in the near future.

One of the matters which should be brought up at an early point here is that very recently, as of yesterday (August 31, 1992) as a matter of fact, a couple issues have surfaced which may have significant policy implications for this designation and Councilor Wyers was in this meeting as was I and Bob Martin and some other people and there was a discussion as to whether or not there might be, for example, if you designate a facility and you allow material to flow to that facility such as construction/demolition debris, whether or not there might be a negative impact on the recycling rates in the region. In that interim period I have had an opportunity to talk with people in our waste reduction group and recycling expertise that is available in the department and at this point I don't feel we can give you a definitive yes or no that it would have a negative or for that matter a positive impact on the recycling rate.

To perhaps give a little tangible shape to it, for example, if you have a requirement that construction/demolition debris be sorted, picked and only the residue be permitted to go to these landfills which would be our expectation, the question is still not fully addressed as to whether or not the activity would be equivalent to, or superior to, or not equivalent to existing processes that are in place for recovery of material of this sort. Lacking the ability to give a definitive answer to that question, we have some hesitation about suggesting that we proceed with a full recommendation at this time. Lacking a bit more time to analyze this and particularly lacking input from the parties involved such as

Oregon Waste Systems and from the Roosevelt Regional Landfill people. I think, and I should note that since yesterday I have been in touch with both Diana Godwin, representing the Roosevelt Regional Landfill and with Doris Bjorn of Oregon Waste Systems, have discussed this issue that has arisen and have made them aware of concerns that have come up and I think that to be fair to them, rather than try to give you a qualitative judgment as to where we feel this should go, that they have an opportunity to speak and that my recommendation, based on my consultation with our staff, is that we take a bit more time to consider the waste reduction/recycling and other potential impacts that such a decision may have. I might note, I am somewhat dwelling on this recycling issue but there are some sub issues which are somewhat procedural related to the agreements that are accompanying the ordinance which would be potentially be put into force to regulate the arrangement and some questions that certainly as to the process for future designation for facilities in the role that the Council may play in understanding what those agreements may contain. But I think that keystone issue really is waste reduction and whether it would have an impact on recycling. I will be happy to speak more specifically as to the ordinance and the other documents accompanying.

Councilor Wyers: Are there questions from the committee?

Councilor Buchanan: Its not altogether clear in my mind from the reading I have done and from your statements what the title designated facility means. What does that give Columbia Ridge and the Klickitat facility for example?

Phil North: Under our original flow control ordinance we had listed a variety of facilities which we call designated facilities among them, for example, the Hillsboro Landfill which as you know is slightly outside our district but has historically been used by residents of the district for taking significant volumes of waste the same would be true of Lakeside Reclamation often known as the Grabhorn facility. We designated these facilities as one which one could go to and use without you might say the red tape of getting some further approval based on our regulation under our flow control ordinance and that system does work where the people go in, pay their tip fees, and user fees, excise taxes, etc. are remitted to Metro. We did have also our provision under the ordinance for allowing for what are called non-system licenses where someone, whether it be a hauler or as has been interpreted in the past a landfill or disposal point or a generator, could apply for non-system license to take material out of the district and dispose of it at what we call a "non-system" facility. One of the key criteria under the non-system license authorization was did we have, do we have a facility within the district which is suitable for accepting or receiving those kinds of materials. One example might be sludges, we are not really keen on getting sludges at our transfer stations.

If we do not have a suitable facility within the region to have these kinds of materials be received, we are clearly not wanting to place impediments in the way of proper disposal of this material. So it allows us the ability to know what this material is, where it is going and also assure that the appropriate user fees and excise taxes are paid. The most notable example is Columbia Ridge Landfill received a non-system license whereby they were

taking certain materials such as petroleum contaminated soils, asbestos, some what we call non-spec industrial product waste that was not suitable for going through our transfer stations. The designated facility ordinance concept was considered and is considered as a means to have a uniform approach to what has turned out to be a variety of facilities that have an interest in receiving waste within the region and trying to establish a protocol for providing a level playing field for those competing facilities which presumably would end up providing competitive price structures for those people that would fall within the appropriate criteria for disposal.

Councilor Wyers: If it is okay with the committee, we will go ahead and ask Mr. North or Mr. Sadlo the questions that we have and then if we can hear from anyone who wants to testify, we will have a public hearing and then after that, if there are further questions, we would be glad to entertain those and then a discussion among the committee members.

Councilor Hansen: What would the charge per ton be at the Roosevelt Regional Landfill site?

Phil North: I think that there are some varying changes. In terms of their disposal at the facility, I believe it is in the range of \$20 - \$25. Mr. Uedelson of the Roosevelt Regional Landfill is here and he can give you the specifics, but I believe there are some differences in charges based on the type of material.

Councilor Hansen: This is material that can or cannot be taken to Columbia Ridge?

Phil North: In general, the authorization for Roosevelt Regional Landfill and the Columbia

#### END OF SIDE A

Phil North continued: I believe that Doris Bjorn of Oregon Waste Systems can give you the specific range of disposal charges but I believe that they too have a variety of charges based on type of material.

Councilor Hansen: As far as you know they are comparable charges?

Phil North: I can assure you, based on my conversations with the parties, that Columbia Ridge and Roosevelt Regional Landfill are intensely competitive with each other.

Councilor Hansen: So we are not going to have 150,000 tons maxed out on six months at one facility.

Phil North: I don't think so.

