

A G E N D A

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**METRO**

**Agenda**

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: September 13, 2005  
DAY: Tuesday  
TIME: 5:30 PM  
PLACE: PCC Southeast Center (corner of Division and 82<sup>nd</sup> Street)  
Tabor Bldg Rm 139-140

**CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATIONS**

**3. PRESENTATION ON IMPLEMENTING CENTERS, CORRIDORS AND MAIN STREET STRATEGIES**

**4. CONSENT AGENDA**

4.1 Consideration of Minutes for the August 18, 2005 Metro Council Regular Meeting.

4.2 **Resolution No. 05-3617**, Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Allow A Process For Consideration of Unsolicited Proposals For Metro TOD/Centers Program Owned Land.

**5. ORDINANCES – FIRST READING**

5.1 **Ordinance No. 05-1091**, For the Purpose of Amending Provisions of Metro Code Chapter 7.01 Relating to Excise Tax Imposed on Certain Consumer and Exhibitor Payments at the Metropolitan Exposition-Recreation Commission Facilities.

5.2 **Ordinance No. 05-1092**, Granting the Solid Waste Facility Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station.

5.3 **Ordinance No. 05-1093**, For the Purpose of Amending Metro Code Chapter 5.01 to Extend a Moratorium Until December 31, 2007, on Applications For and Authorizations of New Solid Waste Transfer Stations Within the Metro Region.

- 5.4 **Ordinance No. 05-1094**, For the Purpose of Amending the Regional Solid Waste Management Plan to Extend a Moratorium Until December 31, 2007 on Applications For and Authorizations of New Solid Waste Transfer Stations Within the Metro Region.
- 5.5 **Ordinance No. 05-1095**, For the Purpose of Amending FY 2005-06 Appropriations Recognizing Grants and Donations To The Oregon Zoo, Adding 2.0 FTE Limited Duration FTE; and Declaring an Emergency.
- 5.6 **Ordinance No. 05-1096**, For the Purpose of Adopting a Supplemental Budget For FY 2005-06 Providing For Pension Obligation Bonds and Other Related Costs, Amending Appropriations, Authorizing an Interfund Loan, and Declaring an Emergency.

**6. ORDINANCES - SECOND READING**

- 6.1 **Ordinance No. 04-1063A**, For the Purpose of Denying a Solid Waste Facility Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station. Hosticka
- 6.2 **Ordinance No. 05-1087**, For the Purpose of Adopting a Process For Treatment of Claims Against Metro Under Ballot Measure 37. Liberty

**7. CHIEF OPERATING OFFICER COMMUNICATION**

**8. COUNCILOR COMMUNICATION**

**ADJOURN**



**Television schedule for Sept. 13, 2005 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b>          Channel 11 -- Community Access Network  <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534          2 p.m. Thursday, Sept. 15</p>	<p><b>Portland</b>          Channel 30 (CityNet 30) -- Portland Community Media  <a href="http://www.pcmv.org">www.pcmv.org</a> -- (503) 288-1515          8:30 p.m. Sunday, Sept. 18          2 p.m. Monday, Sept. 19</p>
<p><b>Gresham</b>          Channel 30 -- MCTV  <a href="http://www.mctv.org">www.mctv.org</a> -- (503) 491-7636          2 p.m. Monday, Sept. 19</p>	<p><b>Washington County</b>          Channel 30 -- TVC-TV  <a href="http://www.tvctv.org">www.tvctv.org</a> -- (503) 629-8534          11 p.m. Saturday, Sept. 17          11 p.m. Sunday, Sept. 18          6 a.m. Tuesday, Sept. 20          4 p.m. Wednesday, Sept. 21</p>
<p><b>Oregon City, Gladstone</b>          Channel 28 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275          Call or visit website for program times.</p>	<p><b>West Linn</b>          Channel 30 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275          Call or visit website for program times.</p>

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.**

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website [www.metro-region.org](http://www.metro-region.org) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 4.1

Metro Council Meeting Minutes of August 18, 2005

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, August 18, 2005  
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Robert Liberty, Rex Burkholder, Rod Park, Brian Newman

Councilors Absent: Carl Hosticka (excused)

Council President Bragdon convened the Regular Council Meeting at 2:02 p.m.

### 1. INTRODUCTIONS

Councilor Newman introduced Mayor Judie Hammerstad, Lake Oswego.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. MEASURE 37 TASK FORCE REPORT

Councilor Liberty said the Council was now receiving a report from the Measure 37 Task Force. He explained task force goals and membership. He noted Council liaisons were Councilor Hosticka and himself. He thanked the committee for their contributions and acknowledged Lydia Neill's staffing work for the Task Force.

Judie Hammerstad, Measure 37 Task Force Chair, provided an overview of her report on the Measure 37 Task Force Recommendation to the Metro Council (a copy of which is included in the meeting record). She noted that the work they did on the task force was both interesting and challenging. They were not there to debate the measure. Their charge was to assess the impact of Measure 37 on the 2040 Growth Concept. She spoke of the variety of claims that had been received. She explained why the true impact of the Measure couldn't be assessed.

Councilor Liberty asked about access to water and sewage disposal. Chair Hammerstad responded to his question. She spoke to the difficulties of transfer of development rights. She noted the cumulative impacts on the environment. Councilor Newman asked about the sewage treatment standards. Chair Hammerstad responded to his question. Councilor Park asked about density and reserve sewer capacity. Chair Hammerstad responded to his question and talked about properties inside versus outside the Urban Growth Boundary. She talked about farm and forestlands and the request to use agricultural lands instead of farm and forestlands. She suggested forwarding this report to Metro Policy Advisory Committee (MPAC). She also noted possible funding mechanisms. She said Councilor Liberty was eager to start a work group to address some of the Task Force's recommendations. She spoke to long-term recommendations.

Sheila Martin, Director of Institute of Portland Metropolitan Studies, thanked Chair Hammerstad for her efforts and looked forward to working on the work group. Jim Chapman, Home Builders Association said they favored planning. Keith Fishback, Farm Bureau, said the unplanned development in the rural areas were of no benefit to the agricultural community. David Whitehead, Realtor Association, said they felt this was a great start on helping solve a problem that could be quite serious. He suggested conservation zones and clustering would be worth more study. Councilor Park talked about road

impacts. Chair Hammerstad said they didn't examine transportation issues in detail. She also talked about prime farmland versus farmland that wasn't as good of quality. Mr. Fishback talked about preservation of farmland. Councilor McLain said she felt this was a good start for the Metro Council. She talked about timing issues that MPAC needed to discuss. She thanked the entire Task Force for their work. Mr. Fishback said they talked about timing and the need to act quickly. Chair Hammerstad felt that the water and sewer issues needed to be studied right away. Councilor Newman commented on urban services. Chair Hammerstad added her comments about urban services.

Al Burns, City of Portland Planning Bureau, 1900 SE 4<sup>th</sup> Portland OR 97214, thanked the committee for their efforts. He noted City of Portland's concerns about cost of services. He suggested a member of the work group be an expert at the cost of providing services.

Councilor Burkholder talked about the cost of services and who should bear those costs. He urged the work group address this issue.

Councilor Liberty closed by saying he appreciated the clarity that Mayor Hammerstad presented the recommendations. He spoke to how to pay for some of the claims while maintaining the integrity of the Urban Growth Boundary.

#### **4. ELIMINATE OR REVISE THE REGIONAL SYSTEM FEE CREDIT PROGRAM**

Alexis Dow, Metro Auditor, introduced Debbie DeShay who would summarize the report on the Regional System Fee Credit Program. Ms. DeShay provided a power point presentation on her report (a copy of which is included in the meeting record). The report included recommendations about the program. She explained the primary reasons why the program should be eliminated. She suggested other approaches that may be more effective for recovery of waste. She provided some suggestions on how to substantially revise the program.

Councilor McLain talked about the inert issue and what definition they had utilized. Ms. DeShay said she used the definition from the State. Mike Hogle, Solid Waste and Recycling Director, said they also used the State definition. Councilor McLain said if weight was an issue, it would seem that they would have to accept what the State had approved. Ms. Dow responded to her question. Councilor McLain said they had been revising the program over the last several years. Ms. DeShay talked about steps in the right direction. Councilor Newman echoed Council President Bragdon's comments. He asked about discrepancies in waste reported. Ms. DeShay said the haulers reported to different governmental agencies while the facilities reported to Metro. Mr. Hogle talked about the different agencies and reporting differences. He felt the Auditor's suggestion about upping the inspections was a good recommendation. He talked about phasing out the program. Councilor Park appreciated the report. It pointed out some of the disconnects in the program. He spoke to the history of the program. He asked about their suggestions during the transitions. Ms. DeShay said phasing out was dependent upon the goals of the program. Ms. Dow commented on the program and meeting the goals of recovery. Councilor Park said he would appreciate continued monitoring of the program in the next steps.

Council President Bragdon said one thing they didn't comment on bears noting which was Management's response. Management had accepted the Auditor's recommendations and was working on changes. He asked about administrative costs and was their additional savings that could be considered. Ms. DeShay said there were potential additional savings. She felt there were other avenues that may boost recovery.

Councilor Liberty thanked them for the report. He asked about the management response to eliminate and revise. Mr. Hoglund responded that they were trying to roll out a new program that would replace it. Councilor Liberty wondered if it was timely to eliminate the program right now. Ms. Dow added her comments about developing the new programs. Councilor Burkholder provided some information to the audience about the solid waste system and the direction Council was going. .

**5. CONSENT AGENDA**

5.1 Consideration of minutes of the August 11, 2005 Regular Council Meetings.

5.2 **Resolution No. 05-3609**, Considering an Amendment to Metro Contract No. 925846, For Personal Services For Providing Ortho-Rectified Imagery.

Motion:	Councilor Burkholder moved to adopt the meeting minutes of the August 11, 2005 Regular Metro Council, Resolution No. 05-3609.
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Vote:	Councilors Burkholder, Liberty, Park, Newman, and Council President Bragdon voted in support of the motion. The vote was 5 aye, 1 abstain the motion passed with Councilor McLain abstaining from the vote..
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**6. ORDINANCES – FIRST READING**

6.1 **Ordinance No. 05-1090**, For the Purpose of Amending the FY 2005-06 Budget and Appropriations Schedule For Reorganization of the Council Staff, Adding One Administrative Assistant FTE, Providing For Building Needs, and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 05-1090 to Council.

**7. ORDINANCES – SECOND READING**

7.1 **Ordinance No. 05-1086**, For the Purpose of Amending the Regional Framework Plan in Order to Bring it up to Date and Make it More Usable By Citizens of the Region.

Motion:	Councilor Liberty moved to adopt Ordinance No. 05-1086.
Seconded:	Councilor Newman seconded the motion

Councilor Liberty explained the changes in the Regional Framework Plan were primarily to provide clarity, simplification and easier use.

Council President Bragdon opened a public hearing on Ordinance No. 05-1086.

Tom Cusack, United States Department of Housing and Urban Development, 400 SW 6<sup>th</sup> Suite 700 Portland OR 97204 commended the Co-Chairs of the Housing Choice Task Force and their recommendations. He spoke to the history of the Housing Technical Advisory Committee. He suggested focusing on capturing changes in the housing supply. Councilor Burkholder said they were working on this issue in the HCTC.

Council President Bragdon closed the public hearing.

Councilor Liberty acknowledged the work of Sherry Oeser. Dan Cooper, Metro Attorney, acknowledged the work of Sharon Martin.

Vote: 

Councilors Park, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**7.2 Ordinance No. 05-1088, Amending Metro Code 02.02.050 Charitable Solicitations**

Motion:	Councilor McLain moved to adopt Ordinance No. 05-1088.
Seconded:	Councilor Burkholder seconded the motion

Councilor McLain explained the changes in the Code. This allowed Metro to do good things in our community and the State's community. She asked about periodic review. Mr. Cooper responded to her question. Councilor McLain urged support.

Council President Bragdon opened a public hearing on Ordinance No. 05-1088. No one came forward. Council President Bragdon closed the public hearing.

Vote: 

Councilors Park, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**8. RESOLUTIONS**

**8.1 Resolution No. 05-3599, For the purpose of Approving the Air Quality Conformity Determination For the 2006-09 Metropolitan Transportation Improvement Program (MTIP) and the I-205/Airport Way Interchange Improvement Project.**

Motion:	Councilor Burkholder moved to adopt Resolution No. 05-3599.
Seconded:	Councilor Park seconded the motion

Councilor Burkholder spoke to Resolution Nos. 05-3599, 3604 and 3606, which were related. He reviewed the planning factors. Resolution No. 05-3599 added a new project in the MTIP, 05-3604 amended the Regional Transportation Plan and 05-3606, was the final approval of MTIP. He urged support.

Vote: 

Councilors Park, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**8.2 Resolution No. 05-3604, For the Purpose of Amending the Regional Transportation Plan to Include the I-205 Northbound on-ramp/Airport Way Interchange Improvement.**

Motion:	Councilor Burkholder moved to adopt Resolution No. 05-3604.
Seconded:	Councilor Park seconded the motion

Vote:

Councilors Park, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**8.3 Resolution No. 05-3606, For the Purpose of Approving the 2006-2009 Metropolitan Transportation Improvement Program For the Portland Metropolitan Area.**

Motion:	Councilor Burkholder moved to adopt Resolution No. 05-3606.
Seconded:	Councilor Park seconded the motion

Vote:

Councilors Park, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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Councilor Burkholder acknowledged staff's work. Councilor Park seconded that comment.

**9. CONTRACT REVIEW BOARD**

**9.1 Resolution No. 05-3610, For the Purpose of Issuing a Request For Proposals to Develop a Work Scope For an Expanded Public Outreach For the 2005-08 Regional Transportation Plan.**

Motion:	Councilor Burkholder moved to adopt Resolution No. 05-3610.
Seconded:	Councilor Park seconded the motion

Councilor Burkholder said they were starting a new process to update the Regional Transportation Plan. They were also looking at reaffirming the Region 2040 Update, which included transportation. The other key piece was that they were looking at fiscal resources available for transportation planning. He spoke to the two phases of the project, scoping and implementation. He suggested postponing action on this resolution until late September, early October.

Councilor Park expressed his excitement. He credited Councilor Burkholder for this effort to match resources with transportation and land use. He felt this would allow for better information to the public. Councilor Liberty said they needed fundamental changes to the way they think about transportation improvements. He applauded Councilor Burkholder's efforts and concurred with looking at the financial constraints. Council President Bragdon concurred with Councilors Burkholder, Park and Liberty's comments. He felt this would be a big challenge in reforming expectations.

Council President Bragdon continued the resolution until late September, early October.

**9.2 Resolution No. 05-3608, Authorizing Execution of a Contract For Litter Collection at Metro Central Station.**

Motion:	Councilor McLain moved to adopt Resolution No. 05-3608.
Seconded:	Councilor Park seconded the motion

Councilor McLain provided the reasons why this resolution should be taken off the consent agenda. She paid particular attention to contracts. She talked about the six significant impact contracts. She talked about the Contract Code. She spoke to the litter collection contract. She addressed fairness and equity issues.

Mr Hoglund talked about the litter collection contract and the process they had gone through. Councilor McLain asked if they had similar programs at Forest Grove and Oregon City? Mr. Hoglund said this was a good question and he would look into this.

Councilor Burkholder asked Mr. Jordan about competitive bidding. Mr. Jordan responded to his question about Code requirements. Mr. Cooper talked about Oregon law, contract requirements and exceptions.

Vote:

Councilors Park, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**10. CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordon, COO, talked about bringing back suggestion on contract code.

**11. COUNCILOR COMMUNICATION**

Council President Bragdon announced that the next Council meeting would be September 13, 2005 at Portland Community College Southeast.

Councilor McLain urged the Council participate in the Clackamas County Fair.

Councilor Park talked about the agricultural show at OCC the weekend of August 27<sup>th</sup>.

**12. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:25 p.m.

Prepared by

Chris Billington  
Clerk of the Council



**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF AUGUST 18, 2005**

<b>Item</b>	<b>Topic</b>	<b>Doc Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
5.1	Minutes	8/11/05	Metro Council Meeting Minutes of August 11, 2005	081805c-01
7.1	Exhibit B	8/18/05	To: Metro Council From: Dick Benner, Senior Metro Attorney Re: Ordinance No. 05-1086 Exhibit B	081805c-02
3	Report	8/9/05	To: Judie Hammerstad, Chair Measure 37 Task Force Re: Measure 37 Task Force Recommendation to the Metro Council	081805c-03
8.3	Exhibit A	8/18/05	To: Metro Council From: Amy Rose, Planning Department Re: Exhibit A to Resolution No. 05-3606	081805c-04
4	Power Point Presentation	8/18/05	To: Metro Council From: Debbie DeShay, Senior Auditor Re: Power point presentation on Regional System Fee Credit Program	081805c-05

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	RESOLUTION NO.05-3617
THE TRANSIT-ORIENTED	)	Introduced by Metro Councilor Robert
DEVELOPMENT (TOD) PROGRAM	)	Liberty with the concurrence of Metro
WORK PLAN TO ALLOW A PROCESS	)	Council President David Bragdon
FOR CONSIDERATION OF	)	
UNSOLICITED PROPOSALS FOR	)	
METRO TOD/CENTERS PROGRAM	)	
OWNED LAND.	)	

WHEREAS, on April 9, 1998, the Metro Council adopted Resolution No. 98-2619 (For the Purpose of Authorizing Start-Up Activities for the Transit-Oriented Development (TOD) Implementation Program at Metro), which authorized start-up activities for the Metro Transit-Oriented Development Implementation Program (the "TOD Program") and set forth the operating parameters of the TOD Program in a Work Plan providing for selection criteria for TOD projects; and

WHEREAS, the TOD Work Plan was amended to expand the TOD Program area to Frequent Bus Corridors by Resolution No. 04-3479 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program to Expand the TOD Program Area and Initiate an Urban Centers Program), adopted July 15, 2004; and

WHEREAS, the TOD/Centers Implementation Program was established to provide Metro with a set of development tools that help implement Metro's Region 2040 Growth Concept by being a public partner in high density, mixed use development projects in light rail station communities in regional and town centers, along main streets and frequent bus corridors; and

WHEREAS, the COO is authorized to execute Development Agreements and to acquire sites in station communities, at frequent bus stops, along main streets, and in regional and town centers that have been approved by the TOD Steering Committee; and

WHEREAS, unsolicited proposals are an important tool used by public agencies to allow the private sector to respond creatively to development opportunity sites owned by the public to maximize the public benefit on their investment in joint development projects; now therefore

BE IT RESOLVED, that the Metro Council amends the TOD Program Work Plan to allow a process for consideration of unsolicited proposals for Metro-owned land as set forth in Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

# TRANSIT-ORIENTED DEVELOPMENT IMPLEMENTATION PROGRAM

## WORK PLAN

Planning Department  
Metro  
March 1998  
Revised July 2004  
Revised May 2005  
Revised September 2005

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## 1. INTRODUCTION

This document describes the objectives, activities, and governance of the Metro Planning Department's Transit-Oriented Development Implementation Program (TOD Program). The Program seeks to increase transit ridership and lessen the risk and costs associated with the construction of TOD projects. Projects considered for the Program will exhibit a mix of moderate- to high-intensity land uses, a physical or functional connection to the transit system, and design features that reinforce pedestrian relationships and scale. TOD Program utilizes joint development tools such as land acquisition and Development Agreements to implement projects located in close proximity to rail transit stations and "Frequent Bus" stops throughout the region. These locations are shown on Figure 1.

## 2. PROGRAM OBJECTIVES & ACTIVITIES

### 2.1. PROGRAM OBJECTIVES

Specific objectives of the Program include:

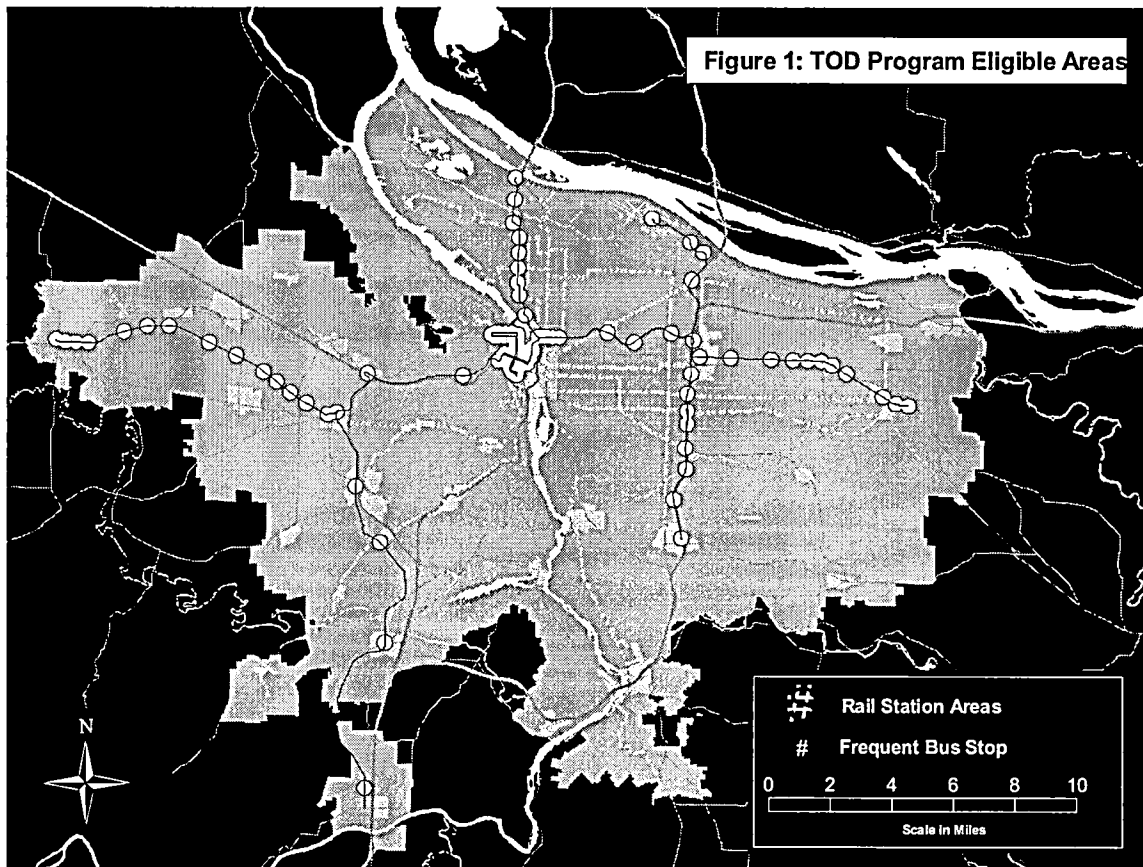
- Causing construction of higher density housing, mixed-use projects (i.e. apartments over retail, office over retail), and destination uses that have a physical and functional connection to transit, through partnerships with the private sector;
- Developing suburban building types with the lowest reasonable parking ratios and highest reasonable floor area ratios (FAR's);
- Increasing the modal share of transit and pedestrian trips within station areas while decreasing reliance on personal automobiles;
- Leveraging and focusing public expenditures within station areas to support Metro's 2040 Growth Concept.

### 2.2. PROGRAM ACTIVITIES

The TOD Implementation Program is a joint development program focusing on site-specific project implementation. Joint Development refers to a collection of public and private sector partnership techniques, strategies, and development "tools" that can be used to link development to transit stations to increase the efficiency of a mass transit system. The increase can take the form of new ridership (caused by the construction of TODs), new revenue to a transit agency, or a combination of both. The Federal Transit Administration (FTA) approved a grant for Metro to start the TOD Program in 1997. Authority to use FTA funds for joint development are included in the Intermodal Surface Transportation Act of 1991 (ISTEA) and codified under 49 USC 5309, 49 USC 5307, 23 USC 133 (STP) and 23 USC 149 (CMAQ). According to these laws, TOD Program activities are defined as transportation projects provided there is (1) a physical or functional relationship to the transit project; and (2) an enhanced effectiveness of the existing transit system.<sup>1</sup>

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<sup>1</sup>For a full discussion see the memo from FTA Chief Counsel Berle M. Schiller to FTA Administrator Gordon Linton entitled "Statutory Authority in Support of FTA Funding of Joint Development Projects," March 15, 1995.



Specific joint development tools that may be used by the Program include:

- Site Control (land acquisition and sale) to ensure design and density of a TOD can be determined before the land is developed.
- Pre-development activities to assist in making environmental and programmatic determinations including financial analysis, conceptual design and permit acquisition; these activities do not include the preparation of architectural construction documents;
- Request for Proposals (RFP) to ensure the competitive offering of development opportunities;
- Development Agreements to establish a set of performances by both parties and to protect public interests in the development of the TOD sites;
- Public and Private Co-use of transit station structures, site improvements, or land to reinforce the connection of a TOD to the transit system;
- Air or Subterranean Rights to increase the density, urban character and/or feasibility of a TOD.
- Site preparation and site improvement activities funded directly or by the acquisition of TOD Easements.

### 3. GOVERNANCE

The activities of the TOD Program will be overseen by a number of local, regional, state, and Federal officials and public-private partnership specialists. These include:

- The TOD Steering Committee
- The Federal Transit Administration (when the use Federal Funds are involved)
- The Metro Council

The role of the Steering Committee is described in the following text. A more detailed history of the TOD Steering Committee is provided under the “Other Program Activities” section of this document.

### **TOD STEERING COMMITTEE**

Prior to awarding the grant, FTA indicated that Metro was to include Tri-Met and others in the TOD Program. FTA accepted the proposal that the existing Congestion Mitigation Air Quality/Transit-Oriented Development (CMAQ/TOD) Steering Committee be used for this purpose. The CMAQ/TOD Committee was created to allocate \$3.48M of ISTEA funds to projects that could demonstrate innovative ways to address traffic congestion and air quality through TOD projects. Successful projects such as Belmont Dairy, Fairview Village, Steele Meadows, Gresham Central, and The Round at Beaverton all include CMAQ/TOD funding.

Under the TOD Implementation Program, the Steering Committee became the TOD Steering Committee with responsibility to approve projects within criteria established by the Metro Council.

The Steering Committee added a Metro Councilor to provide a strong liaison between the Committee and Council. The membership of the Steering Committee is listed below. Metro provides staff support for the Steering Committee.

#### TOD Steering Committee

Governor’s Office (Chair)  
Department of Environmental Quality (DEQ)  
Oregon Department of Energy (ODOE)  
Department of Land Conservation & Development (DLCD)  
Oregon Housing & Community Services Department  
Tri-Met  
Metro Council  
Oregon Department of Transportation (ODOT)  
Oregon Economic Development Department (OEDD)  
Portland Development Commission (PDC)

Staff: Metro Planning Department

## **4. OPERATING PARAMETERS FOR PROGRAM**

### **4.1. PROJECT SELECTION CRITERIA**

#### **4.1.1. System-wide RFP Criteria**

The competitive evaluation criteria of Request For Proposals to solicit development proposals includes a point based evaluation of:

- 1) Quality and experience of developer team,
- 2) Proposed program;
- 3) Connectivity of TOD to light rail;
- 4) Business plan;
- 5) Timeliness of performances, and certain other minimum qualifications of the proposal;

In the event two or more proposals are equal, the project(s) located in Regional and Town Centers will be given priority.

These criteria are the “TOD Proposal Criteria.”



#### **4.1.2. Opportunity Site Criteria**

The criteria to acquire sites from property owners include:

- 1) The potential for a physical or functional connection to transit.
- 2) The ability to enhance the existing transit system when developed with a TOD.
- 3) The extent to which the site represents an opportunity to demonstrate TOD Program objectives.
- 4) The location relative to Regional and Town Centers.

These criteria are the “TOD Site Criteria.”

#### **4.1.3. Site Improvements Criteria**

The criteria to evaluate proposed site improvements include:

- 1) The potential of the improvements to create or strengthen a physical or functional connection to the transit station;
- 2) The extent to which the improvements cause construction of higher density housing, mixed use projects and destination uses;
- 3) The extent to which the improvement develop building types with the lowest reasonable parking ratios and highest reasonable floor area ratios;
- 4) The extent to which the improvements increase the modal share of transit within station areas while decreasing reliance on personal automobiles; and
- 5) The potential of the improvements to focus and leverage other expenditures within a station area to support Metro’s 2040 Growth Concept,
- 6) Project location relative to Regional and Town Centers.

These criteria are the “TOD Site Improvements Criteria.”

#### **4.1.4. Frequent Bus Line Criteria**

Proposed projects located on frequent bus lines will be evaluated against three sets of the criteria: base, mandatory and additional. Base criteria depend upon the nature of the project and will consist of the TOD Proposal Criteria (section 4.1.1), TOD Site Criteria (section 4.1.2) or TOD Site Improvements Criteria (section 4.1.3).

Manadatory Frequent Bus Criteria include:

- 1) Project is in an area that will help spur additional development and help create a node around the transit stop;
- 2) The project represents an attempt to build the base of developers that can be used in other centers
- 3) There are not adequate local government funds available to close the financing gap;
- 4) The project will be within 800 ft. from a high frequency bus line;
- 5) The project demonstrates a market concept applicable to high frequency bus line or the project will test the market for new product types for high frequency bus routes.

Additional Project Criteria for Frequent Bus Projects:

- The project uses new building materials or building systems that result in lower construction costs and/or tests new markets for a building type.
- The project provides market rate and affordable housing, including rental or for sale, in a project that would otherwise be a single use building such as retail or office.
- The project spurs job creation.
- The project uses a high level of sustainable practices including building materials and energy conservation.
- The project is located in or near a center.

- The project has a favorable ratio of TOD dollars to total development costs.
- There are not similar projects in the area done without public funding.
- The project improves the quality of the environment for the transit patron.

Frequent bus project should attempt to respond to as many of the additional criteria as possible.

Collectively, these three sets of criteria are the “Frequent Bus Criteria.”

#### **4.2.PROPERTY ACQUISITION POLICIES**

Property will be acquired at Fair Market Value as established by the Federal Transit Administration in accordance with policies and regulations under 49 CFR Part 24 (the Uniform Act) using independent certified appraisals and will be sold at the “highest and best transit use” value determined by an independent economic analysis or appraisal approved by the FTA. The highest and best transit use value uses a “residual value approach” in which extraordinary costs of the TOD such as fire and seismic building codes for mid-rise buildings, building over parking or structuring parking, and pedestrian improvements including plazas and promenades, are absorbed by the land value.

#### **4.3.FEDERAL TRANSIT ADMINISTRATION POLICIES**

The Federal Transit Administration’s grant conditions and Federal funding regulations require the TOD Implementation Program to ensure public participation, identify and mitigate any adverse environmental impacts cause by the Program, and pursue environmental justice. These requirements are to be addressed through the following activities:

- Completion of a programmatic Environmental Assessment (EA)
- Public and agency review of the EA
- Site specific environmental analysis and a Memorandum on Response to Criteria
- Creation of the TOD Steering Committee

### **5. PROGRAM OPERATION**

Operation of the TOD Program will include three broad categories of projects: a) system-wide RFPs, b) opportunity sites, and c) site improvements.

#### **5.1.SYSTEM-WIDE RFP**

RFPs for development projects will be authorized for release by the Metro Council. Metro staff will conduct the technical evaluation of RFP submissions according to the TOD Proposal Criteria, and submit the proposals to the Steering Committee. As soon as practical upon approval by the Steering Committee, the Chief Operating Officer will provide written notification to the Metro Council of TOD proposals and the Council will have seven (7) days to notify the COO of a request to review a proposal in executive session. Subsequently, proposals will have appraisals completed, site specific environmental work done (including traffic, wetlands, cultural and historic, and hazardous materials), a Memorandum on Response to Criteria prepared (when required by the grant), and be forwarded to the FTA (when Federal funds are proposed for use). Upon approval by the Steering Committee and FTA (when appropriate), the Chief Operating Officer is to execute Development Agreements with developers of successful proposals.