Councilor Wyers: I might just put a comment in here and that is that we are not really concerned about the competitiveness between the two facilities as it pertains to this

particular type of waste. What we are concerned with here is the competitiveness between these two facilities and other processing facilities who are charging \$75 a ton and are doing a very high level of recycling and the difference between those two figures roughly could be within the neighborhood of \$20 - \$25 per ton. Certain processors within the region right now are charging \$75 per ton but they are doing a heck of a lot of recycling and have a lot of people working but it is possible that if this Roosevelt Regional Landfill is going to be tipping at \$20 - \$22, you can specify to this a bit more Mr. Uedelson, and then they have the user fee on top of that and then they have transportation, that total may be \$55 a ton, its possible, and so that's \$20 a ton less essentially to take it to Roosevelt Regional Landfill even though the two facilities may be competitive with one another on that particular item. Other questions?

Councilor Van Bergen: Your testimony indicated that certain waste from our region would be permitted to go to this facility. What is certain waste?

Phil North: I was being non-specific but the agreements which are in the packet list a group of about six types of material, included among them construction/demolition and land clearing waste and non-hazardous industrial dust, asbestos, outdated or defective commercial industrial products off-spec material, outdated commercial or industrial products not meeting manufacturing specs, contaminated soil, non-putrescible debris from cleanup of petroleum, other non-hazardous chemical spill, special waste and then a general category other waste as described in future addendum. The idea, as I interpret it at least, is that we would be looking, primarily for most of these categories of material, at material that is not easily dealt with through our transfer stations or existing facilities in the region. The issue of the example I gave earlier of the construction/demolition debris I think illustrates the policy issue that comes to play here and as I say, I can't give you what I would call a definitive quantitative or for that matter qualitative opinion on the impact of transport of that kind of material.

Councilor Van Bergen: The questions I am asking are the arena of oversight we would have. In this demolition material you are talking about, is there some type of oversight, or is it permitted at Roosevelt Regional Landfill to permit paint cans and household hazardous waste type things like we are seeing in our household hazardous waste at Metro South.

Phil North: I would want to defer on that question to Mr. Uedelson.

Councilor Van Bergen: Would there be any way that we would do that? We can't put a person on every truck that is going over there.

Phil North: That is correct and control and oversight as to the actual content of sealed containers could well be and issue for us, but I think it would clearly be as much as or a greater issue for that matter to a facility that might see these materials coming in and clearly have a significant interest in preventing that from happening.

Councilor Van Bergen: I'm a self hauler, as everybody seems to know around here, and I have my materials in garbage cans in my pickup with bungi cords and lids and I know I must be suspicious because I know the people at Metro South stand and watch to see what I am dumping out of those cans. Probably they are correct in doing so and that's the kind of oversight I was thinking about there at Roosevelt Regional Landfill and they not violate that anymore than I do.

The last question I have -- here about a year ago we gave a special authorization to Washougal to dump at Columbia Ridge Landfill. Has that Washougal agreement expired or are they now going to Roosevelt Regional Landfill?

Phil North: Washougal was authorized to come to our transfer station and ultimately to Columbia Ridge Landfill. They did I believe some small amount of waste but there are no longer bringing waste to the best of my knowledge.

Councilor Van Bergen: Has there been an official termination of that authority?

Phil North: I believe the agreement was for a period of one year. I would have

Councilor Van Bergen: Perhaps you can go back to your office and see if that has been terminated.

Phil North: I can do that.

Councilor Wyers: Other questions? Well I'd just like to bring up a comment and that is it's my feeling that what we are concerned with here is not the possibility of hazardous waste going up there Councilor Van Bergen, because I think there are some ways of retarding that before the tipping occurs. But what I am concerned about is the notion that in any particular given load that there may be other types of waste which is just our municipal solid waste and that unless you have a spotter there that looks at every single load there really won't be any way to tell whether or not those loads are pure special waste. What we are talking about here is an issue of control and that is whether or not by not designating Roosevelt Regional Landfill and of course along with it Columbia Ridge Landfill do we have more control or do we have more control by designating them. I think the trade off here is if they are not designated, then a truck that goes up there from this area is not in compliance. But if you have a hundred trucks going up there that have a certain amount of their loads being municipal solid waste how are you ever going to spot it? And that brings up the whole issue of agreements.

Councilor McFarland: My question ties right in with what you are saying madam chair. Say we have loads going up, there are no loads now that can come from here to go to the Roosevelt Regional Landfill legally is that right?

Phil North: That is correct.

Councilor McFarland: Suppose we make it legal for the special waste but then we have loads going up there that are largely just regular waste that would normally go through or processing people who would recycle part of it or whatever. Would it be cheaper to haul it directly to the Roosevelt Regional Landfill or would it be cheaper to take it to one of our transfer stations or one of our private operators who does recycle.

Phil North: My estimation is that it would probably be cheaper for them reload and take it to Roosevelt Regional Landfill or Columbia Ridge for that matter than it would be to take it to our transfer station or to a processor.

Councilor McFarland: Would it be cheaper to take it to Roosevelt Regional Landfill or Columbia Ridge Landfill or would this be about equivalent, for just stuff?

Phil North: Between the two facilities, I would suspect that they are intensely competitive with the rates they would offer to people. The quote I heard from one party referring to their competition was "take no prisoners."

Councilor Wyers: This brings us up to a couple of other ideas and one of them has to do with these agreements because I think I hear from you Mr. North, and this is mostly explanation for the committee, and also food for thought for people who are going talk a little bit later and that is right after this ordinance is passed, then both Columbia Ridge Landfill and Roosevelt Regional Landfill will set forth some agreements with Metro about what they are going to be doing and one of the concerns I have about that, is that at this point that would not be something that would come back in front of this Council, is that correct?

Phil North: I believe that is the way it is configured.

Councilor Wyers: So it seems to me like one of the things this committee might want to consider would be to see that agreement from both of those facilities and the reason I say that is because those agreement are going to set forth the ability of Metro to do inspections and some audits which is what I think we are going to need in order to ensure that we have the right kind of waste going up there so that we don't have a lot of leakage out of this region. It seems to me like if we just approve a normal audit process it might be a year or two before we actually got around to auditing and inspecting the records from either one of the landfills and in two years you can dump a lot of waste that isn't just special waste and you can make a lot of money on it at \$20 per ton. So it seems to me like either we ought to specify that we can tighten up those inspection audit types of areas in those agreement or we might want to see the agreement back.

The other thing that I would like to just run by the committee is the fact that if you are concerned about leakage of waste, which is something that this government is concerned about because we are down 20% and who knows where it is. Then one of areas we need to look to is the area of the haulers and as you say this dump and sort operation because from what I understand about that is that a hauler would bring construction/demolition

debris or other special waste there, there might be a little bit of low level recycling otherwise it will just go into a truck and then it will go up to the landfills. Now the level of recycling there at that operation is not going to be the same as a regularly franchised processor that we have in the region who is getting up to 50% and who have like thirty three employees on board and who has a whole operation designed to do nothing but keep the recycling levels really high and keep the disposed waste down. So how are we going to assure, do we have to then modify all these franchise application to make sure that we have either a) someone there to inspect or records that we can see to see what they are taking up there and b) how can we assure good recycling levels there.

Phil North: I think your questions and issues are well made, I unfortunately do not have a ready answer for you but I think that it bears looking into in terms of our franchise process for example, I don't pretend waste reduction expertise so they will probably flog me after this but we don't for example specify a degree of recycling percentage that a processor must have for a particular type of processing and of course that might vary depending on the type of processor that might be and that could well be a part of that kind of consideration you are talking about that is how do we quantify what they are doing?

Councilor Wyers: The other part of it is how do we verify and tie to the reports from any given landfill the makeup of the actual loads. At this point even a franchised operator could take a load from a site directly to Roosevelt Regional Landfill without even going through the dump and sort operation is that right?

Phil North: That risk would certainly be there.

Councilor Wyers: And then nobody would have any records about it, maybe the landfill would. But again if it is listed as special waste and nobody check it, it could have a lot of putrescible waste in it too. I guess that is something, the question of how the franchises tie in with this whole agreement process and the level of recycling then are two questions that I think are big enough that we ought to think about giving another couple of weeks to look at it. The other thing that concerns me is that Mr. North are you aware that there was waste from this region going to Roosevelt Regional Landfill?

Phil North: Indirectly, I was told that there was an acknowledgment by the Roosevelt Regional Landfill that they had reviewed their records after a conversation with us and that they had indeed acknowledged that some material had arrived there. I am not aware of the circumstances under which it went there, I am not aware of, again second hand I was told that they would provide verification of the tonnages that went there and secondly that they would reimburse Metro for the user fees for those tonnages. I am not aware of the current status of that.

Councilor Wyers: Have they done that? Have they given us the reports?

Phil North: I don't know. Not to my knowledge.



Councilor Wyers: We don't have any idea how much it is then because we don't have a report is that right?

Phil North: If a report has come in, I am not aware of it.

Councilor Wyers: Do we have a deadline?

Phil North: I have not spoken directly with them about that. I was in an initial conversation where the question was raised about materials that may have gone to their facility and my impression at that point was that they were unclear about whether some material had come there and apparently in retrospect they had reviewed there information and I believe some of that was passed on to Mr. Sadlo I don't know.

Councilor Wyers: I'm going to ask Mr. Eudelson also. I'm not concerned about it if it is \$10 I am concerned about it if it is \$10,000.

Phil North: I have not had any direct conversation about it and I don't know the status at the present time.

Councilor Wyers: I think we ought to be in good faith about it and I don't know what the deadlines are. Are there other questions for Mr. North. Okay lets have a public hearing then. I would like to open this issue for a public hearing anyone who would like to speak, please come forward.

Jerry Eudelson, Roosevelt Regional Landfill operated by Regional Disposal Company, and Diana Godwin, attorney and advisor. I would like to address the questions, I know Councilor McFarland has to leave pretty soon, I will try to address them in roughly kind of reverse order to how they have been discussed. I wanted Councilor Van Bergen to know that if a suspicious looking character resembling him were to show up at our landfill, the odds are that unless he could show he was a resident of Klickitat County and had a good reason for being there he would not be admitted, bungi cords or no.

We, along with Columbia Ridge and the Finley Buttes facility, we feel that Roosevelt Regional Landfill, these three together offer the finest kind of state-of-the-art environmentally secure disposal in the northwest and ought to be something that you would be proud to have in your system. We also, through and affiliate company, operate on of the largest if not the largest private recycling company in the northwest with activities in Seattle. We are keen on recycling, we are keen on playing the game properly and being a responsible corporate citizen.

With respect to the construction/demolition waste which was an item talked about quite a bit already, quite frankly, it is not economic to move drop boxes to our facility. Transportation costs alone would be in excess of \$75 per ton because you are going to spend about \$1.50 per mile plus or minus 10% or so, you have a 300 mile round trip and you are going to bring 10 tons, that's 6 or 7 tons that's what you're going to get out of

some of these drop boxes, it's not economic, but frankly, to cut to the chase on that issue, we have no problem in agreeing as part of this agreement along with everybody else, that we will not accept construction/demolition waste except through an authorized recycler. I have no problem with that or anyone who meets your standards whether they are officially franchised by you or not. We are looking strictly at the residue material that simply cannot be recycled. So believe me, we have no problem in assisting you in carrying out your recycling policies and in promoting it and doing whatever we can as part of this agreement. In our own analysis is just not economic to take this material up there in the typical drop box loads that you get straight off of demolition and construction sites. It just isn't and that is why most of the stuff goes a short range and most of the drop box business Oregon Waste Systems does, I'd be surprised if they took straight drop boxes up to Columbia Ridge because it is very costly to do transportation with small tonnage loads because you have a lot of fixed cost to run that distance. If we could just put that issue aside I have no problem with agreeing to that and working with your people.