#### **5.2.OPPORTUNITY SITES**

To acquire a site without a developer, Metro staff will evaluate the site using the TOD Site Criteria, and the Frequent Bus Criteria, if appropriate, then forward recommendations to the Steering Committee. As soon as practical upon approval by the Steering Committee, the Chief Operating

Officer will provide written notification to the Metro Council of potential TOD projects and the Council will have seven (7) days to notify the COO of a request to review a potential project in executive session. Subsequently, projects will have appraisals completed, site specific environmental work done (including traffic, wetlands, cultural and historic, and hazardous materials), a Memorandum on Response to Criteria prepared, and then be forwarded to the FTA (when FTA funds are being used). Upon approval by the Steering Committee and the FTA (as appropriate), the Chief Operating Officer is to execute a Purchase and Sale Agreement with the property owners of TOD project sites. The sites will then be planned and parceled, if necessary, and sold for private development with specific conditions at a value determined by an independent economic analysis or appraisal at the "highest and best transit use" method in accordance with guidance by the FTA, as published in the Federal Register, March 14, 1997, or subsequent formal guidance from FTA, as appropriate

### **5.3. SITE IMPROVEMENTS**

To fund site improvements, Metro staff will evaluate the proposed improvements using the TOD Site Improvements Criteria and the Frequent Bus Criteria, if appropriate, then forward a recommendation to the TOD Steering Committee. As soon as practical upon approval by the Steering Committee, the Chief Operating Officer will provide written notification to the Metro Council of the proposed improvements and the Council will have seven (7) days to notify the COO of a request to review the proposed improvements in executive session. Following this authorization process, the Executive Officer will execute a Development Agreement, with the principle developer of the project in which the TOD site improvements are located. A TOD Easement will be recorded on the property to ensure the project remains in transit supportive use.

### **5.4. UNSOLICITED PROPOSALS**

Metro will accept unsolicited proposals on development sites owned by Metro's TOD/Centers Program. A prospective developer may offer in writing to develop a parcel indicating the proposed parcel, the development program, track record of the development team, timelines for development and financial consideration. Metro staff will evaluate the proposal according to project type criteria in Section 4.1.2, 4.1.3 and 4.1.4 as appropriate and prepare a written analysis with a recommendation. The proposal will then be advertised for a period of 3 weeks in a publication of general circulation. Any additional proposals for that specific development site will be evaluated and a recommendation forwarded to the Steering Committee for action to approve or disapprove. As soon as practical, the Chief Operating Officer will provide written notification to the Metro Council of the unsolicited proposal and the council will have seven (7) days to notify the COO of a request to review the unsolicited proposal in executive session.

### **5.5. PROFESSIONAL SERVICES**

Consultants on a "task order" basis will provide technical assistance to Metro staff and the Steering Committee. The disciplines covered by consultant services include:

- Planning & Urban Design
- Environmental
- Development Services
- Real Property Appraisal
- Market Analysis
- Technical Studies
- Land Acquisition, Relocation, Disposition & Escrow Services
- Legal Services
- Architectural & Engineering Services
- Public Process Facilitation

## 6. OTHER PROGRAM ACTIVITIES

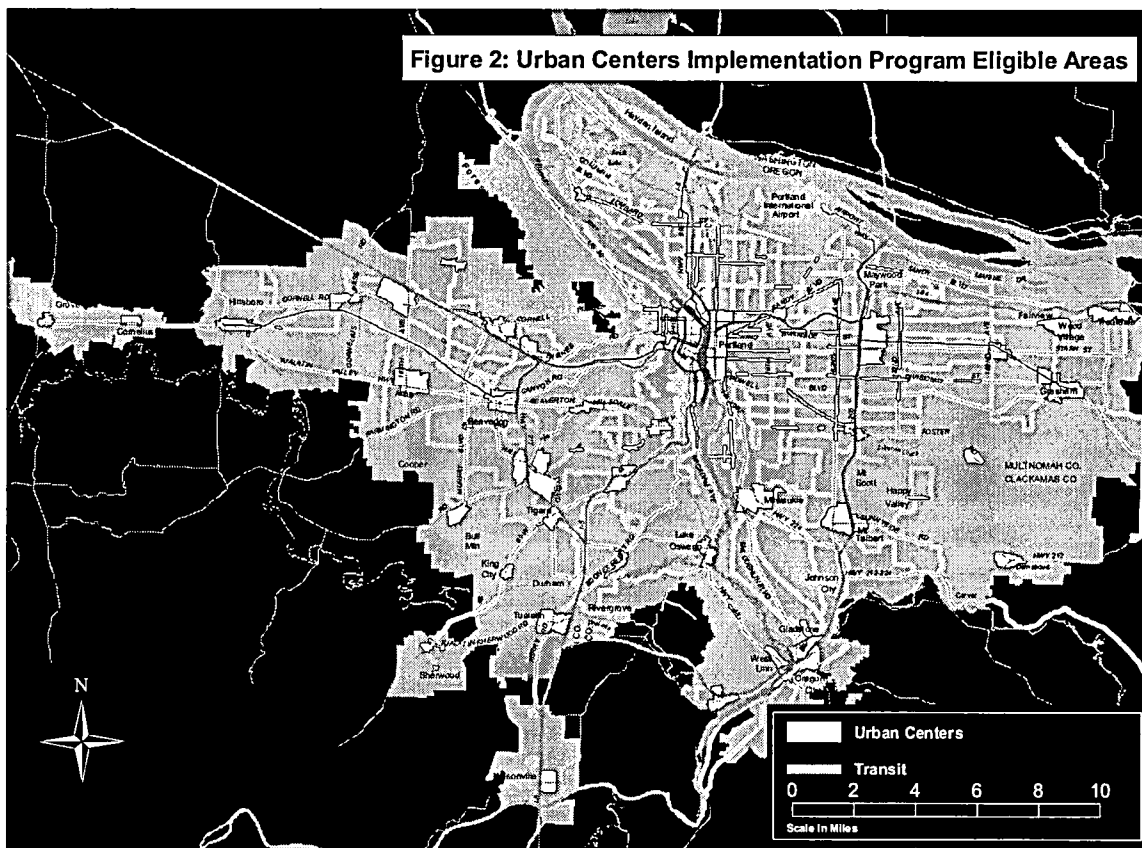
### 6.1. URBAN CENTERS IMPLEMENTATION PROGRAM

The 2040 Growth Concept looks to the Central City, Regional and Town Centers, Station Communities and Main Streets as the centers of urban life in the region and depends for its success upon the maintenance and enhancements of the Urban Centers.

Metro Council Resolution 03-3381A allocated one million dollars to create a site specific, project based implementation program to operate in designated Urban Centers (Regional and Town Centers), even if they are not currently served by rail or Frequent Bus transit. These Urban Centers are shown in Figure 2.

#### 6.1.1. Urban Centers Project Criteria

Criteria for selecting potential Urban Centers implementation projects are as follows: 1) provision for mixed-use and higher density development; 2) project creates a sense of place in the Center; 3) site control by public entity or willing and capable private developer; 4) project participation by other public partners; 5) potential reduction in regional VMT or of home to work trip length; 6) increase in walk, bike and transit trips; 7) floor area ratio as close to or exceeding 1:1 as possible. These criteria will be called the Centers Implementation Selection Criteria



#### 6.1.2. Urban Centers Program Operation

To fund a Centers project, Metro staff will evaluate the proposed project using the Centers Implementation Selection Criteria and forward a recommendation to the TOD Steering Committee. As soon as practical upon approval by the Steering Committee, the Chief Operating Officer will

provide written notification to the Metro Council of the proposed project and the Council will have seven (7) days to notify the COO of a request to review the proposed funding in executive session. Following this authorization process, the COO will execute a Development Agreement, with the principle developer of the project.

## **6.2. EDUCATION, ADVOCACY AND TECHNICAL ASSISTANCE**

Recognizing that the TOD and Centers Implementation Program are complex strategies to help manage regional growth, Program staff will undertake an education, advocacy and technical assistance effort to jurisdictions and agencies (local, national and international) working to implement TOD and/or urban center programs, plans and projects; to academicians studying TOD and public/private partnerships and to members of the private real-estate development community.

## **6.3. TOD PROGRAM LOAN OR LIMITED PARTNER**

The federal guidelines for Transit Oriented Development state that TODs “can be accomplished through a sale or lease of federally funded property, or through direct participation of the funded property, or through direct participation of the transit agency in the development as a (limited) partner.” (Federal Register, Vol. 62, No. 50, Friday, March 14, 1997). In instances where the land value write-down is insufficient to close the financing gap, as a result of cost premiums, additional funding may be provided as a loan or as an equity position in the project to be structured to compliment the developers’ equity capital and mortgage financing.

## **6.4. GREEN BUILDINGS PROGRAM**

TOD and Urban Centers projects will submit applications to the Oregon Department of Energy Business Energy Tax Credits (BETC) Program when they are eligible. Revenues from these tax credits will be used to initiate a “sustainable development” program to integrate green building practices (such as energy and water conservation, the reuse of salvaged building materials and other sustainable practices) into TOD Program funded projects.

## **6.5. SMALL PROJECTS CATEGORY FOR TOD/CENTERS PROJECTS**

A Small Projects category is established for projects with a total development cost of \$1.0million per project. These small projects should not exceed \$100,000 of TOD funding per year. In addition to meeting the TOD/Centers funding criteria outlined in the Work Plan, additional criteria will apply to small projects: 1) funding should not benefit the developer personally for either housing or a business; 2) a developer fee will not be considered as part of the proforma.

## **6.6. OREGON TRANSPORTATION INFRASTRUCTURE BANK**

Upon execution of an agreement with the Oregon Transportation Infrastructure Bank (OTIB) a \$2.0M reservation of transit account funds for up to five years will be available for use by the TOD Program. Funds for individual TOD projects will be drawn down in specific amounts with specific payback schedules for each project. Generally, these individual project payback schedules would be for 6-18 months with deferred interest; however, a project might borrow OTIB funds for up to the life of the OTIB fund reservation—five years.

This use of both OTIB and TOD grant funds will allow the purchase of larger parcels of vacant or redevelopable land than possible using only TOD grant funds. As outlined in the “Grant Funded Program Activities” section above, after Metro acquires land, plans and designs a TOD, parcels the land (if appropriate), and executes Development Agreements with qualified developers, it will then sell the land at a price established by independent appraisals.

Upon sale, the OTIB will be returned the full amount of money it loaned for the initial acquisition. If the land sale(s) included a land value write down, this would be absorbed by the TOD Implementation Program grant, not the OTIB transit account.

The advantages of OTIB participation include:

- Increasing Metro's ability to affect a greater proportion of development surrounding light rail stations;
- Increasing the opportunity to purchase large tracts at wholesale prices, then parceling it to individual developers, which will further leverage TOD grant funds;
- Increasing the incentive for private developers to participate in public-private partnerships by allowing Metro to carry the land during planning and predevelopment activities;
- Financial participation by OTIB in the building of transit projects with minimal financial risk;
- A short turnaround time for OTIB loans.

### **6.7. CMAQ/TOD PROGRAM ADMINISTRATION**

The CMAQ/TOD Program was sponsored by the Department of Environmental Quality (DEQ) and was proposed for CMAQ funding under ISTEA. The germination of the program came from a series of strategies recommended by the Governor of Oregon's Task Force on Motor Vehicle Emissions Reduction. The strategies revolved around demonstrating pedestrian, bike and transit friendly land use options for new construction that reduced auto emissions and traffic congestion. The CMAQ-TOD Program was the region's first effort to directly influence TOD projects with the use of Congestion Mitigation/Air Quality funds. Initiated in 1994-95 with \$3.48 million in federal funds, it has resulted in a number of successful projects including Belmont Dairy, Fairview Village, Steele Park, Orenco Station, Gresham Central, 172<sup>nd</sup> and East Burnside, Buckman Heights, the Round at Beaverton, and Gresham Civic Neighborhood. Six of the above projects have executed Agreements and are completed or underway, with the funding for the last three, Buckman, the Round, and Gresham Civic committed but still pending execution of Financial Agreements. Uncommitted funds as of January 1998, total less than \$100,000.

Funding for the program was from Federal Highway Administration (FHWA) to ODOT, with DEQ the program sponsor. Project solicitation was by RFP with selection determined by the CMAQ/TOD Steering Committee discussed earlier. Staff for the program was by contract with the PDC because of its background and expertise in public-private development projects.

Due to cutbacks in staff, PDC can no longer manage the program and has recommended that Metro assume administrative responsibility for this existing CMAQ/TOD Program, since Metro has expertise in TOD Program issues and Federal funding requirements. This is acceptable to ODOT and DEQ and the proposal is currently being circulated among the other members of the Steering Committee.

Work remaining includes successfully implementing the remaining projects of the Round and Gresham Civic (Buckman is underway), meeting federal requirements for the grant, resolving issues of eligibility as they arise, meeting reporting requirements and producing a summary and analysis of the CMAQ/TOD Program to date.

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO.05-3617, FOR THE PURPOSE OF AMENDING THE TRANSIT ORIENTED DEVELOPMENT (TOD) PROGRAM WORK PLAN TO ALLOW A PROCESS FOR CONSIDERATION OF UNSOLICITED DEVELOPMENT PROPOSALS FOR METRO TOD/CENTERS PROGRAM OWNED LAND.

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Date: September 6, 2005

Prepared by: Andy Cotugno  
Phil Whitmore

### BACKGROUND

The TOD/Centers Implementation Program was authorized to acquire development opportunity sites in light rail station communities, frequent bus stops, along main streets, and in regional and town centers, in order to catalyze the market in these areas to respond more quickly to higher density, mixed use development as envisioned in the 2040 Growth Concept. The Metro Council has approved the use of the following joint development tools:

- Land acquisition and sale,
- RFP for development opportunity sites owned by Metro,
- Development Agreements and acquisitions of TOD Easements in private development projects,
- Public-private Co-use of transit station structures, site improvements or land,
- Air or subterranean rights on Metro owned land;
- Loan Program or Limited Partner;

Unsolicited proposals are another joint development tool used by public agencies to allow the private sector to respond to development opportunity sites owned by the public the ability to accept unsolicited proposals will allow private sector firms to submit innovative, creative and proprietary proposals to Metro that can be tailored to meet Metro's needs and requirements for TOD/Centers projects. The private sector has the ability to respond more quickly to market changes and investor timelines, and may be more creative and less risk-averse than public agencies. This joint development tool will allow the TOD/Centers program to develop Metro-owned sites more quickly and with a creative and willing private partner.

It is recommended that the following language be added to the TOD Work Plan to allow the TOD/Centers Program to use this joint development tool:

#### 5.4 UNSOLICITED PROPOSALS

Metro will accept unsolicited proposals on development sites owned by Metro's TOD/Centers Program. A prospective developer may offer in writing to develop a parcel indicating the proposed parcel, the development program, track record of the development team, timelines for development and financial consideration. Metro staff will evaluate the proposal according to project type criteria in Section 4.1.2, 4.1.3 and 4.1.4 as appropriate and prepare a written analysis and recommendation. Contact with Metro staff is permissible and should be encouraged with the limited objective of conveying to the prospective offeror an understanding of Metro's needs relative to the type of development contemplated. The proposal will then be advertised for a period of 2 weeks in a publication of general circulation. Any additional proposals for that specific development site will be evaluated and a recommendation forwarded to the Steering Committee for action to approve or disapprove. As soon as practical, the Chief Operating Officer will provide written notification to the Metro Council of the unsolicited proposal and the council will

have seven (7) days to notify the COO of a request to review the unsolicited proposal in executive session. Metro will execute an Exclusive Negotiating Agreement with the developer for up to 120 days to determine if agreement can be reached by both parties to develop the site. At the end of the 120 day period, the parties shall enter into a Development Agreement.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition.

### **2. Legal Antecedents**

The Federal Transit Administration (FTA) approved a grant for Metro to start the TOD Program in 1998. Authority to use FTA funds for joint development are included in the Intermodal Surface Transportation Act of 1991 (ISTEA) and codified under 49 USC 5309, 49 USC 5307, 23 USC 133 (STP) and 23 USC 149 (CMAQ). According to these laws, TOD Program activities are defined as transportation projects provided there is (1) a physical or functional relationship to the transit project; and (2) an enhanced effectiveness of the existing transit system.

The TOD program was originally transferred from TriMet to Metro by Intergovernmental Agreement (IGA) executed by Resolution #96-2279 For the Purpose of Authorizing an Intergovernmental Agreement With Tri-Met to Assist in Establishing a Transit-Oriented Development and Implementation Program at Metro on May 16, 1996. The Metro Council authorized start-up activities on April 9, 1998, by Resolution No. 98-2619 For the Purpose of Authorizing Start-Up Activities For the Transit-Oriented Development (TOD) Implementation Program at Metro.

The Work Plan was amended to include provision for a site improvements category by Resolution 00-2906 For the Purpose of Amending the TOD Program Procedures to Facilitate TOD Projects Including the Round at Beaverton Central, adopted March 9, 2000, and amended to include additional light rail corridors, streetcar, frequent bus, urban centers and green buildings by Resolution No. 04-3479 For The Purpose Of Amending The Transit-Oriented Development (TOD) Program Work Plan To Expand The TOD Program Area And Initiate An Urban Centers Program, adopted July 15, 2004.

### **3. Anticipated Effects**

The authorization for the TOD/Centers Implementation Program to accept unsolicited proposals for development opportunity sites owned by Metro TOD/Centers Program will allow the private sector to present Metro with innovative development proposals that leverage private financial resources and maximize return on public investment in joint development projects.

### **4. Budget Impacts**

There are no budget impacts to the Metro General Fund as a result of the change in selection criteria. TOD/Centers projects do not use General Funds.

## **RECOMMENDED ACTION**

It is recommended that the Metro Council approve the process for accepting unsolicited proposals in Exhibit A.



Agenda Item Number 5.1

**Ordinance No. 05-1091, For the Purpose of Amending Provisions of Metro  
Code Chapter 7.01 Relating to Excise Tax Imposed on Certain  
Consumer and Exhibitor Payments at the Metropolitan Exposition-Recreation  
Commission Facilities.**

*First Reading*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING PROVISIONS ) ORDINANCE NO. 05-1091  
OF METRO CODE CHAPTER 7.01 RELATING TO )  
EXCISE TAX IMPOSED ON CERTAIN CONSUMER ) Michael Jordan, Chief Operating  
AND EXHIBITOR PAYMENTS AT THE ) Officer in concurrence with Council  
METROPOLITAN EXPOSITION-RECREATION ) President Bragdon  
COMMISSION FACILITIES )

WHEREAS, Chapter 7.01 of the Metro Code imposes an excise tax on certain payments made by consumers and exhibitors at licensed events and retail businesses at the facilities managed by the Metropolitan Exposition-Recreation Commission ("MERC"); and

WHEREAS, Metro does not presently collect excise tax on payments made by consumers or exhibitors when the payments are made to operators only and are not repaid to MERC; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by members of the public for admission to events held at the MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by members of the public to purchase goods and services from exhibitors at events held at the MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by exhibitors to event organizers for the right to use booth space, exhibit space, or utilities or other event-related services at events held at MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by persons to purchase goods or services from retail businesses operating on the premises of the MERC facilities pursuant to long-term lease agreements; and

WHEREAS, it is desirable to amend Chapter 7.01 to include an exemption from the excise tax on payments made by consumers and exhibitors to operators to ensure that Chapter 7.01 accurately reflects Metro's actual excise tax collection practices; now, therefore

THE METRO COUNCIL ORDAINS that:

1. Metro Code Chapter 7.01, Section 7.01.050 is amended to read as shown on Exhibit "A."

ADOPTED by the Metro Council this 29th day of September 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 05-1091

7.01.050 Exemptions

(a) The following persons, users and operators are exempt from the requirements of this chapter:

- (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
- (2) Persons who are users and operators of the Portland Center for the Performing Arts.
- (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.
- (6) Users of the following facilities:
  - (A) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;
  - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
  - (C) Licensed yard debris processing facilities or yard debris reload facilities;

- (D) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro for the following purposes:
- (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
  - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
  - (C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
  - (D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

- (E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
  - (F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;
  - (G) Notwithstanding the provisions of subsection (C) through (F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.
- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.

- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.
- (11) Persons making the following payments:
- (A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
  - (B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
  - (C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.
  - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1091, FOR THE PURPOSE OF AMENDING PROVISIONS OF METRO CODE CHAPTER 7.01 RELATING TO EXCISE TAX IMPOSED ON CERTAIN CONSUMER AND EXHIBITOR PAYMENTS AT THE METROPOLITAN EXPOSITION-RECREATION COMMISSION FACILITIES

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Date: September 29, 2005

Prepared by: Jeff Miller and Kathy Taylor

## BACKGROUND

Metro does not presently collect sales tax on payments made by consumers and exhibitors at licensed events and retail businesses at facilities managed by the Metropolitan Exposition-Recreation Commission. Amending Metro code chapter 7.01 to include an exemption from excise tax on payments made by consumers and exhibitors to operators accurately reflects Metro's actual excise tax collection practices.

The proposed exemption does not affect the following revenue, all of which will continue to be subject to the excise tax of 7.5%:

- Facility rental charges (paid by event licensees) and all event-related charges (paid by both event licensees and by event participants, such as exhibitors), when such payments are made directly to MERC;
- Rent payments paid to MERC by the retail lessees (Kinko's, Appellation Oregon, Your Northwest, Pacific Coast Bank);
- Gross concessions and catering revenue collected by MERC's authorized concessionaire;
- Gross parking revenue collected by MERC's authorized parking lot management contractor;
- Commissions paid to MERC by private operators of miscellaneous services provided at the MERC facilities, including commissions paid by ATM operators, vending machine operators, and electrical contractor Hollywood Lights (at the Expo Center).

See attachment for detailed analysis.

## ANALYSIS/INFORMATION

1. **Known Opposition:** None known

2. **Legal Antecedents**

ORS 268.507 authorizes Metro, subject to the provisions of its charter, to impose by ordinance excise taxes on any person using the facilities, equipment, systems, functions, services or improvements owned, operated, franchised or provided by Metro.

Ordinance No. 90-333-A added Chapter 7.01, Excise Taxes, to the Metro Code. Section 7.01.020(a) of the Code imposed a tax on users of Metro facilities, including the facilities operated by the Metropolitan Exposition-Recreation Commission. However, Ordinance No. 90-333-A exempted the following users from the tax:

Users who are sublessees, subtenants, sublicensees, or other persons paying compensation for the use of Metro ERC Facilities including payments by users for concessions or catering services made to the Commission or its agents but not users who purchase admission tickets for events at Metro ERC Facilities that are available to members of the general public.

Ordinance No. 95-590 deleted the entire exemption quoted above.

3. **Anticipated Effects:** This action codifies the actual practice of how Metro imposes an excise tax.
4. **Budget Impacts:** Gross revenue collected by OCC's wireless internet provider would be exempt under this section. The 2004-05 excise tax generated from this revenue source was \$7,500, the estimate for 2005-06 is approximately \$7,800.

#### **RECOMMENDED ACTION**

Adopt ordinance 05-1091 amending Metro code chapter 7.01 relating to excise tax imposed on certain consumer and exhibitor payments at the Metropolitan Exposition-Recreation Commission facilities.



**ANALYSIS OF PROPOSED NEW EXCISE TAX EXEMPTION FOR CONSUMER AND EXHIBITOR  
PAYMENTS AT MERC FACILITIES**

The proposed exemption does not affect the following revenue, all of which will continue to be subject to the excise tax of 7.5%:

- Facility rental charges (paid by event licensees) and all event-related charges (paid by both event licensees and by event participants, such as exhibitors), when such payments are made directly to MERC;
- Rent payments paid to MERC by the retail lessees (Kinko’s, Appellation Oregon, Your Northwest, Pacific Coast Bank);
- Gross concessions and catering revenue collected by MERC’s authorized concessionaire;
- Gross parking revenue collected by MERC’s authorized parking lot management contractor;
- Commissions paid to MERC by private operators of miscellaneous services provided at the MERC facilities, including commissions paid by ATM operators, vending machine operators, the wireless internet service provider, and electrical contractor Hollywood Lights (at the Expo Center).

The proposed exemption exempts the following payments:

PROPOSED EXEMPTION LANGUAGE	EFFECT OF PROPOSED EXEMPTION
<p>“Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator” are exempt.</p>	<p><b><i>Codifies actual practice.</i></b> Exempts all ticket/admissions revenues, whether paid to the event promoter (the “operator”) or to MERC itself at the MERC box office</p>
<p>“Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator” are exempt.</p>	<p><b><i>Codifies actual practice.</i></b> Exempts payments made by event participants (typically exhibitors) who pay the event promoter (the “operator”) for booth space and on some occasions for utilities and other event-related services.</p> <p>Does not exempt payments to MERC by event participants or promoters for reimbursed labor, utilities, or similar event-related charges. (MERC currently pays excise tax on this revenue.)</p>

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PROPOSED EXEMPTION LANGUAGE	EFFECT OF PROPOSED EXEMPTION
<p>“Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility” are exempt.</p>	<p><b><i>Codifies actual practice.</i></b> Exempts the following payments:</p> <ul style="list-style-type: none"> <li>• Payments made to purchase goods, services, food, or beverages from any of the retail lessees;</li> <li>• Payments made to purchase goods, services, food, or beverages during an event (except for payments made to Aramark);</li> <li>• Payments made to purchase food or beverages from vending machines at the MERC facilities;</li> <li>• Service charges paid by consumers to ATMs at MERC facilities;</li> <li>• Payments for food or beverages supplied by a vending machine;</li> <li>• Payments that entitle a person to use a pay phone.</li> </ul> <p>Does not exempt any payment to <u>MERC</u> for MERC’s sale of goods or services (e.g., OCC sweatshirts or similar souvenirs).</p> <p><b><i>Effect of Exemption on Wireless Internet Revenues.</i></b> <u>Gross</u> revenue collected by OCC’s wireless internet service provider (Eleven Wireless) would be exempt under this section. MERC currently pays excise tax on this gross revenue. (MERC receives a percentage of the gross revenue from Eleven Wireless as MERC’s fee for permitting Eleven Wireless to provide the service.) Under the proposed exemption, MERC would pay excise tax on MERC’s share of revenues MERC actually receives from Eleven Wireless.</p> <p>Estimated excise tax impact for FY 05-06: <b><i>\$7,800.</i></b></p>

PROPOSED EXEMPTION LANGUAGE	EFFECT OF PROPOSED EXEMPTION
<p>“Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.”</p>	<p><i>Codifies actual practice.</i> Confirms that excise tax will still be imposed on all <u>gross</u> revenues received by MERC’s contracted concessions/catering and parking lot operators.</p>

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Agenda Item Number 5.2

**Ordinance No. 05-1092, Granting the Solid Waste Facility Franchise  
Application of Columbia Environmental, LLC to operate a local transfer station**

*First Reading*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

GRANTING THE SOLID WASTE FACILITY ) ORDINANCE NO. 05-1092  
FRANCHISE APPLICATION OF COLUMBIA )  
ENVIRONMENTAL, LLC TO OPERATE A LOCAL ) Introduced by Councilor Park  
TRANSFER STATION )

WHEREAS, Columbia Environmental, LLC has filed an application to operate a regional transfer station at 14041 NE Sandy Boulevard in Portland; and

WHEREAS, Columbia Environmental seeks authority to accept 38,000 tons of putrescible solid waste per year and has offered to pay to Metro a fee of \$3.00 per ton of putrescible waste accepted in order to partially mitigate the cost impact that granting its application may have on the tip fee charged at Metro's two publicly-owned solid waste transfer stations; and

WHEREAS, Metro Code section 5.01.070 requires the Chief Operating Officer to review the application and other evidence submitted, to investigate as he deems appropriate, and to formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the Regional Solid Waste Management Plan ("the Management Plan") whether the proposed franchise meets the requirements of Metro Code section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements; and

WHEREAS, Metro Code section 5.01.070(f) requires the Metro Council to consider: (1) whether the proposed franchise is consistent with the Management Plan (2) the effect that granting the franchise would have on the cost of solid waste services for the citizens of the region, (3) the effect of the franchise on the health, safety, and welfare of the region's residents, (4) whether the franchise would adversely affect nearby residents and surrounding neighborhoods, and (5) whether the applicant is likely to comply with all applicable franchise provisions and local, state and federal laws; and

WHEREAS, the Council may also consider any other factors it deems relevant; and

WHEREAS, the relevant factors of the Management Plan for consideration relate to the region's solid waste transfer capacity, access to transfer stations, effects on the region's material recovery, encouraging competition within the solid waste industry, and cost to ratepayers; and

WHEREAS, the Chief Operating Officer has concluded, and the Council agrees, that the applicant is qualified and can comply with all other applicable regulatory requirements; and

WHEREAS, on the basis of the application and the Chief Operating Officer's investigation, the Chief Operating Officer has recommended denial of the Columbia Environmental application for a solid waste franchise to operate a local transfer station; and

WHEREAS, the Council may analyze, weigh and balance its consideration of the issues of capacity, access, and cost to ratepayers differently than did the Chief Operating Officer; and now therefore;

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. The Council finds:

- a) Notwithstanding the recommendation of the Chief Operating Officer, the use of innovative material recovery strategies and increasing competition within the solid waste industry are the most important factors to consider to determine whether the application is consistent with the Management Plan; and
- b) Granting this application will improve access to transfer stations for affiliated haulers operating within a service area wasteshed that generates approximately 130,000 tons of putrescible waste per year, but which currently has one local transfer station that is authorized to accept only 65,000 tons of putrescible waste per year, leaving such service area underserved; and
- c) The region's material recovery capacity will likely benefit from the introduction and use of the innovative material recovery strategies that the applicant intends to implement if its application is granted which could likely help the applicant achieve higher than average recovery from both putrescible and non-putrescible waste; and
- d) Granting this application will improve competition within the solid waste industry by providing affiliated haulers within the Columbia Environmental partnership with their own transfer station within a reasonable travel distance, thereby allowing them to better compete with large, vertically integrated, national solid waste companies within the Metro region that own solid waste collection franchises and that also operate their own transfer stations; and
- e) The Chief Operating Officer's staff report analysis of the cost of granting this franchise on the region's solid waste ratepayers did not include the fact that Metro changed its ratemaking structure in 2004 in a manner that exacerbates the fiscal impact to Metro of having solid waste tonnage move away from Metro's transfer stations to private facilities; and
- f) When a cost analysis of the impacts of granting this application is performed to adjust for the 2004 change in the ratemaking structure, the cost savings to the customers of haulers that will use this facility are significantly increased, and the likely impact of this decision on both the Metro tip fee, and on the cost of solid waste transfer services throughout the rest of the region, will be partially mitigated by the \$3.00 per ton fee that the applicant has committed to pay to Metro; and
- g) It is also appropriate to consider that the total number of vehicle miles traveled by solid waste haulers is likely to decrease if this franchise is granted, and that such a decrease has many positive effects, including improving air quality within the metropolitan area; and
- h) For the reasons described in these recitals, granting the application (1) is consistent with the Management Plan, (2) is likely to decrease the cost of solid waste services for some of the region's residents, and that the effect of granting the franchise on other residents in the region will be partially mitigated, (3) will not adversely affect the health, safety, and welfare of the region's citizens, (4) will not adversely affect the facility's surrounding neighborhood, (5) is likely to result in a facility operator that will comply with the franchise and all other applicable laws, (6) will likely achieve higher waste recovery, and (7) is likely to result in other benefits for the region, such as reducing vehicle miles traveled and thereby improving the region's air quality; and
- i) The terms, conditions, and limitations contained in Exhibit A to this ordinance will ensure that the franchisee's operations are commensurate with the commitments it has made in its application and to the Council, and with the rationale provided in these recitals that support granting the franchise.

Section 2. The solid waste facility franchise application of Columbia Environmental, L.L.C., is hereby granted, subject to the terms, conditions, and limitations contained in Exhibit A to this ordinance, entitled "Solid Waste Facility Franchise." The Chief Operating Officer shall issue to Columbia Environmental a Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

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## METRO SOLID WASTE FACILITY FRANCHISE Number F-057-05

FRANCHISEE:	FACILITY NAME AND LOCATION:
Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd Portland, Or 97230  Contact: Bryan Engleson, General Mgr. Phone: (503) 255-0211 Fax: (503) 255-7731	Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd Portland, Or 97230  Phone: (503) 255-0211
COMPANY OWNER:	PROPERTY OWNER:
Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd Portland, Or 97230  Phone: (503) 255-0211 Fax: (503) 255-7731	Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd Portland, Or 97230

### FRANCHISED ACTIVITIES

This Franchise is granted to the Franchisee named above and may not be transferred. Subject to the conditions stated in this Franchise document, the Franchisee is authorized to operate and maintain a solid waste facility, and to accept the solid wastes and perform the activities authorized herein.

**METRO**

**Franchisee's Acceptance &  
 Acknowledgement of Receipt:**

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Signature of Franchisee

Michael Jordan, Metro Chief Operating Officer  
 \_\_\_\_\_  
 Print name and title

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

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date



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<b>1.0</b>	<b>ISSUANCE</b>	
<b>1.1</b>	<b>Franchisee</b>	Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd. Portland, Or 97230
<b>1.2</b>	<b>Contact</b>	Name: Bryan Engleson, General Manager (englesonb@aol.com) Phone: (503) 255-0211 Fax: (503) 255-7731
<b>1.3</b>	<b>Franchise Number</b>	When referring to this Franchise, please cite: Metro Solid Waste Facility Franchise Number F-057-05.
<b>1.4</b>	<b>Term of Franchise</b>	The term of this Franchise will commence on December 31, 2005 and expire at midnight on December 31, 2010.
<b>1.5</b>	<b>Facility name and mailing address</b>	Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd. Portland, OR 97230
<b>1.6</b>	<b>Operator</b>	Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd. Portland, Or 97230
<b>1.7</b>	<b>Facility legal description</b>	Tax lots 100, 101, Section 23, Township 1N, Range 2E, Willamette Meridian, Multnomah County, State of Oregon
<b>1.8</b>	<b>Property owner</b>	Name: Columbia Environmental, LLC Address: 14041 NE Sandy Blvd. Portland, Or 97230
<b>1.9</b>	<b>Basis for issuance</b>	Issued in accordance with the provisions of Metro Code Chapter 5.01.

<b>2.0</b>	<b>CONDITIONS AND DISCLAIMERS</b>	
<b>2.1</b>	<b>Guarantees</b>	The granting of this Franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid wastes or other materials at the direction of Metro during the term of the Franchise.
<b>2.2</b>	<b>Non-exclusive franchise</b>	The granting of this Franchise shall not in any way limit Metro from granting other solid waste Franchises within the District.
<b>2.3</b>	<b>Property rights</b>	The granting of this Franchise does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.



<b>2.4</b>	<b>No recourse</b>	The Franchisee shall have no recourse whatsoever against Metro, its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this Franchise or because of the enforcement of the Franchise or in the event the Franchise or any part thereof is determined to be invalid.
<b>2.5</b>	<b>Release of liability</b>	Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this Franchise or on account of the construction, maintenance, or operation of the facility pursuant to this Franchise.
<b>2.6</b>	<b>Binding nature</b>	The conditions of this Franchise are binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents.
<b>2.7</b>	<b>Waivers</b>	To be effective, a waiver of any terms or conditions of this Franchise must be in writing and signed by the Metro Chief Operating Officer.
<b>2.8</b>	<b>Effect of waiver</b>	Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or to require performance of any other term or condition.
<b>2.9</b>	<b>Choice of law</b>	The Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
<b>2.10</b>	<b>Enforceability</b>	If any provision of this Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.
<b>2.11</b>	<b>Franchise not a waiver</b>	Nothing in this Franchise shall be construed as relieving any owner, operator, or Franchisee from the obligation of obtaining all required permits, Franchises, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
<b>2.12</b>	<b>Franchise not limiting</b>	Nothing in this Franchise is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.
<b>2.13</b>	<b>Definitions</b>	Unless otherwise specified, all terms are as defined in Metro Code Title V. The Metro Code definition of "solid waste" includes, without limitation, source-separated yard debris, landscape wastes, and clean wood wastes. In the event that the Metro Code is amended, the latest amended version shall apply to this Franchise.



<b>3.0 COMPLETION OF FACILITY CONSTRUCTION</b>		
<b>3.1</b>	<b>Acceptance of solid waste: Director's certification of the completion of facility construction</b>	Franchisee may not accept any solid waste at the facility unless the Director of the Solid Waste & Recycling Department has certified that facility construction is complete according to plans submitted by Franchisee and approved by the DEQ and Metro. Such certification shall be based upon the Franchisee's compliance with the provisions of this Section 3.0 of this Franchise, including the Director's inspection of the facility and the documents submitted to the Director by the Franchisee.
<b>3.2</b>	<b>Facility design</b>	The transfer station facility must be designed and constructed in accordance with the plans submitted to Metro and the DEQ. Any amendments or alterations to such plans shall be approved by the Director of the Solid Waste & Recycling Department.
<b>3.3</b>	<b>Vehicle access</b>	Construction of the new vehicle access road via the easement to NE 138 <sup>th</sup> Avenue must be completed in accordance with the plans submitted to the City of Portland, Metro, and the DEQ.
<b>3.4</b>	<b>Construction report</b>	Within 30 days of the completion of construction of the facility, a report prepared by the project engineer must be submitted to the Director of the Solid Waste & Recycling Department verifying and certifying that the construction is in accordance with the approved plans. The engineer must report construction observations and identify any construction flaws or deviations from the approved plans.
<b>3.5</b>	<b>"As constructed" documents</b>	Within 30 days of the completion of construction of the facility, the Franchisee shall submit to the Director of the Solid Waste & Recycling Department "as constructed" facility plans which note any changes from the original DEQ and Metro approved plans.
<b>3.6</b>	<b>Construction inspection</b>	When construction is complete or nearly complete, the Franchisee shall notify the Director of the Solid Waste & Recycling Department so that an inspection can be made before the facility is placed into operation. The inspection shall occur after the Franchisee has provided Metro with the documents described in subsections 3.4 and 3.5 of this Franchise.
<b>3.7</b>	<b>Demonstration of compliance with City development standards</b>	Prior to, or at the time of the construction inspection, the Franchisee shall demonstrate compliance with all conditions imposed by the City of Portland and all applicable development standards, unless specifically exempted as part of the City's land use review. All building permits, occupancy permits or development permits must be submitted to the Director of the Solid Waste & Recycling Department within



		five business days of receipt by the Franchisee from the City of Portland.
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<b>4.0</b>	<b>AUTHORIZATIONS</b>	
<b>4.1</b>	<b>Purpose</b>	This section of the Franchise describes the wastes that the Franchisee is authorized to accept at the facility, and the waste-related activities the Franchisee is authorized to perform at the facility.
<b>4.2</b>	<b>General conditions on acceptable materials</b>	Upon the Franchisee's completion of the construction of the facility in accordance with the provisions of Section 3.0 of this Franchise, the Franchisee is authorized to accept at the facility only the solid wastes described in Section 4.0 of this Franchise. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
<b>4.3</b>	<b>General conditions on activities</b>	The Franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 4.0 of this Franchise. Additionally, the activities to be conducted in any facility building must be consistent with the activities identified in the Franchise application submitted to Metro and this Franchise. If the Franchisee proposes to modify its new or existing facility buildings or the activities to be conducted in those buildings in such a manner that they would not be consistent with the descriptions provided to Metro in its Franchise application, then, the Franchisee must submit a Change of Authorization application in accordance with Metro Code section 5.01.095. Such modifications and activities shall not commence until such time as the Change of Authorization application has been approved by Metro in writing.
<b>4.4</b>	<b>Putrescible waste</b>	The Franchisee is authorized to accept putrescible waste for the purpose of delivery or transfer of said putrescible waste to a disposal site authorized by a Metro designated facility agreement or a Metro non-system license; in accordance with Metro Code Chapter 5.05.
<b>4.5</b>	<b>Non-putrescible waste</b>	The Franchisee is authorized to accept for the purpose of material recovery non-putrescible solid wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites.
<b>4.6</b>	<b>Material recovery required</b>	The Franchisee shall perform material recovery on non-putrescible wastes and putrescible wastes. The Franchisee shall achieve a recovery rate of no less than forty-five percent (45%) from non-putrescible wastes and no less than ten percent (10%) recovery of non-putrescible recyclable materials from putrescible wastes. The recovery rates shall be measured on a 12-month rolling average.



4.7	<b>Source-separated recyclables</b>	The Franchisee is authorized to accept loads of non-putrescible source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and performance of other similar functions related to preparing these materials for marketing.
4.8	<b>Inert materials</b>	The Franchisee is authorized to accept inert materials for purposes of recycling, recovery, sorting, classifying, consolidating, processing (including crushing and grinding), transfer, and other similar functions related to preparing these materials for useful purposes.
4.9	<b>Source-separated yard debris</b>	The Franchisee is authorized to accept source-separated yard debris for transfer to a Metro-licensed yard debris facility, a DEQ-permitted composting facility or other DEQ-permitted processing facility.
4.10	<b>Clean wood</b>	The Franchisee is authorized to accept source-separated, untreated and unpainted ("clean") wood waste. Clean wood waste may be accepted only for grinding and reloading to authorized composting facilities or to facilities with industrial boilers for use as hogged fuel.
4.11	<b>Painted and treated wood</b>	The Franchisee is authorized to accept painted and treated wood wastes only for the production of hogged fuel or disposal. Painted and treated wood wastes shall be kept separate from yard debris and shall not be used in the production of compost feedstock. Painted and treated wood waste shall not be used as or incorporated into mulch, animal bedding or used for agricultural purposes. Painted and treated wood wastes also include manufactured wood and wood containing glue resins.

<b>5.0</b>	<b>LIMITATIONS AND PROHIBITIONS</b>	
5.1	<b>Purpose</b>	This section of the Franchise describes limitations and prohibitions on the wastes handled at the facility and waste-related activities performed at the facility.
5.2	<b>Limit on putrescible waste accepted</b>	The Franchisee shall accept no more than 38,000 tons of putrescible waste generated or originating inside the Metro region within each Metro fiscal year. The Franchisee shall not accept solid waste generated or originating outside the Metro region if to do so would limit the Franchisee from accepting 38,000 tons of putrescible waste, or any non-putrescible waste, generated or originating inside the Metro region.



<b>5.3</b>	<b>Management of prohibited wastes</b>	<p>The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit. The Franchisee also shall not knowingly accept or retain any material amounts of any other similar types of waste if:</p> <ul style="list-style-type: none"><li>a. the handling of such types of waste at a solid waste transfer station could adversely impact public health and safety or create odor or nuisances; and</li><li>b. the Metro Council identifies such types of waste in an ordinance adopted during the term of this Franchise.</li></ul>
<b>5.4</b>	<b>Material recovery required</b>	<p>The Franchisee shall perform material recovery on non-putrescible waste and putrescible waste accepted at the facility at the rate stipulated in Section 4.0 of this Franchise. The Franchisee also shall perform material recovery on other types of waste identified in an ordinance adopted by the Metro Council during the term of this Franchise.</p>
<b>5.5</b>	<b>Prohibition on mixing</b>	<p>The Franchisee shall not mix any source-separated recyclable materials or source-separated yard debris or wood waste brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling</p>
<b>5.6</b>	<b>No disposal of recyclable materials; other potential disposal bans</b>	<p>Source-separated recyclable materials may not be disposed of by landfilling or incineration. The Franchisee also shall not dispose, by landfilling or incineration, any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.</p>
<b>5.7</b>	<b>Origin of putrescible waste</b>	<p>The Franchisee shall accept putrescible waste that originates within the Metro boundary only from persons who are Franchised or permitted by a local government unit to collect and haul putrescible waste.</p>
<b>5.8</b>	<b>Limits not exclusive</b>	<p>Nothing in this section of the Franchise shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this Franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.</p>





<b>6.0 OPERATING CONDITIONS</b>		
<b>6.1</b>	<b>Purpose</b>	This section of the Franchise describes criteria and standards for the operation of the facility.
<b>6.2</b>	<b>Qualified personnel</b>	The Franchisee shall provide an operating staff qualified to carry out the functions required by this Franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the provisions of this Franchise and the procedures contained within the facility's operating plan (see Section 7.0).
<b>6.3</b>	<b>Fire prevention</b>	The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.
<b>6.4</b>	<b>Adequate vehicle accommodation</b>	Vehicles containing solid wastes or source-separated recyclables shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
<b>6.5</b>	<b>Enclosed operations</b>	All handling, processing, compaction or other forms of managing solid wastes, other than inert wastes, shall occur inside facility buildings.
<b>6.6</b>	<b>Managing prohibited wastes</b>	The Franchisee shall make reasonable efforts to identify prohibited and unauthorized wastes. Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with the facility operating plan and DEQ procedures.
<b>6.7</b>	<b>Managing authorized wastes</b>	All authorized solid wastes received at the facility must, within 24-hours from receipt, be either (a) processed, (b) appropriately stored, or (c) properly disposed of.
<b>6.8</b>	<b>Storage</b>	Stored materials shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage and operating areas must be maintained in an orderly manner and kept free of litter.
<b>6.9</b>	<b>Litter, fugitive emissions, dust and airborne debris</b>	The Franchisee shall operate the facility in a manner that is not conducive to the generation of litter, fugitive emissions, dust and airborne debris. The Franchisee shall: a. Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit. Metro reserves the right to conduct monitoring and enforcement on uncovered loads arriving at the facility.



		<p>b. Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.</p> <p>c. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris.</p>
6.10	<b>Odor prevention</b>	<p>The Franchisee shall operate the facility in a manner that is not conducive to the generation of odors. The Franchisee shall:</p> <p>a. Clean the areas and equipment that come into contact with solid waste on a regular basis.</p> <p>b. Establish and follow procedures in the operating plan for minimizing odor at the facility.</p>
6.11	<b>Vector prevention</b>	<p>The Franchisee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, birds, or other animals including animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.</p>
6.12	<b>Noise minimization</b>	<p>The Franchisee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
6.13	<b>Water quality</b>	<p>The Franchisee shall operate and maintain the facility to prevent contact of yard debris and solid waste with precipitation and stormwater runoff or shall:</p> <p>a. Operate in conformance with a DEQ-approved spill containment protocol; and</p> <p>b. Conduct frequent and thorough load inspections to assure that prohibited wastes are not accepted at the facility; and</p> <p>The Franchisee shall assure that stormwater runoff meets all requirements established by local, state, and federal laws and regulations. If the character of the wastes accepted at the facility changes or surface water quality or groundwater quality become impaired, Metro may amend the Franchise to include additional protective measures.</p>
6.14	<b>Public access</b>	<p>Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.</p>
6.15	<b>Signage</b>	<p>The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:</p> <p>a. Name of the facility</p> <p>b. Address of the facility;</p>



		<p>c. Emergency telephone number for the facility;</p> <p>d. Operating hours during which the facility is open for the receipt of authorized waste;</p> <p>e. Fees and charges;</p> <p>f. Metro's name and telephone number (503) 797-1650; and</p> <p>g. A list of authorized and prohibited wastes.</p>
<b>6.16</b>	<b>Complaints</b>	<p>The Franchisee shall respond to all complaints of nuisances (including, but not limited to, blowing debris, fugitive dust, odors, noise, and vectors). If Franchisee receives a complaint, Franchisee shall:</p> <p>a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and</p> <p>b. Log all such complaints as provided in Section 7 of the Franchise. Each log entry shall be retained for two years and shall be available for inspection by Metro.</p>
<b>6.17</b>	<b>Access to Franchise document</b>	<p>The Franchisee shall maintain a copy of this Metro Solid Waste Facility Franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.</p>

<b>7.0</b>	<b>OPERATING PLAN</b>	
<b>7.1</b>	<b>Purpose</b>	<p>This section lists the procedures that must be included in the required facility operating plan. The operating plan shall be submitted to the Director of the Solid Waste &amp; Recycling Department for review and approval prior to acceptance of any solid waste other than non-putrescible source-separated recyclables. The operating plan must be an integrated operating plan that describes how the Franchisee's operations will interrelate with the operations of Franchisee's other tenants on the site, including the operations of Pacific PowerVac, LLC, an Oregon limited liability company, and Strategic Materials, Inc., a Texas corporation. The operating plan shall be amended from time to time to reflect facility operations, and the operations of all tenants, subject to approval by the Director of the Solid Waste &amp; Recycling Department.</p>
<b>7.2</b>	<b>Access to operating plan</b>	<p>The Franchisee shall maintain a copy of the operating plan on the facility's premises and in a location where facility personnel and Metro representatives have ready access to it.</p>
<b>7.3</b>	<b>Procedures for</b>	<p>The operating plan shall establish:</p>



	<b>inspecting and classifying loads</b>	<ul style="list-style-type: none"><li>a. Procedures for inspecting incoming loads for the presence of prohibited wastes;</li><li>b. A set of objective criteria for accepting and rejecting loads; and</li><li>c. An asbestos testing protocol for all material that appears as if it may contain asbestos.</li></ul>
7.4	<b>Procedures for processing and storage of loads</b>	The operating plan shall establish procedures for: <ul style="list-style-type: none"><li>a. Processing authorized solid wastes,</li><li>b. Storing authorized solid wastes; and</li><li>c. Minimizing storage times, avoiding delay in processing and managing solid wastes, yard debris and landscape waste during all weather conditions.</li></ul>
7.5	<b>Procedures for managing prohibited wastes</b>	The operating plan shall establish procedures for managing and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
7.6	<b>Procedures for odor prevention</b>	The operating plan shall establish procedures for preventing all solid waste-related odors [We don't want to get into subjective arguments about whether or not an odor is objectionable] from being detected off the premises of the facility, including solid waste-related odors produced by other on-site tenants and businesses. The plan must include: <ul style="list-style-type: none"><li>a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and</li><li>b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.</li></ul>
7.7	<b>Procedures for noise minimization</b>	The operating plan shall establish procedures for minimizing the volume and duration of noise produced in the course of Metro-authorized activities.
7.8	<b>Procedures for emergencies</b>	The operating plan shall establish procedures to be followed in case of fire or other emergency.
7.9	<b>Procedures for nuisance complaints</b>	For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Franchisee shall record: <ul style="list-style-type: none"><li>a. The nature of the complaint;</li><li>b. The date the complaint was received;</li></ul>



		<p>c. The name, address and telephone number of the person or persons making the complaint; and</p> <p>d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).</p> <p>Records of such information shall be made available to Metro and local governments upon request. The Franchisee shall retain each complaint record for a period of not less than two years.</p>
<b>7.10</b>	<b>Closure Protocol</b>	The operator shall establish protocol for closure and restoration of the site in the event of a long-term cessation of operations.

<b>8.0</b>	<b>FEES AND RATE SETTING</b>	
<b>8.1</b>	<b>Purpose</b>	This section of the Franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
<b>8.2</b>	<b>Annual fee</b>	The Franchisee shall pay an annual Franchise fee, as established in Metro Code. Metro reserves the right to change the Franchise fee at any time by action of the Metro Council.
<b>8.3</b>	<b>Fines</b>	Each violation of a Franchise condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
<b>8.4</b>	<b>Rates not regulated</b>	The tipping fees and other rates charged for the use of the facility are exempt from rate regulation by Metro.
<b>8.5</b>	<b>Metro fees and taxes imposed on disposal</b>	The Franchisee is liable for payment of the Metro Regional System Fee and the Metro Excise Tax on any solid wastes delivered to a disposal site, unless these solid wastes are exempted by Metro Code Chapters 5.01 and 7.01.
<b>8.6</b>	<b>Other fees</b>	The Franchisee shall pay a fee of \$3.00 per ton of putrescible waste received at the facility. The fee shall be payable to Metro monthly, no later than fifteen (15) days following the end of each month.

<b>9.0</b>	<b>RECORD KEEPING AND REPORTING</b>	
<b>9.1</b>	<b>Purpose</b>	This section of the Franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section.



<b>9.2</b>	<b>Reporting requirements of material received</b>	<p>For all materials the Franchisee is authorized to receive under Section 4 of this Franchise, including all putrescible waste, non-putrescible waste, source-separated recyclables, wood waste, inert materials, yard debris and landscape waste, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, and disposes. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none"><li>a. Ticket number (should be the same as the ticket number on the weight slips);</li><li>b. Account number: Incoming hauler and outgoing destination;</li><li>c. Material type: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming mixed waste; (3) outgoing recyclable materials; (4) outgoing mixed waste;</li><li>d. Origin: Code designating the following origin of material: (1) public from inside Metro boundaries; (2) public from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; (3) commercial from inside Metro boundaries; (4) commercial from Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (5) commercial from out-of-state;<ul style="list-style-type: none"><li>i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.</li><li>ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads in Section 9.2(d)(2) and (4) above.</li></ul></li><li>e. Date the load was received at or transmitted from the facility;</li><li>f. Time the load was received at or transmitted from the facility;</li><li>g. Indicate whether Franchisee accepted or rejected the load;</li><li>h. Net weight of the load;</li></ul>
<b>9.3</b>	<b>Record transmittals</b>	Records required under Section 9.2 shall be transmitted to Metro no later than fifteen (15) days following the end of each month in electronic format prescribed by Metro.



<b>9.4</b>	<b>Semi-annual computer listing</b>	On a semi-annual basis, Franchisee shall provide Metro with a computer listing that cross references the Incoming Hauler Account Number with the hauling company's name and address.
<b>9.5</b>	<b>DEQ submittals</b>	Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this Franchise within two business days of providing such information to DEQ.
<b>9.6</b>	<b>City of Portland submittals</b>	Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to or received from the City of Portland relating to the terms or conditions of the Franchisee's Conditional Use approval, building permits, occupancy permits or development permits within five business days of providing such information to, or receiving it from, the City of Portland.
<b>9.7</b>	<b>Copies of enforcement actions provided to Metro</b>	Franchisee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
<b>9.8</b>	<b>Unusual occurrences</b>	The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 797-1650 within 12 hours of the discovery of their occurrence.
<b>9.9</b>	<b>Changes in ownership</b>	The Franchisee must, in accordance with Metro Code Section 5.01.090, submit a new Franchise application to Metro if the Franchisee proposes to transfer control or ownership of (1) the Franchise, (2) the Franchisee, (3) the facility property, or (4) the name and address of the operator. For purposes of this subsection, the phrase "transfer control or ownership" shall be interpreted to include: (a) any transfer of the beneficial ownership or controlling interest of the Franchisee between the two partners that own the Franchisee, Oregon Recycling Systems, L.L.C., an Oregon limited liability company ("ORS"), and KCDK, L.L.C., a Washington limited liability corporation ("KCDK"), and (b) any transfer of ten percent (10%) or more of the beneficial ownership of ORS or KCDK.
<b>9.10</b>	<b>Reports on innovative recovery</b>	Not later than 30 days following the end of the twelfth month after the Franchisee begins accepting solid waste at the facility pursuant to this Franchise, the Franchisee shall



	<b>methods</b>	submit a report to the Metro Council detailing the innovative recovery methods that were implemented during the previous year of the facility's operations. Thereafter, the Franchisee shall submit a biennial report to the Metro Council, not later than 30 days following the end of each biennial period following the first year of operations, detailing the innovative recovery methods that were implemented during the previous two years of the facility's operations.
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<b>10.0</b>	<b>INSURANCE REQUIREMENTS</b>	
<b>10.1</b>	<b>Purpose</b>	This section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense.
<b>10.2</b>	<b>General liability</b>	The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
<b>10.3</b>	<b>Automobile</b>	The Franchisee shall carry automobile bodily injury and property damage liability insurance.
<b>10.4</b>	<b>Coverage</b>	Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
<b>10.5</b>	<b>Additional insureds</b>	Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.
<b>10.6</b>	<b>Worker's Compensation Insurance</b>	The Franchisee, its subcontractors, if any, and all employers working under this Franchise, are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be provided in lieu of the certificate showing current Workers' Compensation.
<b>10.7</b>	<b>Notification</b>	The Franchisee shall give at least 30 days prior written notice to the Director of the Metro Solid Waste & Recycling Department of any lapse or proposed cancellation of insurance coverage.





<b>11.0 ENFORCEMENT</b>		
<b>11.1</b>	<b>Generally</b>	Enforcement of this Franchise shall be as specified in Metro Code and this Section of the Franchise.
<b>11.2</b>	<b>Authority vested in Metro</b>	The power and right to regulate, in the public interest, the exercise of the privileges granted by this Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
<b>11.3</b>	<b>No Enforcement Limitations</b>	Nothing in this Franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this Franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this Franchise or the Franchisee's operation of the facility.

<b>12.0 MODIFICATIONS AND TERMINATION</b>		
<b>12.1</b>	<b>Proposals to amend Franchise</b>	At any time during the term of the Franchise, either the Chief Operating Officer or the Franchisee may propose amendments or modifications to this Franchise. Except as provided in Section 11.2, no amendment or modification shall be effective unless it is approved by the Metro Council.
<b>12.2</b>	<b>Modification, suspension or revocation by Metro</b>	<p>The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this Franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"><li>a. Violation of the terms or conditions of this Franchise, Metro Code, or any applicable statute, rule, or standard;</li><li>b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this Franchise;</li><li>c. Failure to disclose fully all relevant facts;</li><li>d. A significant release into the environment from the facility;</li><li>e. A significant change in the character of the material received or in the operation of the facility;</li><li>f. Any change in ownership or control, excluding transfers</li></ol>



		<p>among subsidiaries of the Franchisee or Franchisee's parent corporation;</p> <p>g. A request from the local government stemming from impacts resulting from facility operations; and</p> <p>h. Compliance history of the Franchisee.</p>
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<b>13.0</b>	<b>GENERAL OBLIGATIONS</b>	
<b>13.1</b>	<b>Compliance with the law</b>	Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. Such applicable laws, rules, regulations, ordinances, orders and permits include, without limitation, all laws, rules, regulations, ordinances, orders and permits adopted or made applicable during the term of this Franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this Franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the Franchise document, as well as any existing at the time of the issuance of the Franchise but not cited or attached, and permits or conditions issued or modified during the term of the Franchise.
<b>13.2</b>	<b>Indemnification</b>	The Franchisee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the Franchisee's performance or failure to perform under this Franchise, including patent infringement and any claims or disputes involving subcontractors.
<b>13.3</b>	<b>Deliver waste to appropriate destinations</b>	The Franchisee shall ensure that processed materials transferred from the facility go to appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits
<b>13.4</b>	<b>Right of inspection and audit</b>	Authorized representatives of Metro may take photographs, make notes, and perform such inspection or audit as the Chief Operating Officer deems appropriate and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable



		<p>advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under the Oregon Public Records Law. Subject to the confidentiality provisions of Section 13.5 of this Franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the Facility.</p>
<b>13.5</b>	<b>Confidential information</b>	<p>Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the Facility and that are submitted to or reviewed by Metro. Franchisee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro, including, without limitation, the information provided to Metro pursuant to sections 8.2 and 8.4 of this Franchise. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of any request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact, at the specific request of the Franchisee, any confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 12.5 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.</p>
<b>13.6</b>	<b>Compliance by agents</b>	<p>The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this Franchise.</p>

## **EXECUTIVE SUMMARY**

### **Ordinance No. 05-1092**

Ordinance No. 05-1092 for the purpose of granting the solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station

Notwithstanding the recommendations of the Chief Operating Officer, the Metro Council finds that transfer station access, the use of innovative material recovery strategies, and increasing competition within the solid waste industry are the most important factors to consider to determine whether Columbia Environmental's franchise application to operate a local transfer station is consistent with the Regional Solid Waste Management Plan.

Metro Council's approval of Ordinance No. 05-1092 would approve the application submitted by Columbia Environmental for a solid waste facility franchise to operate a local transfer station. The Council's approval would authorize the Chief Operating Officer to issue Columbia Environmental a Solid Waste Facility Franchise (Exhibit A to the ordinance).

#### Franchise Conditions for Columbia Environmental

The following is a summary of the special conditions included in the Solid Waste Facility Franchise that would be issued to Columbia Environmental, LLC:

1. Tonnage authorization for wet waste set at 38,000 tons per year, consistent with the application submitted to Metro. (*See proposed Franchise section 5.2*)
2. Establish material recovery rates for both non-putrescible waste and putrescible waste consistent with Columbia Environmental's franchise application. (*See proposed Franchise section 4.6*)
3. Provide the Metro Council with a biennial report detailing the franchisee's innovative recovery activities implemented during the previous two years. (*See proposed Franchise section 9.10*)
4. Require that any change in ownership or control of Columbia Environmental be subject to Council approval. This is a standard franchise condition, but will be clarified to ensure that it also applies to changes in ownership or control of either of the two partners that own Columbia Environmental, LLC. (*See proposed Franchise section 9.9*)
5. Require payment to Metro of \$3 per ton of wet waste received by Columbia Environmental. (*See proposed Franchise section 8.6*)
6. Ensure the proposed facility and activities are consistent with the franchise application submitted to Metro and plans submitted to the DEQ. (*See proposed Franchise section 3.0*)

#### Other Actions for Council Consideration

**Extend the Moratorium on Transfer Stations.** Under two separate ordinances, amend the RSWMP (Ordinance No. 05-1094) and the Metro Code Chapter 5.01 (Ordinance No. 05-1093), to extend the existing moratorium on new transfer stations until the conclusion of Disposal System Planning and the RSWMP update (December 2007).

Agenda Item Number 5.3

**Ordinance No. 05-1093, For the purpose of Amending Metro Code Chapter 5.01 to extend a Moratorium  
Until December 31, 2007, on Applications for and Authorizations of New Solid Waste Transfer Stations  
within the Metro Region**

*First Reading.*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 05-1093
CODE CHAPTER 5.01 TO EXTEND A	)	
MORATORIUM UNTIL DECEMBER 31, 2007, ON	)	Introduced by Chief Operating Officer
APPLICATIONS FOR AND AUTHORIZATIONS	)	Michael J. Jordan, with the concurrence of
OF NEW SOLID WASTE TRANSFER STATIONS	)	Council President David Bragdon
WITHIN THE METRO REGION	)	
	)	

WHEREAS, today approximately twice as much solid waste transfer capacity exists as is needed for the disposal of the region's municipal solid waste; and

WHEREAS, the Metro Council is concerned with maintaining sufficient levels of tonnage to ensure efficient operations at all transfer stations, including the publicly owned facilities; and

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and

WHEREAS, Metro is updating the Regional Solid Waste Management Plan and such update will involve facility regulation issues including the appropriate tonnage allocation among existing transfer stations, and the addition of new transfer facilities in the region; and

WHEREAS, on August 19, 2004, the Metro Council adopted Ordinance No. 04-1056 that amended the Metro Code Chapter 5.01 to impose a moratorium until December 31, 2005 on applications for and authorizations of new solid waste transfer stations within the Metro region; and

Whereas, Metro's update of the Regional Solid Waste Management Plan involving facility regulation issues including the appropriate tonnage allocation among existing transfer stations, and the addition of new transfer stations had been delayed pending the outcome of Metro's Disposal System Planning project; and

WHEREAS, a moratorium on additions to the number of transfer facilities in the solid waste system will provide the time necessary to determine such facility regulation issues; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.060 is amended to read as follows:

5.01.060 Applications for Licenses or Franchises

(a) Applications for a Franchise or License or for renewal of an existing Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.

(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter.

(e) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to operate a Transfer Station during the period commencing August 19, 2004 and continuing until December 31, 2007.

**SECTION 2.** Metro Code Section 5.01.070 is amended to read as follows:

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed Franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, the following factors:

- (1) Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;
- (2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;
- (4) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;
- (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the



administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this Section. If the Council does not act to grant or deny an application by the deadline for such action, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

- (1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;
- (2) The applicant substantially modifies the application during the course of the review, in which case the 120 days review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter.

(j) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six months from the date of denial.

(k) The term of a new or renewed Franchise shall be not more than five years.

(l) Notwithstanding any other provision in this Section, no application for authority to operate a Transfer Station that was received after August 19, 2004 shall be granted during the period commencing August 19, 2004 and continuing until December 31, 2007.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

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Ordinance No. 05-1093

Page 4 of 4

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1093 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO EXTEND A MORATORIUM UNTIL DECEMBER 31, 2007, ON APPLICATIONS FOR AND AUTHORIZATIONS OF NEW SOLID WASTE TRANSFER STATIONS WITHIN THE METRO REGION

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Date: August 17, 2005

Prepared by: Bill Metzler

### SUMMARY

This report recommends that the Regional Solid Waste Management Plan (RSWMP) and Chapter 5.01 of the Metro Code be amended to extend the current moratorium on new solid waste transfer stations in the Metro region until December 31, 2007. This two-year extension is intended to assure completion of major projects regarding the future of Metro's solid waste system.