One of the issues that was raised in several different guises was the issue of how do we know what is going there and household hazardous waste. We are a company, part of a group of companies, that has been in business over 50 years in the northwest. We are family owned, we are privately owned, we are long-term oriented. We don't want anything coming in that is going to cause problems in the future. We don't want monitoring in the future to uncover hazardous material we want this as a 40-year to 80-year facility for our company and for business and industry and governments in the northwest. You are not going to see putresible waste going there. Everything that we would take under the special waste agreement is the result of a direct sales activity between ourselves and some business, we know what is going in, we know who the haulers are, in most cases we arrange the hauling. There is not going to be an opportunity for somebody to show up at the front door and dump anything.

Everything has to be analyzed and checked first, we have a complete certification procedure against the Washington Dangerous Waste regulations, everything, once it is checked and approved, has a bill of lading, a project number, a job number, it has a credit check, nothing just shows up there and gets in the front gate, I guarantee you that and we have 24-hours a day at the front gate. We are very, very tough on this and I can assure you that whatever audits, surprise inspections, anything that you want to do, we have provided for quite a bit of that in section 10 of the draft agreement which is in your packet today. We don't want the stuff. I don't how more strongly I can say that. If it isn't part of a legitimate deal it's not going to get in, it just can't. There are only two people in our entire company who have the authority to approve waste going in and both of them are professional engineers who work at the landfill, we are very, very serious about this issue.

Under our agreement with Klickitat County we can not even do business with you until they sign off on your solid waste management plan, including household hazardous waste pickups and screening of all this material from the wastestream that's one of their requirements and I gave them a copy of that to take a look at. But any county we would do business with is the same and so we think that along with, particularly the other two

major regional facilities that we are going to offer probably the safest and most secure long-term disposal in the region.

The issue about user fees. I just want to give a little bit of history or kind of waste going in. I opened an office in April at that time, my company, and I hope you will appreciate this being Seattle based was not fully cognizant of everything you were doing. We had some national account business in the disposal of petroleum contaminated soils of companies like Arco, Exxon, UNOCAL, etc. that was sold out of Seattle that was undoubtedly transported out of the region. It is a lot of handwork to audit but be suspect that the amount is somewhere between one and two thousand tons total over a year or so. As soon as I opened the office, found out about your ordinances, and hired Ms. Godwin to advise us, we put a real clamp on all of that. I made very clear to my people that we were in the business of being a good citizen and that is something we just didn't know. So we have an audit that should be completed in the next week or two and we will share that with you prior to your adopting any ordinance to accept us we will give you a check for the amount of material in question we will invite you to audit our records. It has not been our intention to go around anybody. I will guarantee you that, other than those quantities, there is nothing that has gone to Roosevelt Regional Landfill with any general purpose garbage or municipal waste, what have you. I think our record of compliance is excellent, we have excellent relationships with our public, clients, Snohomish County, Watcum County, Witcomb County, all in Washington, we have done a major piece of work for the City of Portland in disposing sewage sludge which we are using as daily cover material. We want to play it straight so that is where we stand on that issue.

Councilor Wyers: Mr. Eudelson, if I could interrupt you just briefly, Councilor McFarland, I see your light is on, you need to leave.

Councilor McFarland: Yes, I do have to go, and this is a concern to me, and I guess how I feel at this time, without having heard the rest of the public testimony, but I hope I will be brought up to date on it. It sounds to me like we can work together and work something out that's agreeable to us, but I would really like for us to hold it over for one more solid waste meeting, get the reports that we haven't yet received as to how much material did go up there and how we would deal with that in the future so that it indeed would do no more. I have some recyclers, particularly in east county, that I know that I would not like to see hurt by any kind of a contract with you and nobody for that matter, in the district would I like to see. But the closer up there you get of course the simpler it would be. So I would, without this prejudicing in any way, the outcome of this, I would like it to be held over Madam Chair if we can do that. If you decide to vote after I am gone of course I can't stop you, but that's where I am at the time.

Councilor Buchanan: I want to comment on what Councilor McFarland said. I would gladly go along with her request to set this over for further consider and I'm sure we would try to accommodate that.

Mr. Eudelson: Just on the east county recyclers, I think my earlier comments address that issue, we want them to stay in business and prosper and we are perfectly willing to agree to take no direct materials that don't go through a process or processor that you are on to of and that's fine with me, you know, as long as it holds for everybody, lets protect them, lets keep them in business and if somebody wants to build a transfer station in the future according meeting all your rules and criteria lets bring them into the picture as well. We do not have any interest in doing anything but being a legitimate, first class disposal site for this region and to offer competitive services to industry for the materials that must go to final disposal but we are in the recycling business probably heavier than anybody and we understand those dynamics.

Councilor Wyers: I think the best thing you could do for recycling would be to institute that requirement, that you would only take the residue from a licensed or franchised processor because I don't want to get into a whole litany of what can be done at the landfill for recycling. But frankly, my feeling is that once it gets up there, I'm hooray for any bit that can be out of course and I know it's cost effective to do that and I know why but I think that the impetus ought to start here at home.

Mr. Eudelson: Yes, we agree and in fact Diana has just pointed out Section 4A.