On August 19, 2004, the Metro Council adopted Ordinance No 04-1056 for the purpose of amending the RSWMP to impose a moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro region. However, the RSWMP update has been delayed pending the outcome of Metro's Disposal System Planning project.

With the RSWMP currently under review and its policies and practices scheduled to be updated by late 2006, the Council has requested a review of system issues, including: (a) allocating wet waste to facilities and haulers; (b) capping tonnage at all private transfer stations; (c) authorizing new transfer facilities; and (d) implementing host fees at all transfer stations.

The magnitude of this planning effort necessitates deferring consideration of new transfer station capacity until discussions with Metro Council on Disposal System Planning and the RSWMP update process have both concluded.

An extension of the moratorium on new transfer capacity will not negatively impact the region's solid waste system. The region's transfer and disposal needs are well served by six Metro authorized transfer stations, and transfer capacity for wet waste exceeds current need by approximately 1.1 million tons – which will be even greater should Council approve Columbia Environmental's application to operate a new transfer station.

### ANALYSIS/INFORMATION

With a total of six solid waste transfer stations located in the Metro region, and a seventh transfer station if approved by the Metro Council scheduled to start up in 2007, a moratorium on new transfer stations will not have adverse system impacts. The region's transfer stations provide sufficient access and more than enough capacity. In April 2004, Metro issued its *Regional Transfer Capacity Analysis* report that addressed the question of how much capacity the region's solid waste facilities have to accept and load waste for transport to disposal sites service the region. The analysis concluded that (a) the region's transfer capacity for wet waste currently exceeds the needed capacity by approximately 1.1 million tons per year; and (b) by 2015, the transfer stations that service the region will still have 841,000 tons of unused capacity.

1. **Known Opposition.** There is no known opposition.
2. **Legal Antecedents.** The Regional Solid Waste Management Plan and Metro Code Chapter 5.01.
3. **Anticipated Effects.** Ordinance No. 05-1094 and Ordinance No. 05-1093, will amend the RSWMP and Chapter 5.01 of the Metro Code to extend a moratorium on new transfer stations in the Metro region until December 31, 2007, when the transfer station service area and associated wet-waste system issues are resolved in conjunction with the RSWMP update.
4. **Budget Impacts.** There are no budget impacts.

#### **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Ordinances Nos. 05-1094 and 05-1093.

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Agenda Item Number 5.4

**Ordinance No. 05-1094, For the Purpose of Amending the Regional Solid Waste Management Plan to Extend a Moratorium until December 31, 2007 on Applications for and Authorizations of New Solid Waste Transfer Stations within the Metro Region.**

*First Reading*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE )  
REGIONAL SOLID WASTE MANAGEMENT )  
PLAN TO EXTEND A MORATORIUM UNTIL )  
DECEMBER 31, 2007, ON APPLICATIONS FOR )  
AND AUTHORIZATIONS OF NEW SOLID )  
WASTE TRANSFER STATIONS WITHIN THE )  
METRO REGION )  
)

ORDINANCE NO. 05-1094  
Introduced by Chief Operating Officer  
Michael J. Jordan, with the concurrence of  
Council President David Bragdon

WHEREAS, on June 15, 2000, the Metro Council adopted Metro Ordinance No. 00-865, amending the Regional Solid Waste Management Plan to allow new transfer stations to be authorized where such transfer stations provide a benefit to the regional solid waste system; and

WHEREAS, following adoption of such plan amendment, the Metro Council approved three new transfer station franchises to increase and improve access to such facilities; and

WHEREAS, today approximately twice as much solid waste transfer capacity exists as is needed for the disposal of the region's municipal solid waste; and

WHEREAS, the Metro Council is concerned with maintaining sufficient levels of tonnage to ensure efficient operations at all transfer stations, including the publicly owned facilities; and

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and

WHEREAS, Metro is updating the Regional Solid Waste Management Plan and such update will involve facility regulation issues including the appropriate tonnage allocation among existing transfer stations, and the addition of new transfer facilities in the region; and

WHEREAS, on August 19, 2004, the Metro Council adopted Ordinance No 04-1056 for the purpose of amending the RSWMP to impose a moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro region; and

WHEREAS, Metro's update of the Regional Solid Waste Management Plan involving facility regulation issues including the appropriate tonnage allocation among existing transfer stations, and the addition of new transfer stations had been delayed pending the outcome of Metro's Disposal System Planning project; and

WHEREAS, the region is well-served by current solid waste transfer capacity, and accordingly an extension to the moratorium on additions to the number of transfer facilities in the solid waste system should be enacted, and no new transfer facilities considered until after completion the Disposal System Planning project and the Regional Solid Waste Management Plan update; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. The provisions of amended "Solid Waste Facilities and Services: Transfer and Disposal System," located on pages 7-25 to 7-27 of the Regional Solid Waste Management Plan, are amended to include the following:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to operate any new solid waste transfer station during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007 unless such application was received prior to August 19, 2004.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

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

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

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## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1094 FOR THE PURPOSE OF AMENDING THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO EXTEND A MORATORIUM UNTIL DECEMBER 31, 2007, ON APPLICATIONS FOR AND AUTHORIZATIONS OF NEW SOLID WASTE TRANSFER STATIONS WITHIN THE METRO REGION

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Date: August 17, 2005

Prepared by: Bill Metzler

### SUMMARY

This report recommends that the Regional Solid Waste Management Plan (RSWMP) and Chapter 5.01 of the Metro Code be amended to extend the current moratorium on new solid waste transfer stations in the Metro region until December 31, 2007. This two-year extension is intended to assure completion of major projects regarding the future of Metro's solid waste system.

On August 19, 2004 the Metro Council adopted Ordinance No 04-1056 for the purpose of amending the RSWMP to impose a moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro region. However, the RSWMP update has been delayed pending the outcome of Metro's Disposal System Planning project.

With the RSWMP currently under review and its policies and practices scheduled to be updated by late 2006, the Council has requested a review of system issues, including: (a) allocating wet waste to facilities and haulers; (b) capping tonnage at all private transfer stations; (c) authorizing new transfer facilities; and (d) implementing host fees at all transfer stations.

The magnitude of this planning effort necessitates deferring consideration of new transfer station capacity until discussions with Metro Council on Disposal System Planning and the RSWMP update process have both concluded.

An extension of the moratorium on new transfer capacity will not negatively impact the region's solid waste system. The region's transfer and disposal needs are well served by six Metro authorized transfer stations, and transfer capacity for wet waste exceeds current need by approximately 1.1 million tons – which will be even greater should Council approve Columbia Environmental's application to operate a new transfer station.

### ANALYSIS/INFORMATION

With a total of six solid waste transfer stations located in the Metro region, and a seventh transfer station if approved by the Metro Council scheduled to start up in 2007, a moratorium on new transfer stations will not have adverse system impacts. The region's transfer stations provide sufficient access and more than enough capacity. In April 2004, Metro issued its *Regional Transfer Capacity Analysis* report that addressed the question of how much capacity the region's solid waste facilities have to accept and load waste for transport to disposal sites service the region. The analysis concluded that (a) the region's transfer capacity for wet waste currently exceeds the needed capacity by approximately 1.1 million tons per year; and (b) by 2015, the transfer stations that service the region will still have 841,000 tons of unused capacity.

1. **Known Opposition.** There is no known opposition.
2. **Legal Antecedents.** The Regional Solid Waste Management Plan and Metro Code Chapter 5.01.
3. **Anticipated Effects.** Ordinance No. 05-1094 and Ordinance No. 05-1093, will amend the RSWMP and Chapter 5.01 of the Metro Code to extend a moratorium on new transfer stations in the Metro region until December 31, 2007, when the transfer station service area and associated wet-waste system issues are resolved in conjunction with the RSWMP update.
4. **Budget Impacts.** There are no budget impacts.

#### **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Ordinances Nos. 05-1094 and 05-1093.

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Agenda Item Number 5.5

**Ordinance No. 05-1095, For the Purpose of Amending FY 2005-06 Appropriations Recognizing Grants and Donations To The Oregon Zoo, adding 2.0 FTE limited duration FTE; and Declaring an Emergency.**

***First Reading***

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING FY 2005-	)	ORDINANCE NO. 05-1095
06 APPROPRIATIONS RECOGNIZING GRANTS	)	
AND DONATIONS TO THE OREGON ZOO,	)	Introduced by Mike Jordan, Chief Operating
ADDING 2.00 LIMITED DURATION FTE; AND	)	Officer, with the concurrence of Council
DECLARING AN EMERGENCY	)	President Bragdon

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2005-06 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2005-06 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing \$569,333 in donations and grant funds for specific projects, increasing operating expenditures in the Metro Capital Fund and Metro General Fund, and adding 2.0 FTE (limited duration Program Assistant I).
2. That the FY 2005-06 through FY 2009-10 Capital Improvement Plan is hereby amended to include the projects shown in Exhibit C to this Ordinance.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A**  
**Ordinance No. 05-1095**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Capital Fund</b>							
<u>Resources</u>							
BEGBAL Beginning Fund Balance							
3500	* Prior year ending balance		6,183,779	0			6,183,779
3500	* Prior year PERS Reserve		6,601	0			6,601
GRANTS Grants							
4110	State Grants-Direct		60,000	0			60,000
INTRST Interest Earnings							
4700	Interest on Investments		139,059	0			139,059
DONAT Contributions from Private Sources							
4750	Donations and Bequests		0	320,000			320,000
EQTREV Fund Equity Transfers							
4970	Transfer of Resources						
	* from General Fund (1% on SW revenues)		200,000	0			200,000
	* from General Fund (per ton on SW)		1,125,600	0			1,125,600
	* from General Fund (Regional Parks)		1,032,660	0			1,032,660
	* from General Fund (Supp Svcs)-IT R&R		316,570	0			316,570
	* from General Fund (Bldg)-MRC R&R		97,000	0			97,000
	* from General Fund-Gen'l R&R		250,000	0			250,000
	* from Gen'l Revenue Bond Fund-MRC R&R		585,000	0			585,000
INTSRV Internal Service Transfers							
4980	Transfer for Direct Costs						
	* from Open Spaces		20,000	0			20,000
	* from General Fund (Regional Parks)		25,000	0			25,000
<b>TOTAL RESOURCES</b>			<b>\$10,041,269</b>	<b>\$320,000</b>			<b>\$10,361,269</b>

**Exhibit A**  
**Ordinance No. 05-1095**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Capital Fund</b>							
<u>Personal Services</u>							
SALWGI Salaries & Wages							
5010	Reg Employees-Full Time-Exempt						
	Service Supervisor III	1.00	51,102	-	0	1.00	51,102
5030	Temporary Employees		0		20,314		20,314
5089	Salary Adjustment						
	* Adjustment Pool (Non-Rep/AFSCME)		1,022		0		1,022
	* COLA (represented employees)		1,278		0		1,278
FRINGE Fringe Benefits							
5100	Fringe Benefits						
	* Base Fringe (variable & fixed)		22,877		1,686		24,563
<b>Total Personal Services</b>		<b>1.00</b>	<b>\$76,279</b>	<b>-</b>	<b>\$22,000</b>	<b>1.00</b>	<b>\$98,279</b>
<b>Total Materials &amp; Services</b>			<b>\$500,000</b>		<b>\$0</b>		<b>\$500,000</b>
<u>Capital Outlay</u>							
CAPCIP Capital Outlay (CIP Projects)							
5715	Improve-Oth thn Bldg (CIP)		1,107,500		0		1,107,500
5725	Buildings & Related (CIP)		250,000		200,000		450,000
	* Great Northwest Project		2,000,000		98,000		2,098,000
	* California Condor Breeding Facility		520,000		0		520,000
	* Admission Ticketing System		200,000		0		200,000
<b>Total Capital Outlay</b>			<b>\$4,077,500</b>		<b>\$298,000</b>		<b>\$4,375,500</b>
<b>Total Interfund Transfers</b>			<b>\$500</b>		<b>\$0</b>		<b>\$500</b>
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>\$5,386,990</b>		<b>\$0</b>		<b>\$5,386,990</b>
<b>TOTAL REQUIREMENTS</b>		<b>1.00</b>	<b>\$10,041,269</b>	<b>-</b>	<b>\$320,000</b>	<b>1.00</b>	<b>\$10,361,269</b>

**Exhibit B**  
**Ordinance No. 05-1095**  
**FY 2005-06 SCHEDULE OF APPROPRIATIONS**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Amended Appropriation</u>
<b>GENERAL FUND</b>			
Council Office			
<u>Subtotal</u>	1,438,397	0	1,438,397
Finance & Administrative Services			
<u>Subtotal</u>	6,959,798	0	6,959,798
Human Resources			
<u>Subtotal</u>	1,136,818	0	1,136,818
Metro Auditor			
<u>Subtotal</u>	631,742	0	631,742
Office of Metro Attorney			
<u>Subtotal</u>	1,390,347	0	1,390,347
Oregon Zoo			
Operating Expenses (PS & M&S)	21,339,357	72,883	21,412,240
Capital Outlay	285,700	176,450	462,150
<u>Subtotal</u>	21,625,057	249,333	21,874,390
Planning			
<u>Subtotal</u>	14,584,926	0	14,584,926
Public Affairs & Government Relations			
<u>Subtotal</u>	1,228,768	0	1,228,768
Regional Parks & Greenspaces			
<u>Subtotal</u>	6,389,599	0	6,389,599
Non-Departmental			
<u>Subtotal</u>	2,511,645	0	2,511,645
General Expenses			
<u>Subtotal</u>	19,995,157	0	19,995,157
Unappropriated Balance	1,952,429	0	1,952,429
<b>Total Fund Requirements</b>	<b>\$79,844,683</b>	<b>\$249,333</b>	<b>\$80,094,016</b>
<b>METRO CAPITAL FUND</b>			
Operating Expenses (PS & M&S)	\$576,279	\$22,000	\$598,279
Capital Outlay	4,077,500	298,000	4,375,500
Interfund Transfers	500	0	500
Contingency	1,217,152	0	1,217,152
Unappropriated Balance	4,169,838	0	4,169,838
<b>Total Fund Requirements</b>	<b>\$10,041,269</b>	<b>\$320,000</b>	<b>\$10,361,269</b>

*The Current and Amended Columns do not reflect the impacts of Ordinance No. 05-1090 or Ordinance No. 05-1096 (Supplemental Budget)*

*All Other Appropriations Remain as Previously Adopted*

Exhibit C  
Ordinance No. 05-1095

**Project Title:** Introduction to the Forest (GNW V) **Fund:** Zoo Capital Projects Fund  
**Project Status:** Incomplete **Funding Status:** Funded **FY First Authorized:** 2003-04 **Department:** Oregon Zoo  
**Project Number:** 512151 **Active:**  **Dept. Priority:** 1 **Facility:**  **Division:** Construction Maintenance  
**Source Of Estimate:** Preliminary **Source:**  **Start Date:** 9/04 **Date:** 11/6/2003  
**Type of Project:** New **Request Type:** Initial **Completion Date:** 6/07 **Prepared By:** Sarah Chisholm

Project Estimates	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2004-2005	Years	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	Total
Construction	\$0	\$200,000	\$200,000	\$2,098,000	\$0	\$0	\$0	\$0	\$2,298,000
<b>Total:</b>	\$0	\$200,000	\$200,000	\$2,098,000	\$0	\$0	\$0	\$0	\$2,298,000

**Funding Source:**

Other - Interest Earnings	\$0	\$0	\$0	\$50,000	\$0	\$0	\$0	\$0	\$50,000
Fund Balance - Capital Reserve	\$0	\$200,000	\$200,000	\$1,650,000	\$0	\$0	\$0	\$0	\$1,850,000
Donations	\$0	\$0	\$0	\$398,000	\$0	\$0	\$0	\$0	\$398,000
<b>Total:</b>	\$0	\$200,000	\$200,000	\$2,098,000	\$0	\$0	\$0	\$0	\$2,298,000

**Annual Operating Budget Impact:**

**Annual Expenditures**

Materials and Services	\$5,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$85,000
Subtotal, Expenditures:	\$5,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$85,000
<b>Net Operating Contribution (Cost):</b>	(\$5,000)	(\$20,000)	(\$20,000)	(\$20,000)	(\$20,000)	(\$20,000)	(\$20,000)	(\$85,000)

**Project Description / Justification:** **Estimated Useful Life (yrs)** 30 **First Full Fiscal Year of Operation:** 2006-07

Two major exhibits were planned for the next phase of the Great Northwest Project. The first is the Introduction to the Forest, which will include black bears, cougars, and bobcats, and is scheduled to open in the spring of 2006. The second exhibit is the Remote Forest, which was planned to include lynx, wolverines, spotted owl, and wolves, but has been put on hold due to funding constraints. The completion of the Introduction to the Forest will mark the completion of the connecting pathway between the Mountain Goat exhibit and the Family Farm exhibit.

Exhibit C  
Ordinance No. 10-1095

**Project Title:** Primate Building      **Fund:** Zoo Capital Projects Fund  
**Project Status:** Incomplete    **Funding Status:** Funded    **FY First Authorized:** 1998-99    **Department:** Oregon Zoo  
**Project Number:** Z005    **Active:**     **Dept. Priority:** 3    **Facility:** \_\_\_\_\_    **Division:** Construction Maintenance  
**Source Of Estimate:** Preliminary    **Source:** \_\_\_\_\_    **Start Date:** 7/00    **Date:** 10/15/2003  
**Type of Project:** Replacement    **Request Type:** Continuation    **Completion Date:** 6/09    **Prepared By:** Sarah Chisholm

Project Estimates	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2004-2005	Years	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	Total
Construction	\$724,414	\$0	\$724,414	\$200,000	\$0	\$500,000	\$300,000	\$0	\$1,724,414
<b>Total:</b>	\$724,414	\$0	\$724,414	\$200,000	\$0	\$500,000	\$300,000	\$0	\$1,724,414

**Funding Source:**

Fund Balance - Capital Reserve	\$724,414	\$0	\$724,414	\$0	\$0	\$0	\$0	\$0	\$724,414
Donations	\$0	\$0	\$0	\$200,000	\$0	\$500,000	\$300,000	\$0	\$1,000,000
<b>Total:</b>	\$724,414	\$0	\$724,414	\$200,000	\$0	\$500,000	\$300,000	\$0	\$1,724,414

**Annual Operating Budget Impact:**

**Project Description / Justification:** \_\_\_\_\_      **Estimated Useful Life (yrs)** 25      **First Full Fiscal Year of Operation:** 2009-10

Refurbishes existing primate facility constructed in 1950s, including many of its component parts, and makes various improvements to make facility more visitor friendly. The emphasis of the funding has changed from more of an infrastructure approach to one of redesign and upgrade of exhibits - adding more design elements, such as artificial rockwork and trees, water features, and expanding the species list to include reptiles and birds.

Project will include reroofing, replacement of obsolete electrical equipment, skylights, hydraulics/doors, plumbing, installation of new boiler and irrigation system, and removal of asbestos.

**STAFF REPORT**

IN CONSIDERATION OF ORDINANCE NO. 05-1095, FOR THE PURPOSE OF AMENDING FY 2005-06 APPROPRIATIONS RECOGNIZING GRANTS AND DONATIONS TO THE OREGON ZOO, ADDING 2.00 LIMITED DURATION FTE; AND DECLARING AN EMERGENCY

Date: September 13, 2005

Prepared by: Brad Stevens

**BACKGROUND**

The Oregon Zoo has received several grants and donations for the 2005-06 fiscal year that were not in the forecast when the budget was presented and adopted. The intent of this Ordinance is to recognize the new revenues, increase expenditure authority, and create two new limited duration FTEs to carry out the requirements of the projects listed below.

***Black Bear Ridge – Cascade Canyon Trail***

In June, the Oregon Zoo Foundation held its summer gala, Zoolala: Big Mountain Boogie. The event raised \$120,000 to go toward the construction of the Black Bear Ridge portion of the new Cascade Canyon Trail exhibit. Cascade Canyon is a major capital construction project, adding regional habitat exhibits to the Oregon Zoo. The project showcases northwest forest-edge animals, including Black Bear. This amendment would recognize an additional \$120,000 in donations with a corresponding increase to capital appropriations and to personal services for temporary staff working on the exhibit.

<b><i>Metro Capital Fund – Oregon Zoo Capital Projects</i></b>	
<b><i>Revenues</i></b>	
Donations and Bequests	\$120,000
<b><i>Expenditures</i></b>	
Personal Services	\$22,000
Buildings and Related (CIP)	\$98,000

***Primate Building Renewal & Replacement***

The Oregon Zoo Foundation has agreed to provide additional donations to refurbish the aging Primate Building. This amendment recognizes \$200,000 in donations not included in the 2005-06 budget, specifically for Primate Building renovation. The building, originally constructed in the 1950s, is showing its age and is in need of updating. This funding will allow the zoo to upgrade several of the building's components and make improvements to enhance the visitor experience.

<b><i>Metro Capital Fund – Oregon Zoo Capital Projects</i></b>	
<b><i>Revenues</i></b>	
Donations and Bequests	\$200,000
<b><i>Expenditures</i></b>	
Buildings and Related (CIP)	\$200,000



***Vehicle Replacement***

Several of the vehicles in the Zoo’s aging fleet are at the end of their useful life and due for replacement. The Oregon Zoo Foundation has agreed to provide an additional \$100,000 in donations to replace some of the more badly worn vehicles.

<b><i>General Fund – Oregon Zoo</i></b>	
<b><i>Revenues</i></b>	
Donations and Bequests	\$100,000
<b><i>Expenditures</i></b>	
Equipment and Vehicles (Non-CIP)	\$100,000

***Train Wheelchair Lift Replacement***

A generous grant of \$12,000 from the Marie Crowley Foundation will allow the Oregon Zoo to replace the antiquated wheelchair lifts on the historic Zoo railway. The new ADA-approved lifts, similar to those used on mass transit buses and trains, will include restraint belts, rollstops, and standee handrails.

<b><i>General Fund – Oregon Zoo</i></b>	
<b><i>Revenues</i></b>	
Donations and Bequests	\$12,000
<b><i>Expenditures</i></b>	
Railroad Equipment & Facilities (Non-CIP)	\$12,000

***Mobile Animal Restraint***

The Oregon Zoo Foundation has raised additional donations for the acquisition of a new mobile animal restraint. This device will allow staff to safely perform procedures on tigers and other animals at the zoo.

<b><i>General Fund – Oregon Zoo</i></b>	
<b><i>Revenues</i></b>	
Donations and Bequests	\$10,200
<b><i>Expenditures</i></b>	
Equipment and Vehicles (Non-CIP)	\$10,200

***Exhibit Renovation***

Through the Oregon Zoo Foundation, a \$54,250 donation has been received from an individual donor specifically for the renovation of existing exhibits. Zoo staff is currently reviewing exhibit renovation needs to determine the best use for these funds.

<b><i>General Fund – Oregon Zoo</i></b>	
<b><i>Revenues</i></b>	
Donations and Bequests	\$54,250
<b><i>Expenditures</i></b>	
Buildings and Related (Non-CIP)	\$54,250

***Farm Animal Care Team – IMLS Grant***

The Oregon Zoo has been awarded a grant from the Institute of Museum and Library Services. This two-year, \$150,000 grant will be used to fund the Zoo’s new Farm Animal Care Team (FACT) program.

Drawing from many years of success with its ZooTeen program, the Oregon Zoo will take youth programming to the next level. Its plan for the Trillium Creek Family Farm staffing represents a significant departure from the way many other zoos have run their farm exhibits. Instead of having adult staff supervise and coordinate the efforts of volunteer assistants, the Oregon Zoo envisions that its farm exhibit will be operated in a brand new way – ultimately, to be managed and run entirely by teenagers. Oregon Zoo animal care and education staff will serve as consultants to assist teens on an “as-needed” basis.

Grant funding will be used to add two limited duration FTEs in the position of Program Assistant I for operation of the Trillium Creek Family Farm youth intern program. The plan to have the Trillium Creek Family Farm become an operation that is directed by a cadre of trained youth interns requires a period of development to build the program structure and content and to establish the base corps of trained youth to start a self-perpetuating program. Two Program Assistants are necessary to provide seven-day-a-week coverage for the farm and necessary days of double coverage to build and coordinate the program activities and materials. After two years, the trained youth interns will assume most of the operational responsibilities for the program.

This amendment recognizes an additional \$72,883 in grant revenue for the 2005-06 fiscal year with a corresponding increase to personal services expenditures. The amendment also adds two limited duration FTEs to the 2005-06 budget. These FTEs are limited to the two-year duration of the grant funding for the program.

<b><i>General Fund – Oregon Zoo</i></b>	
<b><i>Revenues</i></b>	
Federal Grants - Direct	\$72,883
<b><i>Expenditures</i></b>	
Personal Services	\$72,883

## **ANALYSIS/INFORMATION**

- 1. Known Opposition:** None known
- 2. Legal Antecedents:** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose.
- 3. Anticipated Effects:** This action allows the department to recognize the grants and donations dedicated to the projects described in this staff report, create two limited duration FTEs, and make expenditures to fulfill the terms of the grant or donations.
- 4. Budget Impacts:** This action requests the recognition of \$569,333 in Federal Direct Grants and private contributions, according to Exhibit A. This action also increases appropriation authority in the General Fund Expenditures by \$249,333 and in the Metro Capital Fund by \$320,000 as described in Exhibit B Schedule of Appropriations. This amendment also adds two limited duration FTEs to the 2005-06 budget.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of this Ordinance.

Agenda Item Number 5.6

**Ordinance No. 05-1096, For the Purpose of Adopting a Supplemental Budget for FY 2005-06 Providing for Pension Obligation Bonds and Other related costs, amending appropriations, authorizing an interfund loan and Declaring an Emergency**

*First Reading*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A	)	ORDINANCE NO. 05-1096
SUPPLEMENTAL BUDGET FOR FY 2005-06	)	
PROVIDING FOR PENSION OBLIGATION	)	Introduced by Mike Jordan, Chief Operating
BONDS AND OTHER RELATED COSTS,	)	Officer, with the concurrence of Council
AMENDING APPROPRIATIONS,	)	President Bragdon
AUTHORIZING AN INTERFUND LOAN, AND	)	
DECLARING AN EMERGENCY	)	

WHEREAS, Oregon Budget Law ORS 294.480 provides for the adoption of a supplemental budget if certain conditions are met; and

WHEREAS, Resolution 05-3598 approved by the Council on July 21, 2005, authorizes Metro to issue pension obligation bonds to fund its unfunded actuarial liability with the Oregon Public Employees Retirement System (PERS); and

WHEREAS, the issuance of such bonds requires the adoption of a supplemental budget in the year of issuance, including a public hearing by the Multnomah County Tax Supervising and Conservation Commission; and

WHEREAS, the Multnomah County Tax Supervising and Conservation Commission held its public hearing on the Metro supplemental budget for the fiscal year beginning July 1, 2005, and ending June 30, 2006; and

WHEREAS, recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by Metro (attached as Exhibit C and made a part of the Ordinance) and considered; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2005-06 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing resources and costs associated with the 2005 Series pension obligation bonds and other related costs including issuance costs and debt service, and the potential of an additional cash contribution to PERS from existing reserves.
2. An interfund loan from the General Fund to the Solid Waste Revenue Fund in an amount not to exceed \$1.2 million is hereby authorized. The loan will be made to fund the Solid Waste & Recycling Department's share of the cash contribution to the Public Employee Retirement System (PERS) for the purpose of buying down the unfunded actuarial liability. The loan is necessary to avoid a violation of existing bond covenants on rate coverage. The loan will be repaid, with interest, from solid waste system revenues no later than June 30, 2007. Interest will be charged on the loan at a rate equal to the average yield on Metro's pooled investments.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this 29th day of September, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b><u>Resources</u></b>							
<i>BEGBAL Beginning Fund Balance</i>							
3500	Beginning Fund Balance						
	* Undesignated		10,621,171		0		10,621,171
	* Project Carryover		477,362		0		477,362
	* Tourism Opportunity & Comp. Account		42,354		0		42,354
	* Recovery Rate Stabilization Reserve		1,333,034		0		1,333,034
	* Reserve for Future Debt Service		1,682,054		0		1,682,054
	* General Renewal & Replacement Reserve		250,000		0		250,000
	* Renewal, Replace., Cap Imp (Mult. Cty)		1,032,660		0		1,032,660
	* IT Renewal & Replacement Reserve		350,000		0		350,000
	* Prior year PERS Reserve		2,660,801		0		2,660,801
<i>EXCISE Excise Tax</i>							
4050	Excise Taxes		12,805,010		0		12,805,010
<i>RPTAX Real Property Taxes</i>							
4010	Real Property Taxes-Current Yr		9,024,168		0		9,024,168
4015	Real Property Taxes-Prior Yrs		270,725		0		270,725
<i>GRANTS Grants</i>							
4100	Federal Grants - Direct		2,830,254		0		2,830,254
4105	Federal Grants - Indirect		4,774,018		0		4,774,018
4110	State Grants - Direct		744,565		0		744,565
4115	State Grants - Indirect		345,700		0		345,700
4120	Local Grants - Direct		4,854,805		0		4,854,805
4125	Local Grants - Indirect		235,372		0		235,372
<i>LGSHRE Local Gov't Share Revenues</i>							
4135	Marine Board Fuel Tax		118,125		0		118,125
4139	Other Local Govt Shared Rev.		378,362		0		378,362
<i>GVCNTB Contributions from Governments</i>							
4145	Government Contributions		81,500		0		81,500
<i>LICPER Licenses and Permits</i>							
4150	Contractor's Business License		400,000		0		400,000
<i>CHGSVC Charges for Service</i>							
4160	Boat Ramp Use Permits		500		0		500
4165	Boat Launch Fees		166,550		0		166,550
4180	Contract & Professional Service		144,500		0		144,500
4200	UGB Fees		50,000		0		50,000
4230	Product Sales		1,775		0		1,775
4280	Grave Openings		194,901		0		194,901

**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<i><b>Resources</b></i>							
4285	Grave Sales		139,707		0		139,707
4500	Admission Fees		6,168,023		0		6,168,023
4510	Rentals		739,371		0		739,371
4550	Food Service Revenue		4,115,953		0		4,115,953
4560	Retail Sales		1,917,209		0		1,917,209
4580	Utility Services		2,100		0		2,100
4610	Contract Revenue		912,953		0		912,953
4620	Parking Fees		639,553		0		639,553
4630	Tuition and Lectures		812,487		0		812,487
4635	Exhibit Shows		433,778		0		433,778
4640	Railroad Rides		487,442		0		487,442
4645	Reimbursed Services		186,047		0		186,047
4650	Miscellaneous Charges for Service		29,625		0		29,625
4760	Sponsorships		14,000		0		14,000
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		329,419		0		329,419
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		974,845		0		974,845
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Service		43,100		1,500,000		1,543,100
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		25,000		0		25,000
4890	Miscellaneous Revenue		80,212		0		80,212
<i>INFREQ</i>	<i>Special Items-Infrequent Items</i>						
4810	Sale of Fixed Assets		2,000		0		2,000
<i>DBTREV</i>	<i>Bond &amp; Loan Proceeds</i>						
4905	Revenue Bond Proceeds		0		27,500,000		27,500,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from Metro Capital Fund-Tibbets Acct		500		0		500
	* from Metro Capital Fund-Zoo Capital Acct		0		9,634		9,634
	* from MERC Operating Fund		0		1,778,272		1,778,272
	* from MERC Pooled Capital Fund		0		61,160		61,160
	* from Open Spaces Fund		0		58,485		58,485
	* from Risk Management Fund		0		32,384		32,384
	* from SW Revenue Fund		0		1,205,549		1,205,549



Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b><u>Resources</u></b>							
<i>INDTRV Interfund Reimbursements</i>							
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,659,536		0		1,659,536
	* from Open Spaces Fund		312,499		0		312,499
	* from Solid Waste Revenue Fund		3,463,419		0		3,463,419
<i>INTSRV Internal Service Transfers</i>							
4980	Transfer for Direct Costs						
	* from MERC Operating Fund		72,677		0		72,677
	* from Open Spaces Fund		31,796		0		31,796
	* from Smith & Bybee Lakes Fund		21,700		0		21,700
	* from Solid Waste Revenue Fund		359,466		0		359,466
<b>TOTAL RESOURCES</b>			<b>\$79,844,683</b>		<b>\$32,145,484</b>		<b>\$111,990,167</b>