Diana Godwin: I particularly wanted to address this issue. Back when I was negotiating the terms of this agreement with Mr. Sadlo, particularly looking at our date on July 14 when we discussed this, I drafted some specific language to modify the construction and demolition waste issue to specifically say that we would allowed to receive that only after the useful materials in these wastes have been recovered for reuse, recycling, for energy resources. And Mr. Sadlo and I agreed on that, it didn't appear in the final agreement, because when we talked further he felt that the economics themselves would accomplish that, but we had suggested this language six-eight weeks ago so we are ready to go on that, it had always been our intention on the construction and demolition debris.

Councilor Wyers: I'm very glad to hear that but I would want to at least do an exploration of whether or not it ought to be just the construction and demolition debris or if it ought to include everything, it's not going to be sludges but you never know. So Mr. Sadlo you can incorporate that into the agreement.

Can't understand -- no microphone for maybe Mr. Eudelson, taking about incorporating industrial sludges, contaminated soils

Councilor Wyers: Are there any other comments? Mr. Eudelson?

Mr. Eudelson: No that's it, we said our part continued talking, no microphone.

Councilor Wyers: If in the agreement, is it possible for Metro to know who the hauler is? Yes? So your records include so we would have access to that.

Mr. Eudelson: Answer we want to be totally... no microphone

Councilor Wyers: Right, I understand that,

Mr. Eudelson: I would say quite frankly that we developed ... no microphone

Councilor Wyers: Are there questions from the committee, no my understanding too is that you are going to produce these audits and then a check for whatever is owed, my guess at \$10,000 turns out could be low could be real low. So and then I think also the recycling, the whole concept of only accepting the residue waste particularly on the construction and demolition debris is something that I want to think about and ask the department to take a look at and I think that certainly offers the opportunity for the recycling to go on which is one of the things I am looking at. Okay, good. Are there others who want to testify on this issue. Recognized someone, microphone not working.

John Houser: Excuse me Madam Chair, we appear to be having some trouble with that mic, it's not picking up on the system over hear. The light appears to be on but we are not receiving over here.

Councilor Wyers: Could we ask you both to move to the next table. This one we have had trouble with also, we hope you will mention that, whenever you hear anyone criticize the new building, remind them that we are going to have a good PA system.

Doris Bjorn: My name is Doris Bjorn, I am employed by Oregon Waste System. I thank you Madam Chair and the committee for allowing us to offer our comments this evening on the ordinance that you are considering. As I mentioned before, I regret that we haven't had a real opportunity to discuss the details of the ordinance that is being considered with the Metro staff, however, we do have a meeting scheduled in the near future to discuss the details. In general, we don't understand why this approach is even being used in designating facilities for Metro, to us it appears the existing ordinance provides adequate language for this purpose. We do have concerns. The 90% provision in Oregon Waste Systems Contract with Metro and flow control for the purpose of meeting recycling goals for the Metro area. Therefore Madam Chair, I will ask you just a couple of questions.

Since we believe special waste is included in the 90% provision for Oregon Waste Systems contract with Metro, how will the ordinance provide controls on the waste flow to designated to assure the 90% provision is not violated.

Secondly, and I think this has pretty well be covered tonight but i will go ahead and ask the question since I have it in my prepared text. Are you concerned that wastestreams which could and should be recycled may be shipped to facilities designated in the ordinance. With Metro's aggressive recycling goals and the recycling goals described in Senate Bill 66, what controls will assure that shipments made to these designated facilities will not include ones which should go to the recycling centers. We are interested in your response to these questions we have presented and believe it may be appropriate to delay

action on this ordinance until these issues have been evaluated. We thank you for the opportunity to talk at this time.

Councilor Wyers: Are there any questions?

Councilor Buchanan: This is part of the realizations I'm coming up with as we get into this topic is that this whole idea hits the foundation of our whole solid waste system for the whole region in terms of the enforcement of the contracts that we have and that sort of thing and I think where I'm going from and I could be wrong, and I'm sure somebody will correct me if I am. I've come to the conclusion that we are in a marriage situation with Waste Management for what was it, twenty years, I believe, we have sixteen years left of seventeen years and they are the primary recipient of this region's solid waste. And when we start talking about going to other landfills I say, well what about Waste Management, and I'm kind of starting there. I think that's what I'm hearing from you Doris, is something pretty much along the same line, what it is gives us an obstacle with which we should be able to give an answer to the question why are we doing this when we have our basic contract with Waste Management. And if there's good reasons of course there's no reason why we should of course, but if there aren't good reasons, I think that we should not do it. So I think we are at the core argument here. What are we trying to do? Are we trying to do something that Waste Management can't do? Are we trying to weigh that prospect against something more ephemeral like are we trying to drum up competition for Waste Management by opening up Klickitat to our facilities and that sort of thing? I'm sort of thinking out loud here and that's why I'm kind of answering Doris's questions with other questions I guess.

Doris Bjorn: Actually Councilor Buchanan you have asked a good question. As Mr. North mentioned in earlier comments, we were issued a non-system license because we'd had requests from generators in the area for some material that would not be accepted at the transfer station and they desired to dispose of it a Columbia Ridge and I came in a visited with Metro and in working through the ordinance for flow control, we were issued the non-system license. For special waste, it is a waste that has to be handled in a different manner than just your municipal solid waste in that we are concerned about what goes into our landfill. Number one to protect Metro and other customers who may use out landfill but also to protect the integrity of that landfill. It is a huge investment that we have made, that Metro has made and so we have a system set up for acceptance of that special waste at our landfill. Unless the waste goes through that particular system it can not be accepted and the agreement that we had with Metro under the non-system license was very specific on the types of waste and how it would be managed at our landfill.

Councilor Wyers: Other questions? Mr. Sadlo, is the existing ordinance adequate? Is the non-system license, why did we change our minds and decide to kind of go in a different direction?

Todd Sadlo: The reason we decided to go towards designated facilities for facilities is that that is the structure of the flow control of the code. It would, I don't have the

particular wording in front of me at this time, but in essence it appears that from the way it was drafted it was intended to run. With facilities that exist outside the boundaries that want to accept waste from within the district being designated by the Council to receive that waste and with other individuals, haulers, generators, who wish to take waste out of the district for whatever reason, coming to Metro and asking for a non-system license and paying \$1,000 for it essentially.

I think it was anticipated from the way it's set up that we would not be issuing non-system licenses to facilities. In other words, an administrative act that basically sets up a facility to, like Oregon Waste System received, be the only party to receive these wastes. That is what has occurred and Oregon Waste System did receive a non-system license that expired on May 23 of this year. At that time we started discussing whether or not that should be renewed and it was the opinion of the Office of General Council that it was more appropriate designated facilities status of Oregon Waste Systems be changed to reflect and agreement with them to accept certain kinds of industrial wastes and other special wastes that they were interested in receiving.

We have been attempting to negotiate such a contract with Oregon Waste System and have had no luck to date and have had no real comments on any draft that we have issued related to this agreement, nor have we received any information or arguments as to why they believe that their agreement would allow them or requires us to provide to them 90% of all special waste that is generated within the Metropolitan area and we have presented to them at least the bare bones of arguments as to why that is not the case. I am happy however, that this hearing appears to have, or may coalesce their opinion about why it is that the agreement says that. I may be straying from the question there.

Councilor Wyers: No, but that was my second question. Do you have any problem with the notion of including in the agreement, if this does pass that you would only accept either the construction demolition debris or special waste from a licensed processor or recycler? Do you have any problem with that?

Doris Bjorn: If it is the decision of Metro, Councilor Wyers to go ahead with the agreement, I would have no problem with that type of language.

Councilor Wyers: And i understand that you are not agreeing to the agreement. Are there other questions? It is this time for the committee to deliberate or make a decision. Is there a discussion from the committee. Oh, excuse me, are there any other witnesses, I should ask? Excuse me, the public hearing is continuing.

Randy Johnson: My name is Randy Johnson of the firm or Bogle and Gates representing Sanifill Inc. As Mr. North had previously indicated, Sanifill has requested that its northern Wasco County landfill facility be considered for designated facility status under the Metro Code. We are here this evening to request that that designation be considered along with the two facilities that we have already heard from this evening.

My client, Sanifill, had begun initial discussions with solid waste staff back in November of the past year. I say initial discussions, I don't think they went beyond too much but the issue was there and we were inquiring about becoming designated specifically for recycling residue waste which would include construction debris following post recycling. As the request of the Roosevelt Regional Landfill facility came on line, my client, in further discussions with staff understood at least that its request for designation for its facility would be considered along with these requests. However, as you well know the ordinance does not contain that request. There was a mention by Mr. North that we along with the Finley Buttes facility would be requesting that at some time after this request. Quite frankly we are concerned that, as there is great deal of concern here regarding for example the 90% issue going to Waste Management that once some facilities are designated that there will be an attempt or some thought to cut off designating any additional facilities. So we would like to, simply as a matter of fairness, be considered now in a competitive process between all qualified facilities to weigh which facility should or which facility should not be so designated and our purpose of this request is certainly not to be obstructionists or to delay your decision in this matter but again it is simply to as a matter of fairness participate in that process. So, again, we would also be will to immediately enter into the form of agreement that has already been discussed here this evening for the acceptance again of the post recycled residue waste and we would be committed to working with Metro in crafting a form of agreement that would be agreeable with the committee.

Councilor Wyers: Are there questions of Mr. Johnson? Do you have any idea why you weren't included?

Mr. Johnson: No, I do not. According to my client who unfortunately was not able to be in attendance tonight, it was his understanding that we would be considered simultaneously. I do not know why. I understand from Mr. Sadlo that his original draft, correct me if I'm wrong sir, the original draft did contain our request for consideration but that had been removed then to consider only the two facilities that you have before you tonight. I have prepared a letter to Mr. Martin, who I am sure in his absence didn't receive it today. But I would like to see if that could get into the record. I have copies of that.

Councilor Wyers: Yes, please hand that to our clerk and you have given it to Mr. Martin. So basically then, instead of having two sets of records to audit about special waste and to make sure nothing wrong is going on then we have three sets.

Mr. Johnson: That would

**END SIDE B**

Mr. Johnson: (continued) and if that is the intent to allow the process to be competitive and again, given the concern of the volume of waste, and certainly the concern of Waste Management for holding the 90% requirement, there certainly is a limited amount of waste and as you pointed out we are down 20% in the region that there would be a limited



amount and negative pressure to allow additional facilities to become designated. Therefore, we would like to consider this issue as a comprehensive resolution of all interest facilities at this point.

Councilor Wyers: I'll talk to Mr. North if he wants to comment on that, either now or at the next hearing if we should decide to carry it over. Do you have any idea why they aren't in here?

Todd Sadlo: Madam Chair, we had started discussions with Regional Disposal Corporation, Roosevelt Regional Landfill, and they wanted to legalize their situation because they had already begun getting waste from the region and they approached us and began negotiating extensively on what the terms of that would be. At the same time we realized that we had to take care of Oregon Waste Systems because of the expired non-system license. The issue of Sanifill and then of Finley Buttes, to my knowledge I had no discussion or no information that Sanifill was seeking any kind of designated facilities status until we started talking about whether construction and demolition debris would be allowed to go to the Roosevelt Regional Landfill. That was relatively recently, within the last couple of months. The feeling was that we were not going to be able to coordinate all these different requests in the ordinance before you and get it to you now. It was going to take a lot longer to do. I think that we just decided that it was time to put this on an agenda and get some discussion going so that we could air out the bugs and the potential problems of doing this and therefore we went forward with the two facilities instead of attempting to add on whatever number of facilities might be asking for such a designation.