**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>General Fund - Non-Departmental</b>							
<b>Total Personal Services</b>		<b>3.75</b>	<b>316,800</b>	<b>-</b>	<b>0</b>	<b>3.75</b>	<b>316,800</b>
<i><u>Materials &amp; Services</u></i>							
<i>GOODS Goods</i>							
5210	Subscriptions and Dues		15,750		0		15,750
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		339,095		0		339,095
5246	Sponsorships		35,000		0		35,000
5280	Other Purchased Services		150,000		0		150,000
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		25,000		35,050,763		35,075,763
5305	Election Expenses		300,000		0		300,000
<i>OTHEXP Other Expenditures</i>							
5445	Grants		1,250,000		0		1,250,000
5490	Miscellaneous Expenditures		80,000		0		80,000
<b>Total Materials &amp; Services</b>			<b>2,194,845</b>		<b>35,050,763</b>		<b>37,245,608</b>
<i><u>Debt Service</u></i>							
<i>REVBND Revenue Bond Payments</i>							
5635	Revenue Bond Payments-Interest		0		1,500,000		1,500,000
<b>Total Debt Service</b>			<b>0</b>		<b>1,500,000</b>		<b>1,500,000</b>
<b>TOTAL REQUIREMENTS</b>		<b>3.75</b>	<b>\$2,511,645</b>	<b>-</b>	<b>\$36,550,763</b>	<b>3.75</b>	<b>\$39,062,408</b>

**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b><u>Interfund Transfers</u></b>							
<i>INDTEX Interfund Reimbursements</i>							
5800	Transfer for Indirect Costs						
	* to Risk Mgmt Fund-Liability		339,483		0		339,483
	* to Risk Mgmt Fund-Worker Comp		290,900		0		290,900
<i>EQTCHG Fund Equity Transfers</i>							
5810	Transfer of Resources						
	* to Gen'l Revenue Bond Fund-Debt Se		1,916,878		0		1,916,878
	* to Metro Cap-MRC R&R Reserve		97,000		0		97,000
	* to MERC Oper (OCC - VDI Complia		192,943		0		192,943
	* to MERC Cap (Tourism Opp. & Cor		636,208		0		636,208
	* to Metro Cap -Reg. Parks (\$1.50 per 1		1,125,600		0		1,125,600
	* to Metro Cap -Reg Parks (earned on S		200,000		0		200,000
	* to Metro Cap -Reg. Parks		1,032,660		0		1,032,660
	* to Metro Cap -Gen'l R&R		250,000		0		250,000
	* to Metro Cap -IT R&R		316,570		0		316,570
<i>INTCHG Internal Service Transfers</i>							
5820	Transfer for Direct Costs						
	* to Metro Cap Fund -Reg. Parks		25,000		0		25,000
<i>LOANEX Interfund Loan - Expenditures</i>							
5860	Interfund Loan - Principal						
	* Principal-to SW Revenue Fund		0		1,200,000		1,200,000
<b>Total Interfund Transfers</b>			<b>6,423,242</b>		<b>1,200,000</b>		<b>7,623,242</b>
<b><u>Contingency &amp; Unappropriated Balance</u></b>							
<i>CONT Contingency</i>							
5999	Contingency						
	* General Contingency		3,993,638		(1,200,000)		2,793,638
	* General Reserve		5,344,000		0		5,344,000
	* Tourism Opportunity & Comp. Acct		42,354		0		42,354
	* Current Year PERS Reserve		1,334,172		(1,535,505)		(201,333)
	* Prior Year PERS Reserve		2,660,801		(2,869,774)		(208,973)
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance						
	* Recovery Rate stabilization reserve		83,034		0		83,034
	* Computer Replacement Reserve		90,000		0		90,000
	* Tibbets Flower Account		340		0		340
	* Reserve for Future Debt Service		1,779,055		0		1,779,055
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>15,327,394</b>		<b>(5,605,279)</b>		<b>9,722,115</b>
<b>TOTAL REQUIREMENTS</b>		<b>387.08</b>	<b>\$79,844,683</b>	<b>-</b>	<b>\$32,145,484</b>	<b>387.08</b>	<b>\$111,990,167</b>

Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>MERC Operating Fund</b>							
<b>Total MERC Operating Fund</b>							
	<b>Total Personal Services</b>	<b>150.65</b>	<b>\$14,402,032</b>	<b>0.00</b>	<b>\$0</b>	<b>150.65</b>	<b>\$14,402,032</b>
	<b>Total Materials &amp; Services</b>		<b>\$16,153,246</b>		<b>\$0</b>		<b>\$16,153,246</b>
	<b>Total Debt Service</b>		<b>\$22,768</b>		<b>\$0</b>		<b>\$22,768</b>
<b><u>Interfund Transfers</u></b>							
<i>INDTEX Interfund Reimbursements</i>							
	5800 Transfer for Indirect Costs						
	* to General Fund-Support Services		1,606,715		0		1,606,715
	* to General Fund		52,821		0		52,821
	* to Risk Management Fund - Liability		443,004		0		443,004
	* to Risk Management Fund - Workers Comp.		93,705		0		93,705
<i>INTCHC Internal Service Transfers</i>							
	5820 Transfer for Direct Costs						
	to General Fund-Support Services		72,677		0		72,677
<i>EQTCH Fund Equity Transfers</i>							
	5810 Transfer of Resources						
	* to MERC Pooled Capital		97,637		0		97,637
	* to General Fund (Pension Obligation)		0		1,778,272		1,778,272
	* to General Revenue Bond Fund		1,215,134		0		1,215,134
	<b>Total Interfund Transfers</b>		<b>\$3,581,693</b>		<b>\$1,778,272</b>		<b>\$5,359,965</b>
<b><u>Contingency and Ending Balance</u></b>							
<i>CONT Contingency</i>							
	5999 Contingency						
	* General Contingency		1,221,092		0		1,221,092
	* Prior Year PERS Reserve		1,229,360		(1,180,323)		49,037
	* Current Year PERS Reserve		597,949		(597,949)		0
<i>UNAPP Unappropriated Fund Balance</i>							
	5990 Unappropriated Fund Balance						
	* Restricted Fund Balance (User Fees)		644,546		0		644,546
	* Ending Balance		6,899,259		0		6,899,259
	<b>Total Contingency and Ending Balance</b>		<b>\$10,592,206</b>		<b>(\$1,778,272)</b>		<b>\$8,813,934</b>
<b>TOTAL REQUIREMENTS</b>		<b>150.65</b>	<b>\$44,751,945</b>	<b>0.00</b>	<b>\$0</b>	<b>150.65</b>	<b>\$44,751,945</b>

Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT DESCRIPTION	Current Budget		Revision		Amended Budget	
	FTE	Amount	FTE	Amount	FTE	Amount
<b>MERC Pooled Capital Fund</b>						
<b>Total Personal Services</b>	<b>5.35</b>	<b>\$568,474</b>	<b>0.00</b>	<b>\$0</b>	<b>5.35</b>	<b>\$568,474</b>
<b>Total Capital Outlay</b>		<b>\$3,758,072</b>		<b>\$0</b>		<b>\$3,758,072</b>
<i><b>Interfund Transfers</b></i>						
<i>EQTCh Fund Equity Transfers</i>						
5810 Transfer of Resources						
* to General Fund (Pension Obligation)		0		61,160		61,160
<b>Total Interfund Transfers</b>		<b>\$0</b>		<b>\$61,160</b>		<b>\$61,160</b>
<i><b>Contingency and Ending Balance</b></i>						
<i>CONT Contingency</i>						
5999 Contingency						
* General Contingency		695,182		0		695,182
* Prior Year PERS Reserve		31,609		(35,121)		(3,512)
* Current Year PERS Reserve		24,445		(26,039)		(1,594)
<i>UNAPF Unappropriated Fund Balance</i>						
5990 Unappropriated Fund Balance						
* Ending Balance		1,240,162		0		1,240,162
* Prior Year PERS Reserve		1,594		0		1,594
<b>Total Contingency and Ending Balance</b>		<b>\$1,992,992</b>		<b>(\$61,160)</b>		<b>\$1,931,832</b>
<b>TOTAL REQUIREMENTS</b>	<b>5.35</b>	<b>\$6,319,538</b>	<b>0.00</b>	<b>\$0</b>	<b>5.35</b>	<b>\$6,319,538</b>

**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Capital Fund</b>							
<b>Total Personal Services</b>		<b>1.00</b>	<b>\$76,279</b>	<b>-</b>	<b>\$0</b>	<b>1.00</b>	<b>\$76,279</b>
<b>Total Materials &amp; Services</b>			<b>\$500,000</b>		<b>\$0</b>		<b>\$500,000</b>
<b>Total Capital Outlay</b>			<b>\$4,077,500</b>		<b>\$0</b>		<b>\$4,077,500</b>
<b><u>Interfund Transfers</u></b>							
<i>EQTCHG Fund Equity Transfers</i>							
5810	Transfer of Resources						
	* to General Fund (Pension Obligation)		0		9,634		9,634
	* to General Fund (Regional Parks-Tibbets)		500		0		500
<b>Total Interfund Transfers</b>			<b>\$500</b>		<b>\$9,634</b>		<b>\$10,134</b>
<b><u>Contingency &amp; Unappropriated Balance</u></b>							
<i>CONT Contingency</i>							
5999	Contingency						
	* General contingency		1,207,000		0		1,207,000
	* Current Year PERS Reserve		3,551		(3,551)		0
	* Prior Year PERS Reserve		6,601		(6,083)		518
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance						
	* Renewal & Replacement - IT		316,570		0		316,570
	* Renewal & Replacement - MRC		396,625		0		396,625
	* Oregon Zoo Projects Account		1,763,911		0		1,763,911
	* Parks Capital Projects Account		233,822		0		233,822
	* Parks Renewal & Replacement		173,150		0		173,150
	* Parks Cap. Imp, R&R (Mult. Cty Reserve)		982,660		0		982,660
	* Oxbow Park Nature Center Account		303,100		0		303,100
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>\$5,386,990</b>		<b>(\$9,634)</b>		<b>\$5,377,356</b>
<b>TOTAL REQUIREMENTS</b>		<b>1.00</b>	<b>\$10,041,269</b>	<b>-</b>	<b>\$0</b>	<b>1.00</b>	<b>\$10,041,269</b>

Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Open Spaces Fund</b>							
<b>Total Personal Services</b>		<b>1.50</b>	<b>\$157,609</b>	<b>0.00</b>	<b>0</b>	<b>1.50</b>	<b>\$157,609</b>
<b>Total Materials &amp; Services</b>			<b>\$1,547,849</b>		<b>0</b>		<b>\$1,547,849</b>
<b>Total Capital Outlay</b>			<b>\$1,206,000</b>		<b>0</b>		<b>\$1,206,000</b>
<i><b>Interfund Transfers</b></i>							
<i>INDTE. Interfund Reimbursements</i>							
5800 Transfer for Indirect Costs							
	* to General Fund-Bldg		69,079		0		69,079
	* to General Fund-Support Services		240,221		0		240,221
	* to General Fund		3,199		0		3,199
	* to Risk Mgmt-Liability		1,778		0		1,778
	* to Risk Mgmt-Worker Comp		2,004		0		2,004
<i>INTCH. Internal Service Transfers</i>							
5820 Transfer for Direct Costs							
	* to General Fund-Planning		31,796		0		31,796
	* to Metro Capital Fund-Regional Parks		20,000		0		20,000
<i>EQTCH. Fund Equity Transfers</i>							
5810 Transfer of Resources							
	* to General Fund (Pension Obligation)		0		58,485		58,485
<b>Total Interfund Transfer:</b>			<b>\$368,077</b>		<b>58,485</b>		<b>\$426,562</b>
<i><b>Contingency and Ending Balance</b></i>							
<i>CONT. Contingency</i>							
5999 Contingency							
	* General contingency		411,170		0		411,170
	* Prior Year PERS Reserve		50,226		(51,387)		(1,161)
	* Current Year PERS Reserve		7,098		(7,098)		0
<i>UNAPF Unappropriated Fund Balance</i>							
5990 Unappropriated Fund Balance							
	* Unappropriated Balance		116,252		0		116,252
<b>Total Contingency and Ending Balanc</b>			<b>\$584,746</b>		<b>(58,485)</b>		<b>\$526,261</b>
<b>TOTAL REQUIREMENTS</b>		<b>1.50</b>	<b>\$3,864,281</b>	<b>0.00</b>	<b>0</b>	<b>1.50</b>	<b>\$3,864,281</b>

Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Risk Management Fund</b>							
<b>Total Personal Services</b>		<b>1.80</b>	<b>\$143,503</b>	<b>0.00</b>	<b>\$0</b>	<b>1.80</b>	<b>\$143,503</b>
<b>Total Materials &amp; Services</b>			<b>\$7,809,139</b>		<b>\$0</b>		<b>\$7,809,139</b>
<b><u>Interfund Transfers</u></b>							
<i>EQTCH (Fund Equity Transfers)</i>							
5810 Transfer of Resources							
* to General Fund (Pension Obligation)			0		32,384		32,384
<b>Total Interfund Transfers</b>			<b>\$0</b>		<b>\$32,384</b>		<b>\$32,384</b>
<b><u>Contingency and Ending Balance</u></b>							
<i>CONT Contingency</i>							
5999 Contingency							
* Prior Year PERS Reserve			25,974		(25,779)		195
* Current Year PERS Reserve			6,605		(6,605)		0
<b>Total Contingency and Ending Balance</b>			<b>\$32,579</b>		<b>(\$32,384)</b>		<b>\$195</b>
<b>TOTAL REQUIREMENTS</b>		<b>1.80</b>	<b>\$7,985,221</b>	<b>0.00</b>	<b>\$0</b>	<b>1.80</b>	<b>\$7,985,221</b>



**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Solid Waste Revenue Func</b>							
<i>Resources</i>							
<i>BEGBAL Beginning Fund Balance</i>							
	* St. Johns Landfill Closure Account		6,642,276		0		6,642,276
	* Renewal and Replacement		5,548,717		0		5,548,717
	* Rate Stabilization Reserve Account		4,542,346		0		4,542,346
	* Metro Central Debt Service		1,217,881		0		1,217,881
	* Recycling Business Assistance Account		700,000		0		700,000
	* General Account - Capital Reserve		2,569,362		0		2,569,362
	* General Account-Debt Service Accumulatio		2,398,037		0		2,398,037
	* General Account (unrestricted)		7,759,668		0		7,759,668
	* Prior year PERS Reserve		799,020		0		799,020
<i>CHGSVC Charges for Service</i>							
4180	Contract & Professional Service		65,000		0		65,000
4210	Documents and Publications		950		0		950
4230	Product Sales		790,000		0		790,000
4300	Disposal Fees		26,321,821		0		26,321,821
4305	Regional System Fee		19,332,087		0		19,332,087
4325	Rehabilitation & Enhance Fee		144,718		0		144,718
4330	Transaction Fee		2,846,115		0		2,846,115
4333	Uncovered Surcharge		0		0		0
4335	Host Fees		261,204		0		261,204
4340	Tire Disposal Fee		21,000		0		21,000
4342	Organics Fee		1,252,718		0		1,252,718
4345	Yard Debris Disposal Fee		350,000		0		350,000
4346	Curbside Yard Debris Fees		20,000		0		20,000
4350	Orphan Site Account Fee		73,476		0		73,476
4355	DEQ Promotion Fee		627,375		0		627,375
4360	Refrigeration Unit Disposal Fee		40,000		0		40,000
4365	H2W Disposal Fee		6,500		0		6,500
4368	Paint Recycling Fees		206,000		0		206,000
4370	Conditionally Exempt Gen. Fees		82,000		0		82,000
4410	Franchise Fees		15,000		0		15,000
4420	Natural Gas Recovery Revenue		23,000		0		23,000
4510	Rentals		3,800		0		3,800
<i>INTRST Interest Earnings</i>							
4700	Interest on Investments		780,683		0		780,683
<i>MISCRV Miscellaneous Revenue</i>							
4170	Fines and Forfeits		5,000		0		5,000
4805	Financing Transactions		10,000		0		10,000

Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Solid Waste Revenue Fund</b>							
<i>Resources</i>							
<i>LOANRV Interfund Loan - Resource</i>							
4960	Interfund Loan - Principal * from General Fund			0	1,200,000		1,200,000
<i>INTSRV Internal Service Transfers</i>							
4980	Transfer for Direct Costs * from Rehab. & Enhancement Fund		29,101		0		29,101
<b>TOTAL RESOURCES</b>			<b>\$85,484,855</b>		<b>\$1,200,000</b>		<b>\$86,684,855</b>

Exhibit A  
Ordinance No. 05-1096  
SUPPLEMENTAL BUDGET

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Solid Waste Revenue Func</b>							
<b>Operating Account</b>							
<b>TOTAL REQUIREMENTS</b>		<b>106.20</b>	<b>\$45,752,929</b>	<b>0.00</b>	<b>\$0</b>	<b>106.20</b>	<b>\$45,752,929</b>
<b>Debt Service Account</b>							
<b>TOTAL REQUIREMENTS</b>			<b>\$2,344,863</b>		<b>\$0</b>		<b>\$2,344,863</b>
<b>Landfill Closure Account</b>							
Total Materials & Services			\$321,400		\$0		\$321,400
Total Capital Outlay			\$384,000		\$0		\$384,000
<b>TOTAL REQUIREMENTS</b>			<b>\$705,400</b>		<b>\$0</b>		<b>\$705,400</b>
<b>Renewal &amp; Replacement Account</b>							
<b>TOTAL REQUIREMENTS</b>			<b>\$1,896,000</b>		<b>\$0</b>		<b>\$1,896,000</b>
<b>General Account</b>							
<b>TOTAL REQUIREMENTS</b>			<b>\$949,000</b>		<b>\$0</b>		<b>\$949,000</b>
<b>Recycling Business Assistance Account</b>							
<b>TOTAL REQUIREMENTS</b>			<b>\$250,000</b>		<b>\$0</b>		<b>\$250,000</b>
<b>General Expenses</b>							
<b><i>Interfund Transfers</i></b>							
<i>INDTEX</i>	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to General Fund-Bldg		328,159		0		328,159
	* to General Fund-Support Services		3,021,801		0		3,021,801
	* to General Fund		113,459		0		113,459
	* to Risk Mgmt Fund-Liability		100,761		0		100,761
	* to Risk Mgmt Fund-Worker Comp		56,366		0		56,366
<i>INTCHG</i>	<i>Internal Service Transfers</i>						
5820	Transfer for Direct Costs						
	* to General Fund-Planning		356,316		0		356,316
	* to General Fund-Regional Parks		3,150		0		3,150

**Exhibit A**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Solid Waste Revenue Fund</b>							
<i>EQTCHG Fund Equity Transfers</i>							
5810	Transfer of Resources						
	* to General Fund (Pension Obligation)		0		1,205,549		1,205,549
	* to Rehab. & Enhancement Fund		405,922		0		405,922
<b>Total Interfund Transfer:</b>			<b>\$4,385,934</b>		<b>\$1,205,549</b>		<b>\$5,591,483</b>
 <i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
5999	Contingency						
	* Operating Account (Operating Contingency)		2,000,000		1,200,000		3,200,000
	* Landfill Closure Account		6,125,933		0		6,125,933
	* Renewal & Replacement Account		4,407,887		0		4,407,887
	* Prior year PERS Reserve		799,020		(793,704)		5,316
	* Current Year PERS Reserve		411,845		(411,845)		0
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance						
	* Debt Service Account (Metro Central)		1,221,981		0		1,221,981
	* General Account (Working Capital)		5,759,668		0		5,759,668
	* General Account (Rate Stabilization)		3,547,096		0		3,547,096
	* General Account (Recycle Bus. Assistance)		700,000		0		700,000
	* General Account (Capital Reserve)		1,833,362		0		1,833,362
	* General Account (Debt Service Accrual)		2,393,937		0		2,393,937
<b>Total Contingency and Ending Balance</b>			<b>\$29,200,729</b>		<b>(\$5,549)</b>		<b>\$29,195,180</b>
<b>TOTAL REQUIREMENTS</b>		<b>106.20</b>	<b>\$85,484,855</b>	<b>0.00</b>	<b>\$1,200,000</b>	<b>106.20</b>	<b>\$86,684,855</b>

**Exhibit B**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**  
**FY 2005-06 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Council Office			
Operating Expenses (PS & M&S)	1,438,397	0	1,438,397
<u>Subtotal</u>	<u>1,438,397</u>	<u>0</u>	<u>1,438,397</u>
Finance & Administrative Services			
Operating Expenses (PS & M&S)	6,688,798	0	6,688,798
Capital Outlay	271,000	0	271,000
<u>Subtotal</u>	<u>6,959,798</u>	<u>0</u>	<u>6,959,798</u>
Human Resources			
Operating Expenses (PS & M&S)	1,136,818	0	1,136,818
<u>Subtotal</u>	<u>1,136,818</u>	<u>0</u>	<u>1,136,818</u>
Metro Auditor			
Operating Expenses (PS & M&S)	631,742	0	631,742
<u>Subtotal</u>	<u>631,742</u>	<u>0</u>	<u>631,742</u>
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,390,347	0	1,390,347
<u>Subtotal</u>	<u>1,390,347</u>	<u>0</u>	<u>1,390,347</u>
Oregon Zoo			
Operating Expenses (PS & M&S)	21,339,357	0	21,339,357
Capital Outlay	285,700	0	285,700
<u>Subtotal</u>	<u>21,625,057</u>	<u>0</u>	<u>21,625,057</u>
Planning			
Operating Expenses (PS & M&S)	14,552,926	0	14,552,926
Capital Outlay	32,000	0	32,000
<u>Subtotal</u>	<u>14,584,926</u>	<u>0</u>	<u>14,584,926</u>
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,228,768	0	1,228,768
<u>Subtotal</u>	<u>1,228,768</u>	<u>0</u>	<u>1,228,768</u>
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	6,314,599	0	6,314,599
Capital Outlay	75,000	0	75,000
<u>Subtotal</u>	<u>6,389,599</u>	<u>0</u>	<u>6,389,599</u>
Non-Departmental			
Operating Expenses (PS & M&S)	2,511,645	35,050,763	37,562,408
Debt Service	0	1,500,000	1,500,000
<u>Subtotal</u>	<u>2,511,645</u>	<u>36,550,763</u>	<u>39,062,408</u>

**Exhibit B**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**  
**FY 2005-06 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
General Expenses			
Interfund Transfers	6,423,242	1,200,000	7,623,242
Contingency	13,571,915	(5,605,279)	7,966,636
Subtotal	<u>19,995,157</u>	<u>(4,405,279)</u>	<u>15,589,878</u>
Unappropriated Balance	1,952,429	0	1,952,429
<b>Total Fund Requirements</b>	<b>\$79,844,683</b>	<b>\$32,145,484</b>	<b>\$111,990,167</b>
<b>MERC OPERATING FUND</b>			
Operating Expenses (PS & M&S)	\$30,555,278	\$0	\$30,555,278
Debt Service	22,768	0	22,768
Interfund Transfers	3,581,693	1,778,272	5,359,965
Contingency	3,048,401	(1,778,272)	1,270,129
Unappropriated Balance	7,543,805	0	7,543,805
<b>Total Fund Requirements</b>	<b>\$44,751,945</b>	<b>\$0</b>	<b>\$44,751,945</b>
<b>MERC POOLED CAPITAL FUND</b>			
Operating Expenses (PS & M&S)	\$568,474	\$0	\$568,474
Capital Outlay	3,758,072	0	3,758,072
Interfund Transfers	0	61,160	61,160
Contingency	751,236	(61,160)	690,076
Unappropriated Balance	1,241,756	0	1,241,756
<b>Total Fund Requirements</b>	<b>\$6,319,538</b>	<b>\$0</b>	<b>\$6,319,538</b>
<b>METRO CAPITAL FUND</b>			
Operating Expenses (PS & M&S)	\$576,279	\$0	\$576,279
Capital Outlay	4,077,500	0	4,077,500
Interfund Transfers	500	9,634	10,134
Contingency	1,217,152	(9,634)	1,207,518
Unappropriated Balance	4,169,838	0	4,169,838
<b>Total Fund Requirements</b>	<b>\$10,041,269</b>	<b>\$0</b>	<b>\$10,041,269</b>
<b>OPEN SPACES FUND</b>			
Operating Expenses (PS & M&S)	\$1,705,458	\$0	\$1,705,458
Capital Outlay	1,206,000	0	1,206,000
Interfund Transfers	368,077	58,485	426,562
Contingency	468,494	(58,485)	410,009
Unappropriated Balance	116,252	0	116,252
<b>Total Fund Requirements</b>	<b>\$3,864,281</b>	<b>\$0</b>	<b>\$3,864,281</b>

**Exhibit B**  
**Ordinance No. 05-1096**  
**SUPPLEMENTAL BUDGET**  
**FY 2005-06 SCHEDULE OF APPROPRIATIONS**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Amended Appropriation</u>
<b>RISK MANAGEMENT FUND</b>			
Operating Expenses (PS & M&S)	\$7,952,642	\$0	\$7,952,642
Interfund Transfers	0	32,384	32,384
Contingency	32,579	(32,384)	195
<b>Total Fund Requirements</b>	<b>\$7,985,221</b>	<b>\$0</b>	<b>\$7,985,221</b>
<b>SOLID WASTE REVENUE FUND</b>			
Operating Account			
Operating Expenses (PS & M&S)	\$45,752,929	\$0	\$45,752,929
Subtotal	45,752,929	0	45,752,929
Debt Service Account			
Debt Service	2,344,863	0	2,344,863
Subtotal	2,344,863	0	2,344,863
Landfill Closure Account			
Materials & Services	321,400	0	321,400
Capital Outlay	384,000	0	384,000
Subtotal	705,400	0	705,400
Renewal and Replacement Account			
Capital Outlay	1,896,000	0	1,896,000
Subtotal	1,896,000	0	1,896,000
General Account			
Capital Outlay	949,000	0	949,000
Subtotal	949,000	0	949,000
Recycling Business Assistance Account			
Materials & Services	250,000	0	250,000
Subtotal	250,000	0	250,000
General Expenses			
Interfund Transfers	4,385,934	1,205,549	5,591,483
Contingency	13,744,685	(5,549)	13,739,136
Subtotal	18,130,619	1,200,000	19,330,619
Unappropriated Balance	15,456,044	0	15,456,044
<b>Total Fund Requirements</b>	<b>\$85,484,855</b>	<b>\$1,200,000</b>	<b>\$86,684,855</b>

*All Other Appropriations Remain as Previously Adopted*

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE 05-1096 FOR THE PURPOSE OF ADOPTING A SUPPLEMENTAL BUDGET FOR FY 2005-06 PROVIDING FOR PENSION OBLIGATION BONDS AND OTHER RELATED COSTS, AMENDING APPROPRIATIONS, AUTHORIZING AN INTERFUND LOAN AND DECLARING AN EMERGENCY

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Date: August 23, 2005

Prepared by: Bill Stringer  
Kathy Rutkowski

### BACKGROUND

Despite recent legislative reforms and positive market performance, the Oregon Public Employee Retirement System (OPERS) continues to be significantly underfunded. Prior to legislative action the OPERS actuary had estimated that the total unfunded liability of the fund was approximately \$17 billion. The 2003 legislative reforms would not have eliminated the liability, and losses are still estimated to be \$8.5 billion (about half of the original amount) after 2002's investment losses are taken into account. As a result, every jurisdiction has seen its OPERS payroll rate increase beginning July 1, 2005 to cover these shortfalls.

Under a pension plan the actuarial liability is the present value of the plan's current and expected benefits payments (plus administrative expenses). If a fund's actuarial liability exceeds its current assets, then the fund has a shortfall that is known as an unfunded actuarial liability ("UAL"). This shortfall is the difference between what the fund has "in the bank" right now and what it expects to pay in current and future benefits. In other words, the UAL is the shortfall the fund would face if its assets were liquidated and the present value of the benefits was paid today.

Several factors contributed to this systemic OPERS problem:

- The increase in benefits provided in 1995 to offset taxation due to lawsuit by federal retirees
- Money Match and unequal earnings rates paid to employers and employees.
- 8% rate paid to Tier 1 employees when fund was losing money.
- More than 8% rate paid to Tier 1 employees during late 1990s.
- Inadequate reserves retained to cover Tier 1 distributions.
- Outdated mortality tables.

The Legislature made substantial changes to avoid catastrophic financial consequences:

- 8% guarantee provided over career, not annually
- 6% employee contribution deposited in 401(k)-type account, not subject to money match
- Mortality tables updated
- OPERS board completely revamped
- New system (OPSRP) created for employees hired after August 29, 2003.

In making these changes the Oregon Legislature was hugely successful in reducing the size of the UAL. We know now, however, that the State courts have indicated that the first two items overstepped the



authority of the Legislature for some of its members: modifying the money match program going forward and changing the 8% guarantee to a career guarantee, rather than an annual one. The final outcome of the challenges is still unclear, however, and the actuarial impact upon rates for Metro's pool has not even been estimated. Indications are that it could be up to 18 months before rates will be adjusted to account for the Courts' findings.

Even without taking into account any adverse impacts of the court challenges, OPERS costs to Metro are rising rapidly. Last year Metro paid 7.14% of salaries and wages to OPERS. That rate (based upon the 2003 valuation, which incorporated losses experienced in 2002) increased 4.66 percentage points on July 1, 2005 to 11.80 percent of salaries and wages. In two years, unless unforeseen earnings or losses intervene, it will increase another 4.66 percentage points to 16.46 percent of salaries and wages. These increases are caused only by poor earnings accruing to the OPERS investment portfolio and policy choices that had adverse impacts on payout and earnings and do not relate to adverse court rulings regarding the 2003 Legislative Reforms.

Every jurisdiction pays a different percentage of their payroll to cover OPERS-related costs. The rate paid depends in part on whether the jurisdiction participates (or participated at one time) in one of several actuarial "pools", or whether it is treated as a single, independent employer. To reduce volatility of earnings and losses, Metro chose in 1999 to join a pool within OPERS that included Multnomah County and the City of Portland. When Metro joined the pool it entered with a \$7.1 million actuarial surplus as seen in the table below. However, significant losses were incurred in Metro's portion of the OPERS portfolio in 2000, 2001, 2002 and 2003. The losses are shown in the following table:

**METRO'S OUTSTANDING UAL BALANCE**

Remaining 1999 UAL	\$ (7,036,321)
Remaining 2000 Loss	3,171,354
Remaining 2001 Loss	26,452,706
Remaining 2002 Loss	39,182,032
Remaining 2003 Loss	7,947,053
2003 OPERS Reform Legislation	(51,640,261)
 UAL as of 12/31/2003	 \$ 18,076,563

Additional losses have occurred since and are expected to occur over the next several months such that the unfunded actuarial liability by the end of October of 2005 is expected to be \$23,935,891.

Note, that the OPERS actuary has credited savings equal to \$51,640,563 attributable to the package of reforms passed by the Oregon Legislature in 2003. We know that the State Supreme court has not upheld some of those reforms. It is not known at this time what the impact might be on the UAL by this decision—losing all or part of the \$51.6 million savings.

Ultimately, the actuary bases a rate upon a complex calculation involving current and past statistics and future projections of Metro's

- Total payroll,
- Earnings within the pool,
- Demographics--including the age and seniority of Metro employees and the number of retiree and potential retirees in Tier 1 and Tier 2, and
- The Unfunded Actuarial Liability.

For jurisdictions with an unfunded actuarial liability (“UAL”), embedded within the total payroll rate is a portion dedicated to repayment of that shortfall, calculated at 8% interest. Thus, OPERS currently requires Metro make payments that would eliminate its unfunded liability over a period of approximately 23 years and charges Metro eight percent per annum on the unfunded balance because OPERS expects, over the long term, to earn eight percent on its investments. Thus, there is little that Metro can do to moderate the increase other than reduce payroll or reduce the UAL.

Metro has, however, taken two actions to mitigate the increase:

- *First*, Metro has chosen to set aside 6.65 percent of payroll against future increases due to adverse court findings. It currently has about \$5 million of reserves set aside for this purpose and will add another \$2.5 million by the end of FY 2005-06. The stated purpose of the reserve at the time it was created was to use if and when rates were increased due solely to adverse court findings—not to offset the unfunded actuarial liability of the fund which was assumed would be funded by increased rates over the next 23 years.
- *Second*, the Council, through resolution 05-3598 approved July 21, 2005, authorized the issuance of pension obligation bonds to fund its Oregon Public Employees Retirement System (OPERS) unfunded actuarial liability.

Resolution 05-3598, authorizes the issuance, sale and delivery of limited tax pension bonds in an amount sufficient to produce net proceeds which do not exceed the most recent estimate of metro’s unfunded pension liability to OPERS plus the costs of issuing and selling the bonds, obtaining credit enhancement, payment of Metro’s share of any costs for the Program Trustee and any other costs of participating in the Program. It also provides that the bonds shall not be sold at a true interest cost of more than 6.50 percent per annum.

Payroll rate reductions are immediate upon payment to OPERS. Payment will be sent to OPERS on September 30, 2005. Rates will be adjusted downward immediately as of October 1, 2005. How much Metro’s rates will be adjusted depends upon the specific demographic variables affecting Metro.

The annual debt service costs will simply replace a portion of the existing pension payment made to OPERS. At this time, we are still evaluating options for the debt service structure. Options include level debt service, level dollar savings, level rate credit and a “hybrid” level debt service modified such that the annual savings amount is never negative resulting in ramped debt service payments for the first 6 – 7 years with level payments thereafter. There are different advantages to each option; however, they all produce net present value savings of between \$4.4 million to \$4.7 million over the life of the bonds, assuming a 6.0 percent interest rate.

*Key dates for Bond Issuance and Sale:*

September 6	Final Opt-out Date for Bond Pool
September 13	First Reading of the Supplemental Budget
September 13	Bond Pricing
September 19	TSCC hearing regarding the Supplemental Budget
September 29	2 <sup>nd</sup> reading and adoption of supplemental budget; Bond Closing
September 30	Payment to OPERS
October 1	Reduced OPERS Rates take effect

## BUDGET IMPACT

There are three parts to the supplemental budget (1) recognition of bond proceeds and lump sum payment to OPERS, (2) recognition of first year debt service on the pension bonds, and (3) a possible additional cash contribution to OPERS from the PERS reserves accumulated over the last three years. Structurally, the pension bonds and all related costs will be managed and tracked through a new Account in the General Fund. The new Account – Pension Obligation Bonds – will have three sections corresponding to the three parts of the supplemental budget and will be appropriated under the Non-Departmental section of the General Fund.

Recognition of Bond Proceeds: Final payoff amount to OPERS, and the bond and debt service structure will not be known prior to filing this supplemental budget. Legal constraints prohibit the amounts shown in the supplemental budget from being increased once it is filed. Consequently, this request errs on the high side and provides for a 15 percent cushion in the payoff amount to OPERS and assumes the maximum interest rate of 6.5 percent. Dollar amounts may be reduced later once the final payoff amount and bond structure is known.

Currently, it is projected that Metro's unfunded actuarial liability as of October 1, 2005 will be approximately \$23.936 million. The interest rate on the bonds is expected to be between 5.50 percent and 6.0 percent per annum. At 6.0 percent per annum, the net present value savings over the 23-year life of the bonds is expected to be between \$4.4 million and \$4.7 million depending on the structure of the debt service schedule. A rate above 6.5% would reduce savings to the extent that the Bonds would not be sold.

Debt Service on Pension Obligation Bonds: Funding Metro's unfunded actuarial liability will result in a reduced OPERS employer cost rate. However, some of that reduction will be offset by an assessment against departments for a debt service allocation. The assessment for debt service will continue to be shown as a fringe expense against departments. It will be calculated as a percentage of eligible salaries in much the same way as the current OPERS employer rate. The assessments will be accumulated in the General Fund. The semi-annual debt service payments will be made from the debt service section of the Pension Obligation Bond Account in the General Fund. Again, until further information is known, the dollar amount shown in the supplemental budget for debt service provides for a 15 percent cushion, and may be reduced later once the bond structure is determined.

Cash Contribution from PERS Reserves: The legislative reforms effective 7/1/2003, reduced Metro's OPERS employer contribution rate by 6.65 percent. However, recognizing that the reforms were challenged in court, Metro chose to set aside those savings in a reserve pending outcome of the court decisions. The PERS Reserve accumulates approximately \$2.5 million annually. By the end of FY 2005-06, the reserve total is estimated at approximately \$7.5 million. Attachment 1 to the staff report provides a table of reserve contributions by fund and fiscal year.

While the State Supreme Court has rendered its decisions on the two major outstanding challenges, the impact of those rulings on OPERS employer contribution rates and unfunded actuarial liabilities is still unknown. Until a new actuarial study is performed, any additional cash contribution at this time would place Metro in a surplus situation. OPERS has indicated they will not accept cash contributions that knowingly place an agency in a surplus situation. However, that does not preclude Metro from making a cash contribution later in the fiscal year should a new actuarial study be forthcoming.

This supplemental budget provides the flexibility for the Metro Council to make the additional cash contribution to OPERS at any time during the year should it be accepted by OPERS. It transfers the three-years of accumulated reserves to the PERS Reserve Cash Contribution section of the Pension

Obligation Bond Account in the General Fund, and provides for an additional payment to OPERS of approximately \$7.5 million.

There are a couple of technical issues associated with the PERS Reserve cash contribution. Neither one is sufficient to prohibit a contribution from being made, and the supplemental budget provides an interim solution to at least one of the issues.

First, the rate covenant of the solid waste bonds requires that net revenue (current year gross revenue less current year expenses) be at least 110 percent of current year debt service. (Hence the conventional term, "debt service coverage.") The solid waste portion of the PERS Reserve cash contribution is the accumulation of three years of reserves; therefore, most of the funding for the cash contribution would be prior year revenue and unavailable for purposes of calculating the coverage. However, the entire contribution would be considered a current year expense at the time it was made to OPERS. The end result is a current year expense funded by prior year revenue and the potential for falling below the coverage requirement—a violation of the rate covenant. To avoid this situation, the supplemental budget provides for the General Fund to initially pay the solid waste department's share of the cash contribution up to \$1.2 million. At the end of the fiscal year, or at such time when a reasonable estimate can be made of how much the department may be able to fund this year without incurring a violation, the department will repay the General Fund for a portion of the cash contribution. The remaining portion will be repaid the following year when the department has been able to fold the balance into its rate coverage calculations.

Second, the MERC Operating Fund three-year total cash contribution is almost \$1.8 million; almost one million of that amount attributable to the Oregon Convention Center. While the MERC Operating Fund does have sufficient total reserves to allow for the contribution, it may result in a negative cash flow for a brief period of time. Timing of the contribution will be critical to managing the cash flow for the MERC facilities.

## ANALYSIS/INFORMATION

1. **Known Opposition** None that is known.
2. **Legal Antecedents** ORS 294.480 allows for the adoption of a supplemental budget in certain cases. ORS 294.460 provides the authorization for and repayment of loans from one fund to another.
3. **Anticipated Effects** It is expected that payment of the unfunded actuarial liability will result in net present value savings over the next 23 years of between \$4.4 to \$4.7 million. The savings will be realized in an annual net reduction of overall OPERS related costs to departments.
4. **Budget Impacts** The budget impacts of this ordinance are discussed in the body of this staff report under the section titled *Budget Impact*.

## RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of the supplemental budget as presented.

Agenda Item Number 6.1

**Ordinance No. 04-1063A, For the Purpose of Denying a Solid Waste Facility  
Franchise Application of Columbia Environmental, LLC to Operate  
Local Transfer Station.**

*Second Reading*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DENYING A SOLID ) ORDINANCE NO. 04-1063A  
WASTE FACILITY FRANCHISE APPLICATION )  
OF COLUMBIA ENVIRONMENTAL, LLC TO ) Introduced by Michael Jordan, Chief  
OPERATE A LOCAL TRANSFER STATION ) Operating Officer, with the concurrence  
of the Council President

WHEREAS, on July 30, 2004 Columbia Environmental, LLC submitted a solid waste facility franchise application to operate a local transfer station at 14041 NE Sandy Boulevard in Portland Oregon; and

WHEREAS, on August 11, 2004 Columbia Environmental representatives met with Metro staff for a pre-application conference, where the application was determined to be complete; and

WHEREAS, in accordance with Metro Code section 5.01.070(h)(3), the Chief Operating Officer and the applicant agreed to a 30-day extension to the application review process; and

WHEREAS, the Metro Council was required to approve or deny the application prior to January 8, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, on December 16, 2004 the Metro Council extended the review period for its decision on the application for an additional 60-days, as allowed by Metro Code section 5.01.070(h)(1) to provide the applicant and Metro staff with more time to further analyze cost savings and evaluate the applicant's proposed recovery plan; and

WHEREAS, on February 22, 2005 Metro received a letter from the applicant substantially modifying its application for a transfer station franchise that included a request for authority to accept 38,000 tons of putrescible solid waste per year rather than authority to accept 55,000 tons of putrescible solid waste per year as originally requested, and

WHEREAS, on February 28, 2005 Metro notified the applicant that in accordance with Metro Code section 5.01.070(h)(2) which provides that should an applicant substantially modify its franchise application during the course of the review, the 120-day review period for Council to act shall be restarted as of the date Metro received the applicant's modifications; and

WHEREAS, the Metro Council must approve or deny the substantially modified application prior to June 22, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, Metro Code section 5.01.070 requires the Chief Operating Officer to review the application and other evidence submitted, to investigate as he deems appropriate, and to formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the Regional Solid Waste Management Plan (RSWMP), whether the proposed franchise meets the requirements of Metro Code section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements; and

WHEREAS, the Chief Operating Officer has concluded that the applicant is qualified and can comply with all other applicable regulatory requirements, but that the proposed franchise does not comply with the RSWMP and does not meet all of the requirements of Metro Code section 5.01.060; and

WHEREAS, on the basis of the application and the Chief Operating Officer's investigation, the Chief Operating Officer recommends denial of the Columbia Environmental application for a solid waste franchise to operate a local transfer station; and

WHEREAS, Columbia Environmental may contest the Council's decision in this matter as explained in the contested case notice attached to this ordinance as Exhibit A, a copy of which shall be provided to Columbia Environmental as provided in Metro Code chapter 2.05; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

The solid waste facility franchise application of Columbia Environmental, L.L.C., is hereby denied. The Chief Operating Officer shall provide the applicant with contested case notice in a form substantially similar to that attached as Exhibit A. In the event that this decision is contested, a hearings officer shall conduct the initial contested case hearing as provided in Metro Code chapter 2.05.

ADOPTED by the Metro Council this \_\_\_\_\_ of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

BEFORE THE METRO REGIONAL GOVERNMENT

IN THE MATTER OF THE METRO )  
COUNCIL'S DENIAL OF THE SOLID )  
WASTE FACILITY FRANCHISE ) CONTESTED CASE NOTICE  
APPLICATION OF COLUMBIA )  
ENVIRONMENTAL, L.L.C. )

TO COLUMBIA ENVIRONMENTAL, L.L.C., 14041 NE Sandy Blvd., Portland, OR 97230.

Pursuant to Metro Code § 2.05.005(c), Metro hereby provides Columbia Environmental, L.L.C. with contested case notice in the matter of the Metro Council's approval of Ordinance No. 04-1063 denying Columbia Environmental's solid waste facility franchise application seeking authority to operate a local transfer station. A copy of Ordinance No. 04-1063 is included with this notice.

A contested case arises in this matter pursuant to Metro's authority under Article XI, Section 14 of the Oregon Constitution, the Metro Charter, ORS Chapter 268, including ORS 268.317 and ORS 268.318, and Metro Code Chapters 2.05 and 5.01, including sections 5.01.060 and 5.01.070. Pursuant to Metro Code Chapter 2.05, Columbia Environmental has a right to request a hearing within 60 days of the date of the mailing of this notice. A hearing, if requested, would concern the Metro Council's approval of Ordinance No. 04-1063 denying Columbia Environmental's solid waste facility franchise application seeking authority to operate a local transfer station. Columbia Environmental can be represented by legal counsel at the hearing, if it so desires.

DATED the 17th day of December 2004.

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Michael Jordan  
Chief Operating Officer



CERTIFICATE OF MAILING

I hereby certify that I served the foregoing CONTESTED CASE NOTICE on the following:

Bryan Engleson  
Columbia Environmental, L.L.C.  
14041 NE Sandy Blvd.  
Portland, OR 97230

and

Anthony J. Motschenbacher  
Registered Agent for Columbia Environmental, L.L.C.  
117 SW Taylor St., Suite 200  
Portland, OR 97204

on December 17, 2004, by mailing to said individuals a complete and correct copy thereof via certified mail, return receipt requested, contained in a sealed envelope, with postage prepaid, and deposited in the U.S. post office at Portland, Oregon.

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Roy Brower  
Regulatory Affairs Manager  
Metro

**Executive Summary**  
**Ordinance No. 04-1063A**

For the purpose of denying the solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station

Background

On July 30, 2004, Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (located in Metro Council District 1). The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996.

The proposed facility is owned by a partnership. According to the applicant, there are two equal investment partners in Columbia Environmental: KCDK, L.L.C., and Oregon Recycling Systems (ORS).

Council review period extended

On December 16, 2004, the Metro Council extended the review period for its decision on Columbia Environmental (Ordinance No. 04-1063) for an additional 60 days, as allowed by Code. The purpose of the extension was to provide Metro staff and the applicant with more time to further analyze cost savings and evaluate the applicant's proposed recovery plan and report back to Council by March 9, 2005.

Franchise application substantially modified

On February 22, 2005 Columbia Environmental notified Metro it was revising its franchise application. It would now seek authority to accept 38,000 tons of putrescible solid waste rather than the 55,000 tons of putrescible waste requested in its original franchise application. Other operational changes were described related to Phase 1 through Phase 3 (future). These changes constituted a substantial modification of its franchise application (Metro Code section 5.01.070(h)(2)). As a result, on February 28, 2005, Metro notified the applicant that the 120-day review period for Columbia Environmental's modified franchise application would commence on February 22, 2005 and will expire on June 22, 2005. The Council must approve or deny the application within 120 days of the date the modifications were submitted by the applicant.

In its modified application for Phase 1, Columbia Environmental states that its cost savings are divided into two main categories: 1) lower tip fees for dry waste (\$300,000), and 2) transportation savings (\$1million to \$1.6 million); and it would conduct recovery at an overall rate of 10% from putrescible waste and 45% from non-putrescible waste. The applicant states these benefits will grow as Phase 2 and Phase 3 of their operations plan are implemented.

### Five Metro Code evaluation factors

Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The analysis in the report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

### Findings

- ❑ In the short-term, Columbia Environmental's Phase 1 operations would, on balance, increase costs for the region's ratepayers by about \$238,000 to \$618,000 annually.
- ❑ Potentially lower transportation and disposal costs for Columbia Environmental's haulers—some of which are likely to be passed through to ratepayers—would be more than offset by the increased tip fees regionwide.
- ❑ The additional recovery, beyond that which now occurs, would be between 6,000 and 8,000 tons per year. This would add about three-tenths of a point to the regional recovery rate.
- ❑ For the longer term, and if approved, Phase 3 of the applicant's proposal would increase ratepayer costs by between \$534,000 and \$1,353,000, depending on how much of the cost reductions are passed on to the ratepayers.

Assuming that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee; other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses will likely increase even more.

### COO recommendation

Based on the detailed analysis of the applicant's revised proposal against the required Code criteria, staff concludes that the proposed transfer station is not in the public interest. The COO recommends denial of the applicant's proposal and approval of Ordinance No. 04-1063A.

# ATTACHMENT #1 TO ORDINANCE 04-1063A

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, December 16, 2004  
Metro Council Chamber

**Councilors Present:** David Bragdon (Council President), Rod Monroe, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

**Councilors Absent:** Susan McLain (excused)

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

### 1. INTRODUCTIONS

Council President Bragdon introduced Mayor Becker from Gresham.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. DAMASCUS UPDATE

Council President Bragdon said in November, the residents of the Damascus area voted to incorporate as a city – the first new city in Oregon in more than 22 years. This was not only a historic moment, but also a moment of opportunity. The people of Damascus have created the opportunity to build a vibrant community from the ground up. Clackamas County and Metro have the opportunity to provide our technical expertise to help Damascus develop their vision. He was pleased to welcome the newly elected Damascus City Council to Metro today:

- o Councilor John Hartsock
- o Councilor Barbara Ledbury
- o Councilor James Wright
- o Mayor Dee Wescott (elected by the Council at their first meeting)
- o (Absent: Councilor Randy Shannon)

He said, to the Damascus Council, you have a formidable but exciting job ahead of you. Metro will continue to provide technical support, planning assistance, and whatever else you need in the interim to help you achieve your goal of a thriving, livable community.

Councilor Park said in 2002, the Metro Council voted to include 12,000 acres in the Damascus area to the urban growth boundary. Clackamas County, citizen groups, non-profit groups and Metro facilitated a series of meetings and studies over several years to determine the “core values” of residents of Damascus and envision what a planned community could look like. The Damascus City Council now has the responsibility to help ensure that the community core values will be integrated into the concept plan, including: Maintaining the rural character, planning efficient transportation systems, creating opportunities for employment and development of local business, protecting open spaces and wildlife corridors, etc.

Michael Jordan, Chief Operating Officer, introduced and acknowledged Maggie Dickerson, a Clackamas County staff person. He talked about his time as a Clackamas County Commissioner and his experience working with the Damascus folks to engage them in their future. It was an inspiring experience.

Councilor Park thanked Mr. Jordan in his other capacity. He spoke to the sense of place that Damascus had. Today they were going to get to take a look at some of the concept plan alternatives chosen by the community. He then introduced and recognized the contributions of Metro staff that had assisted with the Damascus concept planning process: Ray Valone, Kim Ellis, and Lori Hennings.

Ray Valone, Planning Department, provided a power point presentation on the Damascus Boring Concept Plan. He again introduced and acknowledged Maggie Dickerson, Project Manager and John Hartsock, City Councilor for Damascus (a copy of the power point presentation is included in the meeting record). Mr. Hartsock thanked the Metro team for their efforts. They were constant professionals. Mr. Valone talked about the public involvement approach and the development of core values and goals. He noted key issues and next steps.

Councilor Newman asked about the relationship between Clackamas County and Damascus. When the final product was develop, who approved it? Who resolved key issues? Ms. Dickerson said they had not officially negotiated the approval process. There were two cities that would have the responsibility for implementing the concept plan. Mr. Hartsock said they would have to work together on the Springwater piece.

Councilor Park commented on additional discussions that needed to occur such as sewage and storm water issues. He spoke to challenges and opportunities. Mr. Hartsock talked about bringing in the entire piece. He said Council accommodated that and now it was their challenge and opportunity to come up with a concept plan. He spoke to future public involvement efforts.

#### 4. CONSENT AGENDA

4.1 Consideration of minutes of the December 9, 2004 Regular Council Meetings.

4.2 Resolution No. 04-3510, For the Purpose of Accepting the November 2, General Election Abstract of Votes.

Motion:

Councilor Hosticka moved to adopt the meeting minutes of the December 9, 2004 Regular Metro Council and Resolution No. 04-3510.
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Vote:

Councilors Burkholder, Monroe, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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#### 5. ORDINANCES – SECOND READING

5.1 Ordinance No. 04-1063, For the Purpose of Denying a Solid Waste Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station.

Council President Bragdon said there was a motion already on the table since this had been considered at a previous meeting.

Motion to postpone:	Councilor Park moved to postpone a decision by Council and direct staff to do the additional work with Columbia Environmental and report back to Council by March 9 <sup>th</sup> .
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Seconded:	Councilor Newman seconded the motion
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Councilor Park said Columbia Environmental, LLC, submitted a solid waste facility franchise application in July of this year to operate a local transfer station at 14041 NE Sandy Blvd.

The Chief Operating Officer recommended denial of the application because, based on Regional Solid Waste Management Plan (RSWMP) criteria and the requirements of the Metro Code.

He had reviewed the staff report and recommendation and he thought that there were other considerations Council should consider in their review of the Columbia Environmental proposal, which offered the following: 1) The ability for a significant number of remaining small, independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system. 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste. 3) A significant reduction in truck VMT given Columbia Environmental's proximity to their customers. 4) Potential cost savings to ratepayers on the east side. 5) Would provide a second transfer station in a waste shed that currently generates about 130,000 tons a year.

He suggested postponing a decision on Ordinance 04-1063 to allow staff time to work further with Columbia Environmental to analyze cost savings and evaluate the applicant's recovery plan.

Accordingly, he requested that Council extend the review time by 60 days as allowed by Code. This would give staff until March 9 to complete the additional work with Columbia Environmental.

If they worked successfully with Columbia Environmental, he would direct staff to report back to Council on or before March 9 with a plan that did the following: 1) Laid out a process and timeline for Council to take action on granting a franchise to Columbia Environmental. Grant 38,000 tons of wet waste to Columbia Environmental. Sets recovery performance targets consistent with Columbia Environmental's application that would be reviewed by Metro staff and Council, if necessary, on an annual basis. Exempts wet waste recovery from eligibility under the Regional System Fee Credit Program.

Councilor Monroe said he would support this motion. He was taken by the testimony from Columbia Environmental. He urged staff to look at options. He said we must maintain the viability and vitality of the transfer stations that we own. He urged Council to support the postponement. Council President Bragdon concurred with Councilor Monroe's remarks. He hoped we could provide opportunity with out injury to our public investment.

Councilor Hosticka asked who beside staff would be looking at this issue, any advisory committees? Mike Hogle, Solid Waste and Recycling Director, responded Solid Waste Advisory Committee (SWAC) had been silent on the issue. There had been a few letters supporting the new transfer station. Councilor Hosticka said one of his real concerns about this was they were in the process of developing a Regional Solid Waste Management Plan. Dan Cooper, Metro Attorney, clarified the date to postpone. He suggested a date 60 days after January 8, 2005. Councilor Park suggested March 9, 2005. Mr. Cooper said he wasn't sure if there was a Council meeting on March 9<sup>th</sup>.

Vote to postpone:

Councilors Park, Hosticka, Burkholder, Newman, Monroe and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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5.2 Ordinance No. 04-1067, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule for the Purpose of Transferring \$92,902 from contingency to personal

services in the Planning Fund to Add 1.0 FTE Regional Planning Director (Program Director II); and declaring an emergency.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 04-1067.
Seconded:	Councilor Monroe seconded the motion

Councilor Burkholder said this would add 1.0 for a regional planning director. They were looking at the needs of the Planning Department. He felt this position was necessary for leadership in issues such as the Big Look, Habitat Protection program. They had had a few discussions about the characteristics of the position. This was a high level position. He urged support. Councilor Park said they were setting a policy direction on what they would like to see come out of the department. The expectations that were laid out were on point. Council President Bragdon said when he recommended that this money be put in contingency he was looking for completion of some efforts before any position was considered. He would be voting no and explained his reasoning. He couldn't support the motion. Councilor Hosticka asked what the full-time commitment would be for next fiscal year. Mr. Jordan responded that attached to the staff report was a job description, which laid out salary ranges. Councilor Hosticka said it could be up to \$180,000. He shared the Council President's concern. This was a budgetary issue. He expressed concern about the uncertainty.

Council President Bragdon opened a public hearing on Ordinance No. 04-1067. No one came forward. Council President Bragdon closed the public hearing.

Councilor Park noted that this was a management decision. Councilor Hosticka said the question was did they want to spend up to \$180,000 in additional resources. Council President Bragdon concurred with Councilor Hosticka. He saw this budgetary decision as a policy decision. Councilor Burkholder urged an aye vote. He felt the strategic planning work had identified a need in this area. This department had had quite a few cuts over the past two years.

Vote:

Councilors Park, Burkholder, Newman, Monroe voted in support of the motion, Councilor Hosticka and Council President Bragdon vote no. The vote was 4 aye/2 nay, the motion failed because an emergency clause required 5 votes in support of the motion.
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Motion:	Councilor Newman asked that this ordinance be reconsidered on January 13, 2005.
Seconded:	Councilor Burkholder seconded the motion

Council President Bragdon said it would be reconsidered on January 13, 2005 without objection.

## 6. RESOLUTIONS

6.1 Resolution No. 04-3513, For the Purpose of Receiving the Performance Measures Report and Directing the Chief Operating Officer to Submit The Report to the Oregon Department of Land Conservation and Development.

Motion:	Councilor Newman moved to adopt Resolution No. 04-3513.
Seconded:	Councilor Burkholder seconded the motion

Councilor Newman introduced the resolution and called Andy Cotugno, Planning Director, and Gerry Uba, Planning Department, to provide additional information. No additional information was necessary. Councilor Newman urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

**6.2 Resolution No. 04-3520, For the Purpose of Directing the Chief Operating Officer to formulate regional policy options relating to Ballot Measure 37.**

Motion:	Councilor Newman moved to adopt Resolution No. 04-3520.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman turned this resolution over to the Council President to introduce. Council President Bragdon spoke to the resolution and the need to work collaboratively with their local partners. He spoke to possible options in coordinating this effort. He also noted public involvement standards. There needed to be a search for other outcomes that we all wanted to achieve. He urged an aye vote. Councilor Hosticka asked about the scope of the activities of this group. He suggested trying to put some sort of outside deadline as to when people would have to file claims. He also suggested that under circumstances where payment was made, that payment act as a final decision on the claim. Councilor Burkholder suggested that the State of Oregon needed to be represented in this group as well. Council President Bragdon urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

Council President Bragdon said the 2004 Functional Plan Compliance Report was not ready yet.

**7. CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordon, Chief Operating Officer, reminded the council about the reception for Councilor Monroe.

**8. COUNCILOR COMMUNICATION**

Council President Bragdon personally acknowledged Councilor Monroe for his many years of service. He spoke to the many contributions that Councilor Monroe had made to Metro. He thanked him personally for his civility.

Councilor Newman noted Councilor Monroe's contribution to this institution as well as the region. He talked about his own experience working with Councilor Monroe as chair of Joint Policy Advisory Committee on Transportation (JPACT). More than his progressive ideas, it was the attitude and professionalism that Councilor Monroe brought to the job. He shall be sorely missed.



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Councilor Park said there was life after Metro. He had watched Councilor Monroe over the years. It had helped him become a better leader. He noted his work with the Convention Center and transportation. He thanked him for his many years of services to the general public.

Councilor Hosticka said he was sorry to see Councilor Monroe go. He had served with Councilor Monroe for over 20 years in a variety of capacities. They will miss him in this panel.

Councilor Burkholder recognized that this body was called upon to think regionally. He noted Councilor Monroe had worked on regional issues such as Bi-State Committee, Area 93, and a variety of other regional issues. He had done work to solve regional problems and provided a lot of leadership.

Council President Bragdon gave Councilor Monroe a plaque recognizing his years of service.

Councilor Monroe said it had been more than a decade serving at Metro. He had served in the legislature and as a teacher. He felt that Metro was an entity that looked out many years in the future. He said Metro was about his grandson's life a lot more than his own. He recognized his son, daughter-in-law and his wife. He will treasure this award. He offered to help in anyway. He expected to continue in public and private leadership roles if the come available.

## **9. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:25 p.m.

Prepared by

Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER  
16, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
4.1	Minutes	12/9/04	Metro Council Meeting Minutes of December 9, 2004	121604c-01
3	Power Point Presentation	12/16/04	To: Metro Council From: Ray Valone, Planning Department, Re: Damascus Boring Concept Plan	121604c-02
3	Timeline	12/16/04	To: Metro Council From: Ray Valone, Planning Department Re: Damascus Organization Chart and Timeline	121604c-03
5.1	Memo and Metro Transfer Station Policy Study	12/14/04	To: Metro Council From: Michael Hogle, Solid Waste and Recycling Director Re: Study to be continued and made part of the public record	121604c-04
6.2	Resolution No. 04-3520	12/16/04	Resolution No 04-3520, For the Purpose of Directing the Chief Operating Officer to Formulate regional policy options relating to Ballot Measure 37	121604c-05
6.1	2004 Performance Measures Report	12/16/04	To: Metro Council From: Gerry Uba, Planning Department Re: 2004 Performance Measure Report	121604c-06



METRO  
 R.E.M. DEPT.  
 05 JAN 24 AM 11:01

January 19, 2005

Bill Metzler  
 Metro Solid Waste Division  
 600 NE Grand Ave.  
 Portland, OR 97232

Dear Bill:

This letter is a response to Metro's request for more information regarding the Columbia Environmental Local Transfer Station application. Staff repeated this request after the Council hearings. Your questions are addressed below in the order they were asked.

### **Cost savings**

#### *1. Geographic areas from which wastes are generated*

Columbia Environmental is still collecting and organizing this information from the haulers and will provide it to Metro in a separate document.

#### *2. Characteristics of "special wastes"*

The estimated 5,000 tons of special wastes referred in Part 1, page 4 of the application should more accurately be called "inerts." The table in Part 3, page 4 of the application contains a clearer breakdown of each category of waste and their estimated tonnages. The 5,000 tons in this table is categorized as inerts, and the quantity of special wastes is listed as "none." Inerts are likely to be construction and demolition debris such as rock, brick, dirt, concrete, and sand. The applicant apologizes for inconsistency in terminology. The facility will not accept hazardous wastes.

### **Material Recovery**

#### *1. Separation of wet and dry waste streams.*

Wet wastes and dry wastes will be kept separate by being located on opposite sides of the transfer facility. Wet waste will be processed on the north side of the proposed transfer station, dry waste on the south side. The two waste streams will have different loading areas and will be loaded using separate equipment and trucks.

*2. Route-collected waste or drop boxes?*

The proposed facility will handle both route-collected waste and drop boxes. Nearly all the wet waste collected will be from residential sources. Nearly all of the inerts (construction and demolition debris) will be delivered in drop boxes. Dry waste delivered to the site will be split, approximately 60 percent arriving in drop boxes and 40 percent route-collected.

Drop box loads of dry wastes will likely require a heavier floor sort to remove large bulky items and recover recyclable materials. Then both drop box and route-collected dry waste loads will be processed with the same methods. This waste stream typically has a very high recovery rate for recyclable materials such as wood (e.g., pallets, lumber) and cardboard.

*3. Material recovery and sorting methods*

For dry wastes, loads will be tipped on to the sorting floor, and large bulky items (e.g., mattresses) will be removed using skid steer loaders. The remaining materials will be fed onto a sorting and recovery line that will potentially incorporate a debris recovery screen, a cross belt magnet, and some manual sorting. Skid steer loaders will also be used to move the separated and sorted materials for recycling (wood, cardboard, metals), and the residual waste for delivery to the landfill.

Wet wastes have a lower recovery rate. Large items will be removed in the same way as from the dry waste stream. Residual waste will be loaded into closed containers for transfer.

*4. Moved to recycling processing facility*

Recyclable materials recovered from the waste streams in the new building will be placed in drop boxes. Recyclables that can be processed on site by the existing facility will be transferred between buildings in roll-off trucks, and subjected to further processing.

*5. Material loaded into trailers*

The materials loaded into containers for transport off-site will predominantly be residual waste products. Mixed Solid Waste will be transferred to Oregon Waste Systems (WMI). Dry waste residuals will be transferred to a pre-approved landfill. Wet waste will be placed in sealed containers, per Metro regulations for transport.

While the original intent of transfer station operations was to push the waste products into top-loading, sealed containers, further engineering has revealed functional difficulties

with that design. As a result it is more likely that wastes will be compacted in an Amfab-type compaction system, then the compacted waste will be pushed into the side of empty containers. This requires less mechanics and infrastructure, and little change in efficiency. The location of the containers and loading areas will be the same as shown on the site plan.