You also have a portion of the amendment is for finding as to the suitability of a facility for designation and I don't know if you got findings or not with regard to the two facilities that are up, but the feeling was that we were definitely not going to be able to that kind of review on four facilities for this meeting. It appears we were not able to do it for two facilities for this meeting.

Councilor Wyers: Well I would suggest to Mr. Johnson that he needs to discuss this also with Mr. Sadlo and further with Mr. Martin. Okay, is there anyone else who wishes to testify?

Mr. Glazier: My name is Jess Glazier, I'm an attorney for Portland and I represent McInnis and Son Sanitary Services, one of the haulers. I come at this at a little different perspective from what you have just heard. First of all, I think my primary concern has already been addressed and that is the timing of action on the Ordinance. We just became aware this morning of the pending ordinance and I just obtained copies of the agenda packet at about 4:30 this afternoon, wholly unpaired to address any of the issues as it may affect my client, therefore, I was chiefly concerned about having more time and it sounds to me like the Council is moving in that direction and there will be an additional opportunity to have time to review the ordinance and the agreement.

Councilor Wyers: Yes, and you can speak on it also and if we are going to include anybody else it might take longer than two weeks.

Mr. Glazier: I would like to raise two concerns that seem to be critical from our perspective. Actually there are three concerns but I think the recycling issues has already been addressed by Madam Chair and I don't want to redo that. The second issue is, it is my understanding that there is already excess capacity at designated facilities within the Metro district for handling these special wastes. And if that is in fact the case, I'm wondering if you really need to be considering designating additional facilities to do that which can already be done within the capacity that exists in the district.

Thirdly the issue that was raised again by Madam Chair, I want to stress this whole heatedly is that the procedural set up here seems to me to be one of passing the ordinance and then no opportunity for any public discussion on the terms and conditions of the agreements between Metro and any designated facilities. That really is, the agreement seems to me to be the operative document that controls what constitutes special waste, the terms and conditions of which it can be hauled, it can be received, enforcement, etc. etc. That really ought to be the vehicle that is looked at through a public hearing and we'd like to have an opportunity, if you get that far, to have the agreement actually be part of the public hearing before there's any adoption of the ordinance.

I think some of the concern that we addressed by the Council are real concerns and one of the concerns we have as a hauler is whether or not the agreement can become a form through which the operators of these landfills can discriminate against who can haul product to their landfills. That's a big concern of my client and I understand it to be a big concern of a lot of other small haulers who are already operating within Metro district. That's really all I wanted to say and as long as there is adequate additional time for us to take a look at ordinance and to take a look at the agreements and address those issues at a subsequent hearing that's really all my concerns are.

Councilor Wyers: Are there questions of Mr. Glazier? I'm going to ask about the excess capacity and Mr. North can look into that for us? Could you do that Mr. North and give us an answer on that. Mr. Glazier is suggesting that there is excess capacity within the district to accept these wastes and at this point we should not be sending them out at all and I don't know that so I'm asking you if you can find out and give us an answer about that. The other thing, Mr. Glazier, do you think that the recycling goals can be met by specifying in the agreement that only waste that has been through a licensed or franchised processor or recycler, or maybe if you don't have an answer for that question, if you could bring it back to me.

Mr. Glazier: I don't have an answer to that question, I think it's a real concern and I think that's obviously a question that needs a definitive answer before the Council acts.

Councilor Wyers: Okay, so you'll think about that also, and I'm going to ask the department to do that also they are going to look at the whole question of recycling. Are there other persons who would wish to testify on this item?

Mr. Bunnis: My name is Leonard Bunnis, I represent the Columbia Resource Company, Finley Buttes Landfill and I would just like to go on record as stating a few points. Number one we have had an application up for the solid waste organization of Metro since about May for a non-system license application for the Wastech facility which, as I am sure you know, is a recycling facility located right here in the Metropolitan district. We have had no action on that and we are very interested in seeing proceed. Secondly, we have recently made it known that we are also interested in obtaining designated facility status for our Finley Buttes Landfill and as the Sanifill representative indicated we also were wondering why we weren't included on the agenda tonight.

Again we would like to make it clear that our interest in obtaining that status is real. With regard to the concerns about waste coming to designated facilities outside the district having met recycling requirements I would like to point out that as an operator of a wholly dedicated recycling facility namely Wastech, right here in town, our company is certainly very keenly sensitive to the recycling goals of the area and we are interested in seeing that those be met as well and of course with our Clark County contract we are aggressively attempting to meet the recycling goals that are very similar to Metro's goals in that regard as well up in Clark County. To that end we have recycling facilities located right at the landfill itself for example so I think again that's an issue that most of us here seem to be sensitive to already. I think that covers all the points.

Councilor Wyers: Are there questions of Mr. Bunnis? We I guess one thing I would say as I was considering this ordinance I understood that Sanifill might be interested but heard by rumor or whatever, I don't even know from whom, that they couldn't qualify under these criteria that we have. Now that they have written a letter indicating their interest and I guess one of the things I would say to you is that you ought to probably let someone know in writing that you are interested in this and Mr. Sadlo's aware you probably should talk with him and I'm going to ask Mr. North too if you can help us understand why it is that Sanifill and Finley Buttes have not been included so we can get an answer for you on that. Mr. Sadlo?

Mr. Sadlo: Madam Chair, I do have a letter from Finley Buttes, I do believe it's dated a few days ago and I was not aware of the pending application for a non-system license.

Councilor Wyers: I wasn't either, this is all news to me all of it. Are there other people who would like to testify?

Mr. Johnson: I would just like to point out that Sanifill has, in fact, requested designation with two letters I believe July 15 and most recently August 11.

Councilor Wyers: Okay, well we're going to look into all that. Now is the time for the discussion for the committee. Councilor Van Bergen.

Councilor Van Bergen: Well I hope my speech here to be as much quality as the testimony we have had it has been on point and I hope to be too. My first question here was what were the certain wastes that could go from our region. I am sure that if I spent time with the ordinance would be more specific than what I learned here tonight. And that's a very critical thing to me on this because I am intrigued by the statement that these materials would only be accepted through an authorized recycler and then once that sort process was set up it would be a competitive service supplying contract between those people and lets say Roosevelt Regional Landfill.

My concern tonight I'm not aware of what price lets say that this authorized recycler receives the product from the Van Bergen truck. If I'm paying \$50 or some such figure a ton at an authorized recycler and that authorized recycler can in turn reload it and put it into Roosevelt Regional Landfill or someplace for \$25 there going to turn there in a profit scheme and that's where the competitive service supplier issue comes into affect. So how do we get to that? Well, I don't want to compress the process with oversight to the point of destroying all advantage and profit to all the parties, I think that is ridiculous. I want the advantage to go with us and to the recycler and the profit advantage to be the landfill where it eventually winds up.

With those thoughts in mind, with your next report Mr. North you'll know about where I'm coming from in my and my thoughts to this moment. I know in our franchise agreements in the past we have given that kind of a break to the recycler, they are entitled to that because they can't recycle everything that comes in the door, they have to unload some of it. If the incentive is just to pass through, then it isn't much of a recycling program. I'm fairly new to this solid waste group and my vision is that a lot of this material going to recyclers is wall board and things of that kind. At least by weight, and I've heard some stories about, in the papers at least, about wall board recycling being sliced bread. I hope that's true and it's really being used effectively.

Councilor Buchanan: The more I look at this item the proposed ordinance, the more I'm inclined to see it a very basic issue to the health of our waste management system for Metro and there appear to be dividing and increasingly multiplying issues that come to mind as we get into the subjects on this. It is my kind of inclination would be to go very slow on this until we understand what the impacts might be. There may be impacts that we yet have not become aware of. I think what I would like to ask the chair is what is here desire in terms of further study on this and work on this and where do you want to lead us on this.

Councilor Wyers: Well I definitely want to have more time. We'll just leave it and put it on the agenda.

Councilor Hansen: I do have one other question of Mr. Sadlo. Is it my understanding that we are now, we meaning Metro, are now in complete agreement with Columbia Ridge people and Waste Management as to the 90% wastestream that we are talking about here?

Mr. Sadlo: We are not in agreement. We will be meeting within the next two weeks, next week.

Councilor Hansen: So obviously everything that we have just discussed here hinges on that agreement and coming to agreement.

Mr. Sadlo: Either coming to agreement or going forward and risking a law suit, yes.

Councilor Hansen: Coming to agreement is preferable.

Mr. Sadlo: The hint is well taken though.

Councilor Wyers: Accept that our legal counsel advises us as to what the language is and we'll either buy that or we won't buy it and that's a decision that we can make if we have a report about that. Maybe you can show us the language and we can do lawyer hat and see if we agree or not, I'm going to take your word for it.

Mr. Sadlo: Our initial review is that we can do this, however, I think it is important to here what they have to say about it before we finalize our opinion on it.

Councilor Hansen: Madam Chair, I had one more concern and this is for our waste staff, to clarify, at least for me, when we here from Sanifill and Finley Buttes are those landfills comparable to the other two landfills and if so, then again why aren't they being included in the entire proposal. It seems to me if we are going to develop a system at least a legal procedure to recognize designated facilities that's a procedure that should be created for any landfill that happens to fit whatever our criteria is. So if they are all comparable, couldn't all be names if they so wish?

Councilor Wyers: Would you like to here from Mr. North now?

Mr. North: One of the things that we are doing in this process is visiting each of these facilities. I personally visited both Columbia Ridge a number of months ago and most recently visited the Roosevelt Regional Landfill and also the Sanifill Landfill in northern Wasco County, actually it is my second visit, I have been there before. I have not yet been able to schedule a visit to the Finley Buttes landfill which is substantially further out east and I don't think I would want to characterize an opinion relative to Sanifill or Finley Buttes at this time. I don't think it would be fair without putting it down in writing and stating it clearly for the record. We are clearly looking at them and will have an opinion in terms of their comparability.

Councilor Wyers: I would just like to point out the fact that in the actual ordinance and particularly in the supplemental staff report, there are four criteria that are used and they are interesting and i have no idea whether Sanifill and Finely Buttes can comply with those but you will let us know.

Mr. North: We don't care to comment at this time but yes, indeed.

Councilor Wyers: Are there any other questions? Comments? Well, I guess for my part I would just like to say, that I guess that it's neat to have an issue in front of us that has several policy issues in it and to really wrestle with it and I think it will be helpful for me if I'm going to ask Mr. Houser to write down what some of these policy issues are. Certainly one of them has to do leakage and control and I think it's an important question for the Councilors to ask themselves. Do we have better control if we go ahead and designate the facilities, one or more or three or four of them how many ever, and then allow a lot of trucks to be going there that we then have to audit and so on. Or is it better of we do not license them and just keep it with one particular facility. The second has to do with recycling levels and I'll be curious to see whether or not those recycling types of problems could be handled with increased, tightened language on the agreement. And the third one has to do with the agreements and I did suggest, actually it was Mr. Houser's idea, that we might want to have the agreements come back to this committee to look at that way we could take the public testimony that McInnis is interested in giving us about whether or not the language is tight enough. So with that, if there are no objections from the committee, we will continue this to next time.

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