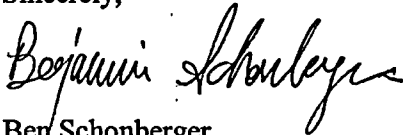
*6. Traffic patterns to main building*

Traffic delivering materials for recycling processing will enter the site through the new driveway on the west, be weighed on the on site scale if necessary, then proceed around the east side of the new building and main building. Some trucks will unload at the dock on the northeast corner of the existing building. (This traffic pattern is shown in the graphic on the last page of the land use decision in the July 30 application submittal.) Most trucks will proceed around the east side of the existing building to unload in one of the bays on the building's south side.

*7. Activities in the existing building*

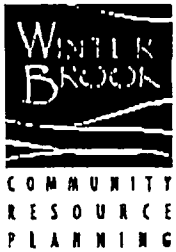
A plan of the existing buildings on site with the current activities indicated is attached to this letter. As shown on the site plan, the shop and repair functions of the small building to be demolished will be relocated to the north side of the proposed new building.

Sincerely,



Ben Schonberger  
Associate Planner

ATTACHMENT #3 TO ORDINANCE #04-1063A



FAX

To: Bill Metzler  
From: Ben Schonberger  
Date: February 8, 2005  
Copy:  
Re: Existing activities

Fax #: (503) 797-1795  
Fax #: 503-827-4350  
Pages: , including cover  
Fax #:

Urgent       For Review       Please Comment       FYI       Original To Be Sent By Mail

Attached is an annotated site plan of the Columbia Environmental site that shows the activities in the existing buildings. This responds to a question in your earlier memo.

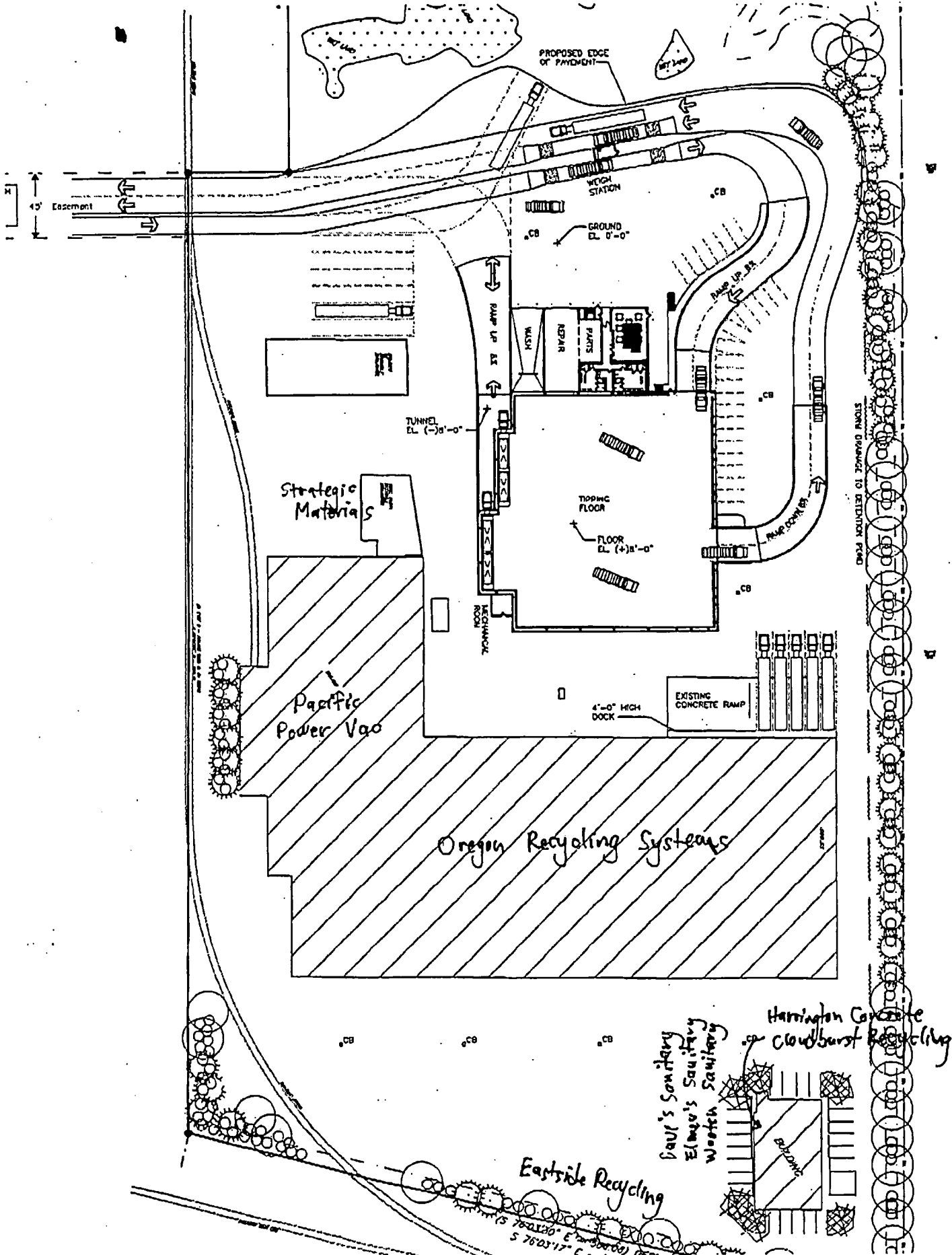
Existing space in the facility is divided among three primary tenants, shown on the map.

1. Oregon Recycling Systems processes and sorts recycled plastic, paper, metal and container glass for bulk resale.
2. Strategic Materials collects container glass and plate glass for transfer to a California facility where the glass is converted into "cullet," and ultimately into end products such as wine bottles or fiberglass insulation.
3. Pacific Power Vac is a vacuum waste treatment service that collects and processes oils, grease, sludge, and water from sources such as parking lot catch basins.

The other tenants indicated on the map—Eastside Recycling, Dave's Sanitary, etc.—are primarily recycling or waste haulers that park trucks or store equipment at the site.

Metro staff observed the operation and location of all these activities during their site visit on September 21, 2004.

Winterbrook Planning  
310 SW Fourth Ave. Suite 1100 ■ Portland, Oregon 97204-2305  
503.827.4422 ■ 503.827.4350 (fax)  
ben@winterbrookplanning.com





METRO

February 10, 2005

Mr. Bryan Engleson  
Columbia Environmental, LLC  
14041 NE Sandy Blvd.  
Portland, OR 97230

Re: Council Extension for Application Review

Dear Mr. Engleson:

On January 24, 2005, Metro received the January 19, 2005 letter from Winterbrook Planning that outlined some of the additional information Metro had requested from Columbia Environmental at the December 21, 2004 meeting. As you recall, on December 16, 2004, the Metro Council postponed its decision on Ordinance No. 04-1063 for an additional review period of 60 days. During this timeframe Council requested that Columbia Environmental and staff work together to analyze cost savings and evaluate Columbia Environmental's proposed recovery plan. Metro staff met with Columbia Environmental on December 21, 2004 to discuss the information that Metro required of Columbia Environmental.

Notwithstanding the information you provided in your January 19, 2005 letter from Winterbrook Planning, it is my understanding that Columbia Environmental is still working on the balance of the information requested by Metro at that meeting. These include: 1) geographic areas from which wastes will be generated (for cost savings), 2) cost savings estimates (refer to the sample table provide to you at the meeting), 3) a revised application with a 38,000 ton request for putrescible solid waste, 4) a more detailed description of how Columbia Environmental plans to achieve the high recovery rates along with information on its proposed mechanized material recovery system with clarified or revised estimates of projected recovery rates from both wet and dry wastes, 5) a site plan that illustrates all the proposed activities and major equipment such as mechanized material recovery system and the proposed solid waste compactor in the proposed building, and 6) estimates for VMT savings. Columbia Environmental should provide baseline hauler VMT without its proposed transfer station and the proposed hauler VMT with the proposed transfer station.

At the December 16, 2004 Council hearing, Councilor Park offered five additional evaluation criteria for Council to consider in its review of Columbia Environmental's application. These are outlined in the attached Table 2- Additional Council Evaluation Factors. As you can see, factors #7 (innovative recovery approach) and #8 (VMT



reduction) require information to be submitted from Columbia Environmental so that findings can be developed. Table 1 is also attached and summarizes findings regarding whether or not Columbia Environmental's application meets the five Metro Code evaluation factors.

In summary, Metro Council has requested that Columbia Environmental provide additional information in order for staff to develop complete findings that may lead staff to recommend approval of Columbia Environmental's franchise application to operate a local transfer station. Columbia Environmental has not yet provided the requested information. The 60-day extension granted by Council will expire on March 9, 2005. Any decision on how to proceed must be made by Council at its March 3, 2005 meeting. We will need to discuss with you early the week of February 14, 2004 how to proceed. At this point staff will not be able to adequately evaluate new information regarding your application. Please call me so we can discuss your options and the next steps in this process.

For your information, Council will be holding an informal worksession regarding Columbia Environmental's application on February 22, 2004; 2:00 p.m, here at Metro. To get the process started again, please call Roy Brower (503) 797-1657 or me (503) 797-1743.

Sincerely,



Michael G. Hoglund  
Solid Waste & Recycling Department Director

BM/MH:bjl

Attachments

cc: Michael Jordan, Chief Operating Officer  
Roy W. Brower, regulatory Affairs Division Manager

**Evaluation Factors Summary Tables - Revised for 2005**

- Table 1 summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors.
- Table 2 summarizes additional evaluation factors introduced by Councilor Park for Council consideration at the December 16, 2004 Council hearing on Ordinance No. 04-1063.<sup>1</sup>

**Table 1- Five Metro Code Evaluation Factors**

Table 1 The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Columbia Environmental Application
<p>1. <i>Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p><b>Will there be a <i>Net Benefit</i> to the regional solid waste system?</b></p> <p><b>RSWMP considerations:</b></p> <ul style="list-style-type: none"> <li>• Capacity</li> <li>• Access (under-served area)</li> <li>• Recovery</li> <li>• Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2)</li> <li>• Cost to regional ratepayers</li> </ul>			X	On balance, staff finds that the proposed facility would not produce a certain, equitably distributed, or sufficiently large net benefit to the regional solid waste system and therefore, the application is not consistent with the RSWMP.
			X	The region has more than adequate capacity to accept, manage and transfer all of the region's waste for many years to come (refer to Metro's Regional Transfer Capacity Analysis, April 2004).
			X	The proposed facility location does not meet the RSWMP criteria for an under-served area, characterized as more than 25 minutes to a transfer station. Further, it would be located only 6.6 miles from an existing local transfer station. There are even more nearby options for dry waste. While access may be improved for a small number of haulers, a transfer station in every neighborhood would also improve access, but at the same time create a very inefficient system.
	X			The facility would recover an additional 3,000 tons rather than the 20,000 tons claimed by the applicant. The applicant's affiliated haulers have the option of using the nearby existing material recovery facilities rather than the more distant Metro facilities.
		X		The proposed transfer station could hurt competition since a new facility would cause tip fee increases throughout the region (see Evaluation Criteria #2). This situation would: 1) be detrimental to many other independent haulers that rely on Metro's public transfer stations, and 2) provide a windfall to other solid waste operations in competition with the applicant.
			X	Staff finds a significant negative cost impact on regional ratepayers - refer to comments for Evaluation Criteria #2 on the next page.

<sup>1</sup> Ordinance No. 04-1063 was introduced for Council consideration by the COO with the concurrence of the Council President for the purpose of denying a solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station. On December 16, 2004 the Council extended the Ordinance review period for 60 days.

**Table 1- Five Metro Code Evaluation Factors (continued)**

<p>...continued...</p> <p><b>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</b></p>	<p><b>Meets Criteria</b></p>	<p><b>Neutral</b></p>	<p><b>Does Not Meet Criteria</b></p>	<p><b>Findings on the Columbia Environmental Application</b></p>
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1-RSWMP consistency)</p>			<p>X</p>	<p><i>If the application were approved, the citizens of the region will likely incur increased costs of about \$1.2 million to \$1.4 million annually.</i></p> <ul style="list-style-type: none"> <li>• <i>Cost increases to Metro's customers of \$1.30 per ton (+ \$606,000).</i></li> <li>• <i>Cost increases at private facilities would result in higher tip fees region-wide to recover those increased costs (+ \$167,000 excise taxes and fees).</i></li> <li>• <i>In addition, the posted rates at many private facilities are expected to increase to match Metro's rates (at least +\$439,000 additional revenue at non-Metro facilities).</i></li> <li>• <i>The applicant claims that it could realize an adjusted gross savings of \$1.3 million from transportation and dry waste tip fee savings. However, the applicant states these savings would likely not be passed on to its customers, but might slow down future rate increases.</i></li> </ul>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i></p>	<p>X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	<p>X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	<p>X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>

S:\REM\metzlerb\Columbia Environmental\_2004\Evaluation Factors Summary Table2005.doc

**Table 2- Additional Council Evaluation Factors**

The following additional five evaluation factors were introduced by Councilor Park for Council consideration at the December 14, 2004 Council hearing on Ordinance No. 04-1063.

Table 2 Additional Council Evaluation Factors	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Columbia Environmental Application
6. <i>The ability for a significant number of small independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system.</i>	X			The applicant has indicated that the proposed facility would benefit nearby affiliated haulers with transportation saving, and some tip fee savings. Further, haulers that are shareholders in the company would benefit from company profits. Therefore, the proposed local transfer station would help the small independent haulers affiliated with Columbia Environmental to compete and remain competitive in a vertically integrated system.
7. <i>An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.</i>			More information is required from the applicant	More information is required from the applicant on its proposed mechanized recovery system (type of system, performance of system with similar waste streams, projected recovery rates, the types of materials that will be recovered, timeframe for installation of mechanized system).
8. <i>A significant reduction in truck VMT given Columbia Environmental's proximity to their customers.</i>			More information is required from the applicant	More information is required from the applicant. The applicant has provided estimates for travel time savings rather than VMT savings. For example, the applicant should provide and compare baseline hauler VMT without the proposed facility to proposed hauler VMT with the proposed facility (there must be separate estimates for wet and dry wastes).
9. <i>Potential cost savings to ratepayers on the east side.</i>	X			The applicant has indicated that users of the facility will realize savings, and some of the savings may also be realized by residential ratepayers, who could experience lower rates as determined by local government rate setters. Savings on residential routes are passed through to customers as a consequence of the local government rate-setting process.
10. <i>Would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.</i>		X		<p>Metro has designated six transfer station service areas (washedheds) based on distance. The estimated annual wet waste service area tonnages and the facility tonnage caps are:</p> <p><b>Local Transfer Station Service Areas</b>  <b>Pride Recycling</b> = 167,000 tons (65,000 ton cap).  <b>Troutdale Transfer Station</b> = 131,00 tons (68,250 ton cap).  <b>Willamette Resources (WRI)</b> = 19,000 tons (68,250 ton cap).</p> <p><b>Regional Transfer Station Service Areas</b>  <b>Forest Grove</b>=52,000 tons (No cap. Accepted about 105,000 tons wet waste in 2004).  <b>Metro Central</b> = 353,000 tons (no cap, accepted about 395,000 tons wet waste in 2004).  <b>Metro South</b> = 160,000 tons (no cap; accepted about 172,000 tons in 2004).</p>



METRO  
R.E.M. DEPT.  
05 FEB 22 PM 4:16

February 22, 2005

Metro Council  
600 NE Grand Ave.  
Portland, OR 97232

Dear Councilors:

On February 10, 2005, Metro staff sent a letter to Columbia Environmental requesting more information about its application for a transfer and recovery facility. This request resulted from the Metro Council's discussion and decision to postpone action on the application at its December 16, 2004 meeting. In response, this letter provides all the supplemental information as requested by Metro staff. Winterbrook Planning represents Columbia Environmental in this matter.

The applicant would like to note that as part of the process, it carefully reviewed past applications to Metro for new or expanded transfer station authority. In no previous case did Metro staff ask for, nor did applicants provide, the quantity and depth of detailed information that is now being requested of Columbia Environmental.

1. *"Geographic areas from which waste will be generated"*

Transportation savings from the presence of the new facility have been recalculated, based on new data from haulers. Details of the analysis in narrative and table form are attached to this letter. In addition, a map of the areas from which waste will be generated has been created, and is also attached.

2. *"Cost saving estimates"*

Calculated cost savings for the proposed facility are divided into two main categories: lower tip fees for dry waste, and transportation savings. As shown in the previous application, lower tip fees will result in a savings of \$640,000. Transportation savings, which have been recalculated based on new data from the haulers, will be between \$1.35 million and \$2.25 million, assuming solid waste costs of \$9 to \$15 dollars per mile.

Approximately two-thirds of the transportation savings will come from residential routes. By law, transportation cost savings from residential routes are returned to ratepayers based on decisions made by local rate-setters. Columbia Environmental has no direct control over what fraction of this expected savings is returned to the ratepayer. Only local jurisdictions can guarantee lower rates. Historically, though, efficiencies in the waste

collection system have been expressed as downward pressure on prices rather than actual reductions. This was clearly communicated in the original application.

In addition, approval of a new transfer station would add other, less easily quantifiable benefits for the citizens of the region. Less roadway congestion, and less air and noise pollution will be tangible benefits from the reduction in vehicle miles traveled. Greater competition in the marketplace will drive up operating efficiencies at all facilities and hold down price increases. Increased recovery will reduce landfilling and move the region toward Metro recycling goals.

Columbia Environmental would also like to note that it disagrees with the methodology for calculating benefits and impacts to “citizens of the region” as presented in the previous staff report. In addition to giving Columbia Environmental no credit for the expected transportation and other benefits outlined above, the staff report attributes cost impacts to the consequences of market-distorting public policies. Half of the regional cost impact from the proposal is due to the fact that Metro has insulated itself from price competition, basing its tip fees on its cost-of-operation, regardless of market pressures. Staff outlines other regional cost impacts, or “losses,” that are secondary economic impacts of this policy, *i.e.*, the expectation that all private facilities would match Metro’s price increases. Finally, the staff report also adds a tertiary impact of this policy—that government rate-setters will allow price hikes to be translated into higher disposal rates to consumers. The inevitability of this chain reaction of rising prices is not assured. Moreover, all of these impacts could be significantly offset in the long run by increasing competition in the marketplace, which is a key purpose of the Columbia Environmental application.

### 3. *“Revised application requesting 38,000 tons of wet waste authority”*

Columbia Environmental officially requests the authority for a transfer station application for 38,000 tons of wet waste annually. This is a reduction from its original request of 55,000 tons. The request for dry waste and other wastes in the original application are unchanged.

Metro staff raised the concern that fewer tons would be delivered to Metro-owned facilities with the operation of the new Columbia Environmental facility. Columbia Environmental has never disputed that its presence in the marketplace will redistribute tons away from Metro-owned transfer stations. The regional trend toward greater market share for private transfer stations precedes this application, and will continue with or without a new market participant. Columbia Environmental believes that the overall benefits to the citizens of the region—reduced VMT, increased recovery, greater competition in the marketplace, downward pressure on prices—will exceed any increased costs from the redirection of some waste away from Metro.

As pointed out in previous submittals, the zero-sum argument in the staff report—waste delivered to privately-owned transfer stations creates a net loss for the citizens of the region—is debatable and does not recognize regional benefits. By this reasoning, any

increase in tons at existing non-Metro facilities could be expected to reduce Metro's market share and cause the same chain of events.

Without changing the system, there is simply no way for a new transfer station to hold Metro harmless from a revenue standpoint. This is due to two factors: Metro's inflexible cost-based approach to setting prices, and the assumption that Metro's market dominance allows it to control rates region-wide.

Therefore, if maintaining Metro's current wet waste tons is a high priority for the Council, an option for altering the system is to lower tonnage caps at other privately-owned transfer stations. The first obvious solution is to focus on the Forest Grove transfer station, because it currently has no cap on wet waste. If Forest Grove were capped at 65,000 tons annually—which is roughly the limit applied to all other private transfer stations in the region—40,000 tons that are currently delivered there would have to be re-directed, presumably to Metro. This change would immediately make Columbia Environmental's proposal revenue-neutral from Metro's perspective. Alternatively, Metro could lower the tonnage caps at other private transfer stations to level the playing field. If the three private local transfer stations were limited to the same 55,000 tons originally requested by Columbia Environmental, their excess tons would likely be re-routed to Metro facilities. Columbia Environmental notes that it has no authority to restrict tonnages at other facilities, and no immediate interest in doing so. Consideration of these options was suggested by staff; the Metro Council has the authority to implement such a plan.

4. *“Detailed description of recovery; more details on equipment; updated estimate of wet and dry waste recovery”*

Columbia Environmental has reviewed its operations plan and spoken with vendors since the Council and staff recommended exploring a cap of 38,000 tons of wet waste. Representatives of Columbia Environmental visited two similar facilities in California to evaluate its proposed model of recovery and operations. A summary of the site visits and the high recovery rates that are currently being achieved at these facilities are detailed in the attached document. Innovation and mechanization of the sorting process allows these facilities to achieve recovery rates in excess of those targets set by Columbia Environmental in its application. Metro staff initially expressed skepticism about Columbia Environmental's aggressive approach to material recovery. Nevertheless, comparable facilities achieving similar results are operating successfully at other locations, and the proposed facility will use many of the same systems. The recovery rates described in the original application are feasible, reasonable, and will benefit Metro and the citizens of the region.

Because of the reduction in tonnage requested by Metro, it is not economically viable for Columbia Environmental to make all of its capital expenditures in recovery equipment at once. Under the new cap, investment in recovery equipment and operations will have to be phased in three stages. Recovery rates will increase incrementally as new equipment and operations are brought on line. An implementation plan for operations and equipment

is contained in the summary. Construction for the new building and the first phase of equipment installation will be nine months to a year from final approval by Metro.

At full implementation, Columbia Environmental expects to process 260 tons of wet waste and 150 tons of dry waste per day. Overall recovery rates from all sources will be approximately 10 percent for wet waste and 45 percent for dry waste.

5. *"Site plan"*

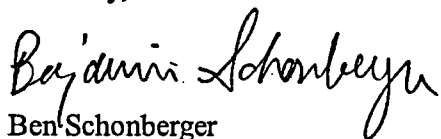
A description of the recovery operations and equipment within the new building is described in detail in the attached narrative. Because of the proposed reduction in tonnage, equipment installation will be phased. Final design and engineering for the location of all the equipment has not been determined. The applicant must have flexibility to modify how equipment is configured within the new structure to maximize the efficiency of the system.

6. *"Estimates of VMT savings"*

Reducing travel times and vehicle miles traveled (VMT) is a priority for Columbia Environmental. The benefit to the region is less traffic congestion and pollution; the benefit to the haulers is more efficient operations and greater profitability. A detailed summary is attached to this letter that describes the locational benefits of the current facility, and calculates the savings in vehicle miles traveled. In short, the proposed facility will create a clear reduction in vehicle miles traveled, in excess of 150,000 VMT annually.

In conclusion, Columbia Environmental has revised its original proposal, and followed direction by Metro staff and the Metro Council. At staff's request, the applicant has supplemented its application with unusually detailed information about its proposal. This comes at a considerable cost to the applicant. We appreciate the opportunity to provide this additional information and hope it provides sufficient detail for staff and Council to approve the application.

Sincerely,



Ben Schonberger  
Winterbrook Planning



## Columbia Environmental Supplement to Application for a Transfer Station

### Vehicles Miles Traveled (VMT)

Reducing travel times and vehicle miles traveled (VMT) has been a priority for Columbia Environmental since its inception. The benefit to the region is less congestion and pollution; the benefit to the haulers is more efficient operations and greater profitability.

In 1997, the local haulers that make up Columbia Environmental began to develop plans to construct a Recovery / Transfer station. The guiding principles of this new transfer station were:

1. The facility must be convenient and practical for the hauler to use.
2. The facility must provide necessary safety and operational practices.
3. The facility must provide innovative solutions to resource recovery.
4. The facility must assist the local independent hauler in competing with the large multi-national corporations.
5. The facility should provide educational opportunities for the local community.

To choose a location for the new facility, the haulers divided the Portland Metro area into districts. Three hauler districts were envisioned that were conceptualized to meet the above criteria. The districts are:

1. North: The area serving downtown Portland from Foster Road north to the Columbia River and east past Gresham
2. South: The area south of Foster Road
3. West: The area encompassing Beaverton and the surrounding area

Next, tonnage estimates within these three districts were computed based on what was controlled by these independent haulers. These annual tonnage estimates were:

1. North: 183,000 tons
2. South: 109,400 tons
3. West: 71,358 tons

The next step was to apply the “convenient and practical” criteria to the districts. It was envisioned that haulers would continue to use Metro facilities when that was “convenient and practical” to do so. District tonnages were reduced to reflect this factor. At that time it was determined that the north district was the most practical area to develop. A site selection committee consisting of Richard Cereghino, Paul Truttman, and Dean Kamper located and recommend the current location on NE Sandy Boulevard. Operations were transferred to that site. Extensive discussions with the landlord with the intent of purchasing the site failed at that time. Discussions started again in 2000 that culminated in the purchase of the NE Sandy site in February 2001. Applications were pending before the Metro Council at that time but were not allowed to proceed because Metro required that Columbia Environmental obtain a Conditional

Use Permit from the City of Portland, the first facility required to do so in the Metro area. In addition, the Oregon Department of Transportation and the Union Pacific Railroad required Columbia Environmental to obtain different entry to the site because of an October 31, 2001 fatality at the railroad crossing. When clear title to an alternate access was obtained in 2004, the application for a Transfer Station was resubmitted to Metro.

In December 2004, additional information based on new review criteria was requested by the Metro Council. One of those requests was to convert the time savings—which is the primary concern of the haulers—detailed in the original application into vehicle miles traveled. In a letter dated February 10, 2005, staff requested that travel times and VMT be further disaggregated into wet and dry waste loads. Based on information provided to Columbia Environmental by the haulers, the attached table shows savings for haulers who are most likely to use the new facility. The summary of this chart is:

Waste type	Annual VMT savings
Wet Waste (primarily residential sources)	102,838 miles
Dry Waste (primarily commercial sources)	50,571 miles
Total Annual Savings	153,409 miles

It is interesting to note that the new calculations for VMT savings translate into larger cost savings that claimed in the original application. Currently, solid waste costs per mile in the Portland Metro area range from \$9 to \$15 per mile, depending on the route efficiencies.

## Columbia Environmental Haulers Most Likely to Use NE Sandy Site

<u>Route Identification</u>	<u>Distance To Metro Facility</u>	<u>Distance To Lot</u>	<u>Distance To Columbia En.</u>	<u>Distance To Lot</u>	<u>Difference</u>	<u>Number Of Loads</u>	<u>Miles Saved Per Year</u>	<u>Miles Saved Residential</u>	<u>Miles Saved Commercial</u>
Alberta	11.9	16.0	5.5	4.5	17.9	322	5,764	4,611	1,153
Argay	13.5	10.3	0.0	4.8	19.0	340	6,460	4,845	1,615
PDR-Baldwin	11.9	16.0	5.5	4.5	17.9	667	11,939	10,745	1,194
PDR-Blains	6.2	16.3	8.8	4.5	9.2	113	1,043	939	104
Borgens	13.3	16.3	6.8	4.0	18.8	236	4,432	3,989	443
City Sanitary	9.0	15.5	9.0	1.0	14.5	167	2,422	1,211	1,211
Cloudburst	6.3	6.5	8.0	0.0	4.8	167	793	0	793
Daves	10.3	20.0	10.0	0.0	20.3	260	5,265	4,212	1,053
Eastside Waste	15.0	17.5	2.5	5.0	25.0	667	16,675	10,005	6,670
Egger	9.5	11.0	4.5	4.0	12.0	114	1,368	1,300	68
Elmers	13.0	20.0	7.0	0.0	26.0	314	8,164	7,756	408
Flannery's						83	850	0	850
Eckert						83	850	0	850
Kiltow	16.0	16.3	10.3	4.0	18.1	282	5,099	4,844	255
Gresham						1,667	25,000	12,500	12,500
Heiberg						333	3,500	0	3,500
Irvington	13.0	16.0	7.0	4.0	18.0	110	1,980	1,881	99
Welsenfluh	11.0	14.0	4.5	4.0	16.5	291	4,802	4,321	480
Cloudburst-Schnell	6.0	6.5	8.0	0.0	4.5	80	362	326	36
Cloudburst-Lofink	6.5	6.5	8.0	0.0	5.0	80	400	360	40
PDR						1,333	16,000	12,800	3,200
PDR-Drop Box						70	1,000	0	1,000
Wooten	14.5	16.0	2.5	0.0	28.0	342	9,585	7,668	1,917
Trashco						834	9,000	0	9,000
Weber	16.0	18.0	5.5	4.0	24.5	435	10,658	8,526	2,132
							<u>153,409</u>	<u>102,838</u>	<u>50,571</u>

# Columbia Environmental Recovery / Transfer Facility Supplement to Equipment and Operations

In its February 10, 2005 letter, staff requested additional information from Columbia Environmental. Columbia Environmental has been reviewing its operations plan and talking with vendors since the Council and staff recommended exploring a cap of 38,000 tons of wet waste. Site visits to other similar operations were conducted to further check the proposed model of recovery and operations. Since the proposed recovery and operation plan is significantly different than anything within the Portland area, site visits were conducted in California, where the technology has been used for over two years.

## **Site Visit # 1, Long Beach, California**

The first site visited was a recovery facility in Long Beach, California. The facility is located in an industrial area approximately two miles from a major freeway. Materials are brought to the facility from sources in excess of 20 miles away. The land is owned by the City of Long Beach. The City has hired an independent contractor that has no collections in the area to operate the facility. In addition, a multi-national solid waste company is performing transfer without any attempt at recovery in a portion of the structure. The operator requested that no pictures be taken at the facility because of the keen competition that had developed since it was opened.

The operator processes four waste streams within its operations. They are:

1. Construction & Demolition Waste
2. Residential Wet Waste
3. Drop Boxes (not Construction & Demolition)
4. Commercial Dry Waste collected in Front Loaders

Each of the four waste streams are stored separate from one another and processed at different times. This allowed for more efficient setup and labor control. The following equipment and labor was used while sorting the waste.

Local Tip Fee:	\$35 to \$40
Tons per Day:	200 to 600
Loader:	Cat Knuckle Boom Track Hoe
Loader:	Bobcat skid steer
Bag Opener:	BHS Bag Breaker
Sort Line:	Bulk Handling Systems
Screen #1:	Bulk Handling Debris Roll Screen
Screen #2:	Portable Trommel
Boxes:	40 to 60 yard drop boxes.
Residue:	Loaded into open top transfer trailers

Floor Sort Labor: 1 presort  
 Line Sorters: 6 workers per shift, 2 shifts daily

Recovery rates among all waste streams is very high. The waste stream and its recovery rate follows:

Construction and Demolition	80%-90%
Residential Wet Waste	18%
Drop Boxes	60% +
Commercial Dry Waste	50% to 60%

It is important to note some differences between the recovery rates at this facility and Columbia Environmental. First, 30% of the recovery from Construction and Demolition is Alternative Daily Cover (ADC). This is important in California since it is included in recovery statistics (Even though it is not currently recognized by Metro, methods are being researched in how to keep this material out of the landfill.). Second, residential wet waste recovery is relatively high, but this is skewed because of less developed curbside programs than those in the Portland area. We do not feel comfortable with more than a 4% to 5% recovery rate on this material. However, the wet waste stream observed might be similar in mix to the multi-family waste.

**Site Visit # 2, Santa Barbara, California**

Site number 2 is located in the City of Santa Barbara, in a residential neighborhood next to Interstate 101. The facility is owned and operated by an independent hauler and processor. Currently the facility is undergoing extensive expansion and updating. The only waste streams observed being processed were construction and demolition, and dry waste processing. The following equipment, labor, and structure information were observed.

Local Tip Fee:	\$40
Tons Per Day:	650
Building Square Footage:	40,000
Loaders:	Cat Knuckle Boom Track Hoe
Loader:	Cat Articulating Loader
Sort Line:	Bulk Handling Systems
Screen # 1:	Roll Debris Screen from Bulk Handling Systems
Screen # 2:	Vibratory Screen on Tracks with Diesel Power
Boxes:	40 to 60 yard drop boxes
Residue:	Loaded into open top transfer trailers
Floor Sort Labor:	3 including wheel wash attendants
Line Sorters:	10

Recovery was high in the facility with the owner/operator claiming up to 90% recovery on both streams. However, as above this includes "ADC" of 30%. This source material is very similar in nature to that expected at the Columbia Environmental facility.

Materials recovered included wood, brick, stone, tile, wire, aluminum, metals, cardboard, other paper, asphalt, containers, and other miscellaneous.

### **Columbia Environmental Equipment and Operations**

Because of the reduction in tonnage requested by Metro, Columbia Environmental must make some changes to its recovery and processing systems. Observations from the site visits discussed above also drive some of these changes.

To be economically viable, capital investment in recovery equipment and operations will have to be phased in three stages. Recovery rates will increase incrementally as new equipment and operations are brought on line. Columbia Environmental expects to use the following equipment, labor, and structure components:

#### **Phase 1:**

Tons per Day Wet Waste:	150
Tons per Day Dry Waste:	60
Building:	New 25,000 to 30,000 sq. foot facility
Compactor:	New moderate-sized compactor with an in-floor infeed.
Sort Line:	Install sort line
Screen # 1:	Roll debris screen
Boxes:	40 to 60 yard drop boxes for recovered items
Residual Loads:	Open Top Containers
Loader:	Knuckle Boom Track Hoe
Loader:	Skid Steer with grapples
Floor Sort Labor:	2
Line Sorters:	6

#### **Phase 2**

Tons per Day Wet Waste:	210
Tons per Day Dry Waste:	100
Screen # 2:	Add Roll Debris Screen
Loader:	Add Articulating Loader
Line Sorters:	Add 2, for a total of 8

#### **Phase 3**

Tons per Day Wet Waste:	260
Tons per Day Dry Waste:	150
Bag Breaker:	Bulk Handling or similar system
Loader:	Additional Knuckle Boom Track Hoe
Loader:	Additional Skid Steer
Floor Sort Labor:	2 per shift for a total of 4

Line Sorters: 6 per shift for a total of 12

### Recovery Rates

Recovery remains in line with previous estimates, with some adjustments. Because of the severe limitation on the amount of waste placed on the facility, residential wet waste and multi-family wet waste will be limited. The exact component is difficult to calculate at this time. However, waste recovery by stream is expected to be:

#### Phase 1:

Residential Wet Waste:	4% to 5%
Residential Dry Waste:	50%
Commercial Dry Waste:	25%
Construction & Demolition:	40%
Commercial Drop Boxes:	30%
Net Recovery:	12,000 tons

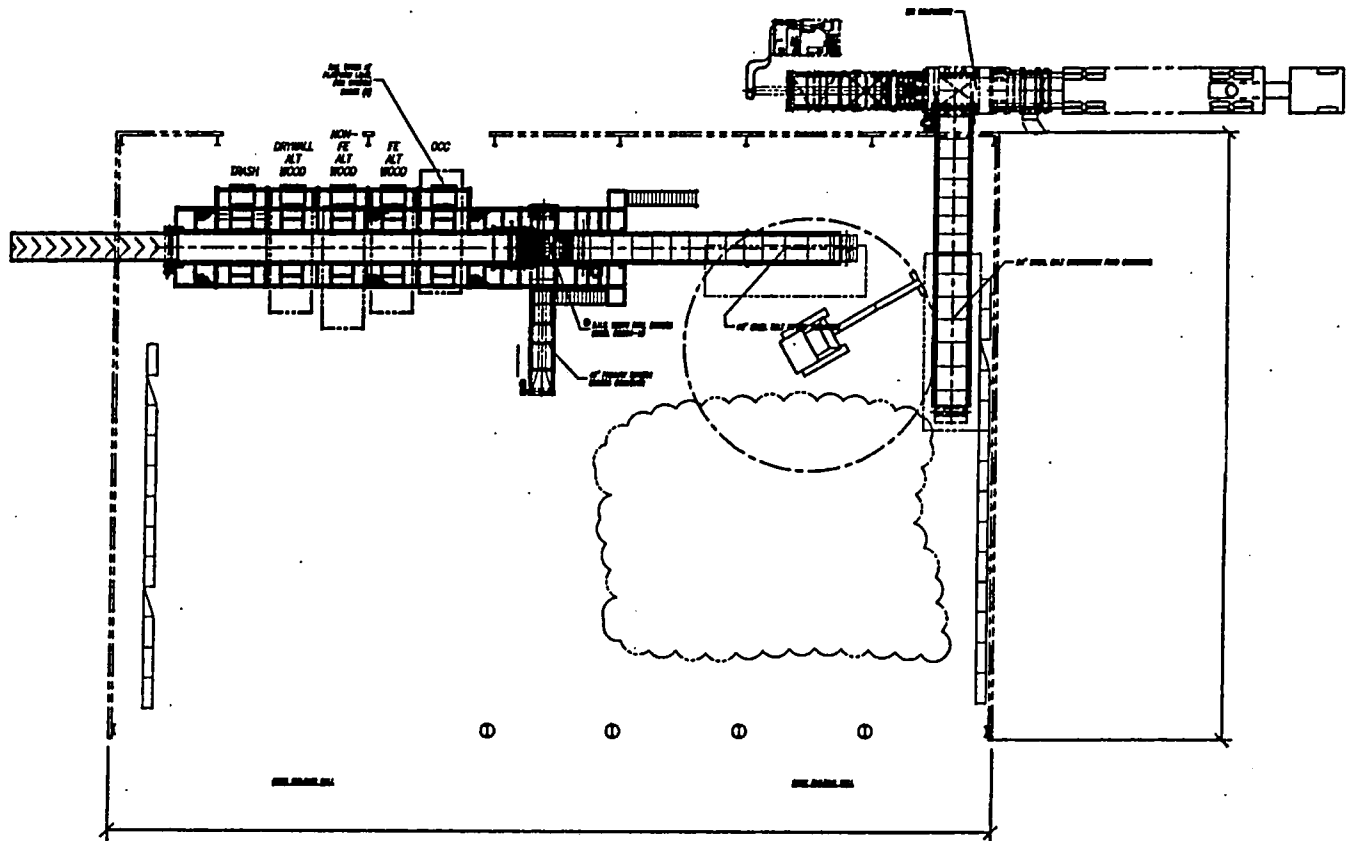
#### Phase 2:

Residential Wet Waste:	No change
Residential Dry Waste:	Increases 5%
Commercial Dry Waste:	Increase 5%
Construction & Demolition:	Increase 5%
Commercial Drop Boxes:	Increase 10%
Total Recovery:	21,000 tons

#### Phase 3:

Residential Wet Waste:	Increase 3%	(7% total recovery)
Residential Dry Waste:	No change	(55% total recovery)
Commercial Dry Waste:	Increase 5%	(35% total recovery)
Construction & Demolition:	Increase 5%	(50% total recovery)
Commercial Drop Boxes:	Increase 10%	(50% total recovery)
Total Recovery:	32,000 tons	

Attached to this narrative is a layout of the proposed facility. Construction will be done on the building with the intent of placing equipment using the above schedule. For Metro's analysis of the quantity of materials diverted from its transfer stations, it should be noted that construction time, including DEQ and the City of Portland Building permits, will be from 9 months to 1 year.



<b>GENERAL ELECTRIC</b> THE ELECTRIC DIVISION OF GENERAL ELECTRIC COMPANY CHICAGO, ILL. 60649		<b>SOLE MARKING SYSTEM</b> P-6357	
DRAWING NO. P-6357-2.0 REV. 1 OF 1		DATE 10/1/77	





METRO

ATTACHMENT #6 TO ORDINANCE #04-1063A

February 28, 2005

Mr. Bryan Engleson  
Columbia Environmental, LLC  
14041 NE Sandy Blvd.  
Portland, OR 97230

Re: Receipt of Amended Franchise Application

Dear Mr. Engleson:

On February 22, 2005, Metro received a letter from Ben Schonberger of Winterbrook Planning written on behalf of Columbia Environmental regarding Columbia Environmental's application for a Metro transfer station franchise. In that letter, Mr. Schonberger indicated that Columbia Environmental is revising its application to seek authority to transfer 38,000 tons of putrescible solid waste, rather than authority to transfer 55,000 tons of putrescible waste as stated in Columbia Environmental's original franchise application. In addition, Mr. Schonberger also describes other changes to Columbia Environmental's proposed operations that will result from this decreased tonnage, such as a revised schedule for installing material recovery systems in the new facility. Metro considers these changes to constitute a substantial modification of Columbia Environmental's application. Metro Code section 5.01.070(h)(2) provides that should an applicant substantially modify its franchise application during the course of the review, the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications. Therefore, the 120 day review period for Columbia Environmental's modified franchise application commenced on February 22, 2004 and will end on June 22, 2005. Metro staff will make every attempt to process your amended application as quickly as possible.

Within the next few weeks, I will contact you to set up a meeting to discuss our preliminary analysis of Columbia Environmental's amended application.

If you have any questions or concerns, please contact Roy Brower (503) 797-1657 or me (503) 797-1743.

Sincerely,

Michael G. Hoglund  
Solid Waste & Recycling Department Director

BM/MH:bjl

cc: Michael Jordan, Chief Operating Officer  
Roy Brower, Regulatory Affairs Division Manager  
Bill Metzler, Senior Solid Waste Planner  
Ben Schonberger, Winterbrook Planning

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TDD 797 1804



METRO

March 8, 2005

Mr. Bryan Engleson  
Columbia Environmental, LLC  
14041 NE Sandy Blvd.  
Portland, OR 97230

Re: Request for Clarifications

Dear Mr. Engleson:

Staff has conducted a preliminary review of the additional information provided in the February 22, 2005 letter from Mr. Ben Schonberger of Winterbrook Planning on behalf of Columbia Environmental regarding its solid waste facility franchise application. During the course of this review, specific items have been identified for further clarification by Columbia Environmental. They are as follows:

1. "Cost savings estimates"

Your letter represents that there will be savings of \$640,000 due to lower tip fees on dry waste. The \$640,000 per year in savings is the same estimate provided in your original application and was based on tip fee savings on 37,000 tons of dry waste. In your letter, you indicate that Columbia Environmental expects to receive about 60 tons per day (15,600 tons/year) of dry waste during the first phase of operation. Based on this information, we estimate that the tip fee savings for the first phase would be more near \$300,000, rather than \$640,000.

- a) Please provide clarification on your estimated savings for the first phase of your operation, as described in your letter.

In your original application you estimated unit hauling costs at an industry standard of \$70/hour. Your letter describes a unit cost of \$9-\$15 per mile to estimate transportation savings two to four times larger than your original estimate (original: \$553,071 versus \$1.35 to \$2.25 million revised).

- b) Provide a detailed explanation of the change of basis in your analysis (i.e., from per-hour to per-mile unit costs).
- c) Explain why your revised estimate of transportation savings roughly tripled when your wet tonnage request was reduced by some 30% (from 55,000 to 38,000 tons/year).

Referencing your attachment identified as "Haulers Most Likely to Use NE Sandy Site" we ask that you provide clarification to the following:

- d) This new table lists your estimate of distances to various locations but does not indicate from where. Please clarify.
- e) Does this new table show only wet loads, as in your original application, or both wet and dry?
- f) If the new table includes estimates for wet loads only, please explain why you now estimate a larger number of loads will be required to deliver tons to the proposed Columbia Environmental facility, even as the total annual wet waste tonnage drops from 55,000 to 38,000 tons.

Your letter states that "By law, transportation cost savings from residential routes are returned to ratepayers based on decisions made by local rate-setters."

- g) Please identify the specific local or state law, ordinance or rule that imposes the requirement that local rate-setters pass on transportation cost-savings to ratepayers.

## 2. "Recovery"

Your letter indicates that Columbia Environmental ultimately expects to process 260 tons of wet waste and 150 tons of dry waste per day. You indicate that overall recovery rates are expected to be about 10 percent for wet waste and 45 percent for dry waste. In your attachment identified as a "Supplemental to Equipment and Operations" you provide additional information. This includes information from site visits in Southern California.

- a) Please describe how this attachment pertains to your application as you provide insufficient information to determine whether or not these facilities are similar to the proposed facility.

A phasing plan is shown that identifies expected tonnages and equipment that is expected to be installed at Columbia Environmental. In addition information is also presented on expected recovery rates and recovery tonnages. This data appears to be internally inconsistent as well as inconsistent with the recovery rates included in your cover letter. Attached is a Metro spreadsheet showing the tonnage data that you have provided Metro. The numbers in bold face type are from your letter; the remaining numbers are calculated from the data provided. Using the maximum recovery shown for wet waste, we have calculated the required recovery rate for dry waste.

- b) You will note that recovery rates in the range of 65% to 70% are required in order to obtain the net recovery tonnage represented in your letter. Please provide clarification regarding this apparent discrepancy.

## 3. "Structure and ownership of Columbia Environmental LLC"

Your original application states that Columbia Environmental, LLC is owned by a partnership, and the ownership partners include independent haulers that were listed. You also represent that these partners also own Oregon Recycling Systems. A Metro Councilor has requested information about the structure of Columbia Environmental LLC. In order to meet that request, we ask that you please provide the following information:

- a) The names of investors or other partners not included in your list of haulers that accompanied your original application.
- b) Provide the names of investors and their respective proportional ownership (the top ten with the most ownership).
- c) Describe who is authorized to make decisions on behalf of the LLC, the extent of their decision making authority, and who owns the site on which the proposed facility would be built.
- d) A copy of the documentation for the limited liability corporation (e.g., articles of incorporation/organization, financial limits and obligations, bylaws, operating agreement).
- e) Describe how critical decisions will be made among the members of the LLC or its employees to ensure compliance with franchise requirements.

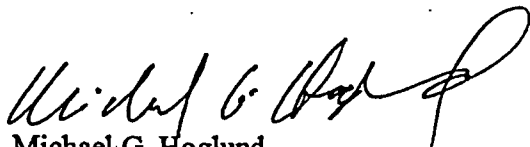
**4. "Councilor's additional evaluation factors"**

As you are aware, at the December 16, 2004 Council hearing on Columbia Environmental's franchise application, a Metro Councilor introduced five additional evaluation factors for Council consideration (in addition to the five required evaluation factors as provided in Metro Code). The following are questions related to two of that Councilor's evaluation factors regarding Columbia Environmental's proposed operation.

- a) Describe how the proposed facility will ensure that a significant number of small independent haulers will be able to compete in this region and ensure their competitiveness in the region's increasingly vertically-integrated solid waste system.
- b) Describe the exact nature of the proposed recovery operation's innovative approach to increasing recycling.

Please provide, in complete and final form, your responses to the requests listed above by Monday, March 28, 2005. If you cannot, please contact me so that we can work out an extension for this request. If you have any questions, please call me at (503) 797-1657 or Bill Metzler at (503) 797-1666.

Sincerely,



Michael G. Hoglund  
Solid Waste & Recycling Department Director

BMMH:bj

Attachment

cc: Roy Brower, Regulatory Affairs Division Manager  
Michael Jordan, Chief Operating Officer  
Bill Metzler, Senior Solid Waste Planner  
Ben Schonberger, Winterbrook Planning

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ATTACHMENT TO CLARIFICATION LETTER DATED 3/7/05

Preliminary Metro Review of Columbia Environmental Material Recovery Data

	Tons/Day	Tons/Year*	Recovery Rate	Net Recovery
<b>Phase 1</b>				
Wet Waste	<b>150</b>	<i>39,000</i>	<b>5%</b>	<i>1,950</i>
Dry Waste	<b>60</b>	<i>15,600</i>	<b>64.4%</b>	<i>10,050</i>
Total		<b>54,600</b>		<b>12,000</b>
<b>Phase 2</b>				
Wet Waste	<b>210</b>	<i>54,600</i>	<b>5%</b>	<i>2,730</i>
Dry Waste	<b>100</b>	<i>26,000</i>	<b>70.3%</b>	<i>18,270</i>
Total		<b>80,600</b>		<b>21,000</b>
<b>Phase 3</b>				
Wet Waste	<b>260</b>	<i>67,600</i>	<b>7%</b>	<i>4,732</i>
Dry Waste	<b>150</b>	<i>39,000</i>	<b>69.9%</b>	<i>27,268</i>
Total		<b>106,600</b>		<b>32,000</b>

\*Work Days/ Year 260

Note: Bold indicates data from February 22 letter, numbers in italics are calculated.

METRO  
R.E.M. DEPT.

05 APR -8 AM 10:00

April 7, 2005

Metro Council  
Metro  
600 NE Grand Ave.  
Portland, OR 97232

Dear Councilors:

On March 8, 2005, Metro staff sent a letter to Columbia Environmental requesting additional information about its application for a transfer and recovery facility. In response, this letter provides a general response to the process, and a specific response to the questions in that letter. Winterbrook Planning represents Columbia Environmental in this matter.

### General Response

Unfortunately, the application process thus far has been an unconstructive, frustrating back-and-forth between Metro and Columbia Environmental. Nearly all the new requests for information derive from answers Columbia Environmental provided in response to earlier requests by Metro staff. This cycle of response and counter-response has been repeated numerous times over many months.

Metro has not provided the applicant with a preferred format or clear direction for its economic or operational analyses. Typically, after Columbia Environmental gathers and submits information, Metro staff questions the assumptions, methodology, or applicability of the analysis, and requests further clarification or additional information. Additional information submitted in direct response to staff comments only generates new questions and more requests for different information. Seven months and countless responses after submittal of the original application, this process has bogged down.

This struggle to understand each other is evident in the debate over what savings will be passed through to the ratepayer, for example.

1. In the original July 2004 application, Columbia Environmental stated that a new transfer station would reduce travel costs and hold down rate increases.
2. In the November staff report, Metro criticized Columbia Environmental for not promising to reduce rates for residential customers.
3. Columbia Environmental responded by explaining that rate-setting is in the hands of local jurisdictions, and it cannot unilaterally increase or lower rates. Because franchising

contracts in Portland and Gresham include an effective limit on hauler profits, anticipated transportation savings would indeed be passed through to ratepayers.

4. Metro staff appeared to finally understand the relationship in their February 10 letter: “Savings on residential routes are passed through to customers as a consequence of the local government rate-setting process.” (Table 2, response to factor 9)
5. In the most recent letter, staff asks for identification of the “rule that imposes the requirement that local rate-setters pass on transportation cost-savings to ratepayers.”

The Metro Code’s evaluation factor for the economic aspect of the application is simple. It simply requires the Council consider the effect that a new franchise will have on the cost of services. It does not specify what kind of economic analysis is needed. It puts forward no parameters, no accepted methodology, and no assumptions. Metro staff has never outlined exactly what kind of a model or analysis they wish to see, but has repeatedly requested more or different information from the detailed analysis already provided by Columbia Environmental.

The applicant wishes to provide staff and the Council with all the information they need to make an informed decision. The applicant also wants to work collaboratively with Metro in this process. Columbia Environmental believes that the Metro Council should focus on the main principles of the application, which have not changed. The new transfer station:

- **Levels playing field**—restores competitive balance for small haulers, increasing competition and maximizing system efficiency
- **Increases recovery**—brings region closer to stated recovery and recycling goals, creates economic incentive for higher recovery rates
- **Reduces travel**—reduces travel times and VMT, thereby reducing congestion and pollution, and increasing the efficiency of services

Columbia Environmental’s proposal meets all of the evaluation factors listed in the Metro Code 5.01.070(f). The applicant has revised a Metro-authored table to demonstrate conformance with these factors, and has included it with this letter.

## Specific Responses

This letter contains specific responses to Metro staff's request for additional information in the March 8, 2005 letter. That request stems from information provided by Columbia Environmental on February 22, 2005. The information in that letter was requested by Metro staff in their letter of February 10, 2005. The headings below correspond to the questions in the March 8 letter.

### 1a. Dry waste tip fee savings

The projected savings for dry waste were calculated for the facility at full operation in a future final phase of development. Staff has correctly calculated that for the project's first phase, lower tip fees on 15,600 tons of dry waste will result in an estimated savings of \$300,000.

### 1b. Change in analysis from hours to miles

The original application showed time savings resulting from the proposed facility. Time is the primary concern of haulers, and is a widely-accepted proxy for cost savings. At the Council hearing, staff and several councilors requested that the applicant translate this time savings into vehicle miles traveled.

The applicant changed the basis of the analysis *only because it was specifically asked to do so by both staff and the Metro Council*. Staff made this request orally in a December 21, 2004 meeting, and in writing on February 10, 2005: "[staff requests] estimates for VMT savings. Columbia Environmental should provide baseline hauler VMT without its proposed transfer station and the proposed hauler VMT with the proposed transfer station." (p.1) Columbia Environmental also provided a map with its previous submittal, showing the haulers' service areas.

### 1c. Difference in transportation savings

The tables in the original application and in the February 22 letter are analogous, with the original calculating savings in hours, and the newer one calculating savings in vehicle miles traveled. Both tables are based on the tonnage that could be expected once the transfer station is in full operation at the final phase of development and investment in capital infrastructure.

However, the applicant revised its proposal at Metro's suggestion to reduce the annual amount of wet waste received from 55,000 to 38,000 tons. Staff correctly notes that the table in the February 22 letter calculates VMT savings for the originally requested tonnage. Columbia Environmental has revised this table with new data for the reduced tonnage request. This obviously has the effect of reducing by nearly one-third the savings in vehicle miles traveled and the corresponding estimates for cost savings.

Per-mile operating cost is rarely used and much more difficult to estimate than per-hour cost, because of widely varying time demands between on-route vs. off-route travel. VMTs are more helpful as a way to understand regional benefits to road systems, and reductions in congestion and pollution. Studies that establish an accurate unit cost per-mile are difficult to find since this



figure is rarely used in the solid waste industry. \$9 per mile was an estimate based on a study done by the Oregon Sanitary Service Institute in the 1980s. \$15 per mile is an amount calculated internally by Argay Disposal and Eastside Recycling, based on routes within their service areas. The conservatively estimated \$70 per hour figure used in the original application is more commonly recognized as a cost of operation.

#### 1d. Distances and locations

The table in the February 22 letter describes the distances traveled by the haulers and forecasts for mileage saved by a new facility. This table was accompanied by a hauler service area map submitted by the applicant. The miles saved are calculated by using the following equation:

(Yard to route to Metro to yard) – (Yard to route to Columbia Environmental to yard)

The first part of this equation, “yard to route. . .” is exactly the same on in both sides of the minus sign. Therefore, this trip leg cancels out. Regardless of the location of the hauler’s yard, this leg of the trip would be the same in both scenarios. This distance was not included in the table because it would make no difference to the desired result: the *difference* between current and future conditions. The information requested in the Metro letter is not relevant.

#### 1e. Wet or dry loads

The table counts wet loads only.

#### 1f. Number of loads

The time savings table in the original application and the VMT savings table in the February 22 letter account for approximately 9,200 loads of wet waste delivered to the site. Both tables use tonnages that could be expected once the transfer station is in full operation, at the final phase of development and investment in capital infrastructure.

At Metro’s suggestion, the applicant changed its proposal to reduce the annual amount of wet waste from 55,000 to 38,000 tons. Staff correctly notes that the table in the February 22 letter calculates VMT savings for the originally requested tonnage. In response, Columbia Environmental has updated this table with new data showing estimates for load distributions under the reduced tonnage request. Since waste loads will be accepted on a first-come, first-served basis, and Metro franchises require that the facility must be open to all haulers, the distributions listed on these tables are approximate. In any case, a lower tonnage cap for wet waste obviously has the effect of reducing the savings in vehicle miles traveled and the corresponding estimates for cost savings.

#### 1g. Pass-through of transportation savings

As explained earlier in this letter, the template franchise agreements from both the City of Portland and the City of Gresham include a *de facto* limit on hauler profits. (City of Portland commercial hauling is the only category without this limit.) Local government rate setters use a

formula that derives a customer price from a “base” of allowable operating expenses plus a 9.5 percent profit. If hauler efficiency reduces transportation costs, this lowers allowable expenses, and changes the base, but haulers may not simply take this savings as additional profit. To do so would be a violation of their contract with the cities, and against the law. Lower operating costs lower the base, which then is returned to ratepayers as part of the rate-setting formula. The formula is calculated and rates are determined according to Generally Accepted Accounting Principles (GAAP). Local jurisdictions, not haulers, determine rates.

Bruce Walker from the City of Portland’s Office of Sustainable Development explained this process in detail in his testimony at the Metro Council hearing. The applicant is submitting under separate cover a standard franchise agreement that further explains this financial arrangement. Local jurisdictions have the authority to negotiate these contracts under ORS 459.065. City of Portland authority is through Portland City Code 17.102.050; City of Gresham authority is through Gresham Revised Code 7.25.070.

#### 2a. Pertinence of California examples

The applicant’s field trip to facilities outside the Portland area, and the information provided about their operations, was a direct response to comments by Metro staff. In a meeting on December 21, 2004, Metro staff claimed there was “no way” the applicant could meet its projected recovery goals, and presented as evidence a list of recovery rates at Portland-area facilities. In response, the applicant researched newer, more innovative facilities outside the region to show that its projected recovery rates were reasonable. Columbia Environmental clearly stated the purpose of these examples in its February 22 letter to Metro (p.3):

“Metro staff initially expressed skepticism about Columbia Environmental’s aggressive approach to material recovery. Nevertheless, comparable facilities achieving similar results are operating successfully at other locations, and the proposed facility will use many of the same systems. The recovery rates described in the original application are feasible, reasonable, and will benefit Metro and the citizens of the region.”

Descriptions of these two facilities include detailed information about their location, size, volume of waste processed, mechanization, sorting line equipment, labor demands, and overall recovery rates. Proposed systems similar in type were also described for Columbia Environmental’s future facility. The applicant does not understand staff’s position that three pages of detailed data about operations of the facilities constitutes “insufficient information” to make a valid comparison. Frankly, the applicant does not know what more detail could be provided that would help this comparison.

#### 2b. Recovery rates for dry waste

Metro staff’s table attached its March 8 letter omits important information provided by the applicant, and in doing so reaches an erroneous conclusion. Metro staff has incorrectly categorized the five different waste types listed in the applicant’s estimated recovery rates,

compressing them into two general categories: wet and dry. Staff's conclusion is that to obtain the stated recovery tonnages, dry waste recovery rates must be unrealistically high.

To clarify, the applicant has provided expanded tables (see attachments) that include *all* categories of waste listed in the February letter. The consequence of a 2002 Metro regulatory guidance document<sup>1</sup> is that many loads previously and incorrectly defined as "dry" will be redefined as "wet" because they contain more than a "trivial" amount of putrescible material.

The revised table for Phase 1 shows that previously stated results are achievable by using conservative recovery targets of 13 percent for all categories of wet waste and 42 percent for all categories of dry waste. These numbers are consistent with the "about 10 percent for wet waste and 45 percent for dry waste" estimate stated in the earlier February 22 letter to Metro. There is no discrepancy.

### 3. Structure and ownership of Columbia Environmental LLC

Metro Code and the application forms provided by Metro require only that the applicant provide the "name and address of the company owner or parent company." Columbia Environmental, L.L.C., owns the site on which the proposed facility would be built and is listed as the applicant. In July 2004, the applicant provided to Metro a detailed list of 40 independent haulers, companies, and individuals that make up Columbia Environmental. This information is more detail than Metro code requires. Nevertheless, in the interest of full disclosure, at Council request, the applicant will provide additional information about the organization.

Columbia Environmental is a limited liability corporation governed by a six-member board of managers, who set policy and direction for the company. This board has authority to make company decisions and to comply with franchise requirements. Two equal investment partners in Columbia Environmental contribute equally to this board: three members from KCDK, L.L.C., and three members from Oregon Recycling Systems. At this time, KCDK's representatives to the Columbia Environmental board are David Ross, Kirk Ross, and Ty Ross. Oregon Recycling System's representatives are Mike Miller, David McMahon, and Richard Cereghino. This board hires a Chief Executive Officer to manage day-to-day operations. The current C.E.O. of Columbia Environmental is Bryan Engleson. Oregon Recycling Systems operates the existing recycling processing facility on the Columbia Environmental site. ORS is itself governed by a seven-member board of managers, who are elected by the general membership, who are comprised of the haulers listed in the original application.

More detail about the internal finances of the organization, *i.e.*, how much money each investor has contributed to the partnership, or the details of its operating agreement, is a matter of private business. Public, on-the-record disclosure of this information would be detrimental to Columbia Environmental's position in the marketplace. Furthermore, this information is not relevant to its ability to fulfill Metro franchise requirements. Past applicants for franchises have not been asked

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<sup>1</sup> Metro Solid Waste Regulatory Guidance, "Management of Putrescible Waste at Recycling Facilities (RFs) and Material Recovery Facilities (MRFs)", July 2002. Metro's "trivial" standard for putrescible materials that change the definition of a dry waste load is very restrictive: no more than 5% per load, by weight, not to exceed a maximum of 300 pounds.

to provide this kind of internal business details. The information provided above, combined with the original application's exhaustive list of participating partners, should be sufficient to allow an informed decision.

#### 4a. Competitiveness of small haulers

The RSWMP directs Metro to consider facility ownership: "Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services" (RSWMP, Goal 4, Objective 4.6, p. 5-5).

The Columbia Environmental proposal will preserve the presence of small independent haulers in the Metro system. Because of hauler consolidation and the introduction into the marketplace of large, vertically-integrated, multi-national firms, there has been a precipitous drop in the number of small haulers serving Metro. Whereas there were more than 200 small independent haulers in 1988, there are fewer than 40 today. This change is industry-wide and not unique to Metro. The economies of scale that these large companies have, and their ownership control of every stage of the process—from neighborhood garbage trucks to landfill sites—gives them a powerful advantage. Small, locally-based haulers are being driven out of the system. Long-term, the lack of competition in waste disposal will take tons away from Metro transfer stations and drive up prices for all citizens of the region.

In order to compete and survive in this environment, the small haulers need to engage in some of the same scale advantages as the larger, vertically-integrated corporations. Individually, these companies are too small to provide their own processing or transfer station facilities. As a group, however, they can collectively compete for the waste and recycling business and remain viable in the marketplace. Recycling processing is a way that the coalitions of small haulers have maintained a revenue-generating activity that will allow them to grow. The best opportunity for small companies to participate in the waste business in the Metro region is for them to integrate processing, transfer, and hauling together, as this proposal does.

Healthy competition is a pre-condition for maintaining "service levels that provide reasonable access for residents, businesses and haulers." This is Metro's stated rationale for allowing new transfer stations (Metro Ordinance 00-865, revising the RSWMP). Approval of this application will encourage competition, support local businesses, increase waste diversion rates, expand hauler choice, decrease vehicle miles traveled, and drive down overall system costs.

#### 4b. Innovative approach to recycling

If existing transfer facilities adopted the recovery model proposed by Columbia Environmental in this application, region-wide goals for recovery and recycling could be met in one year. The innovation of the proposed facility lies in three facts (previously outlined in a November 29, 2004 letter to Metro):

**1. Columbia Environmental has a strong economic incentive to recover materials from the waste stream.**

Because Columbia Environmental has no direct connection to a landfill—unlike other dominant, fully vertically-integrated firms operating in the region—it has a huge economic incentive to remove every possible pound of recoverable material from the waste stream. Recovery and recycling is a profit center for the company, whereas delivering waste to the landfill is an undesirable cost. This creates a market-based system for recovery and recycling that supports regional goals.

**2. The new facility will operate using superior technology for sorting and recovery.**

The new transfer facility will invest in cutting-edge mechanized systems for sorting and recovery. These systems are similar to the ones operating effectively in the two California facilities discussed in detail in the February 22 letter. These systems will maximize the amount of materials diverted from the landfill.

**3. The transfer station will be immediately adjacent to a recycling processing facility.**

The proposed facility is unique because of its proximity to existing recycling processing activities. This creates efficiencies for the processing of recovered materials. While not all materials can be processed on site, cardboard, waste paper, glass, metal, and other specialty materials will be brought to the main building and turned into marketable commodities. Unlike at other transfer facilities, no additional truck trips will be needed to bring these materials to a processing center.

In short, the key factors listed above—economic incentives for recovery, cutting edge sorting technology, and proximity to recycling processing—are innovative and unlike any transfer and recovery station in the region.

In conclusion, Columbia Environmental has provided more detailed information on the recovery and transfer station application, at the request of Metro staff and the Metro Council. The application meets the Council's factors for consideration as listed in Metro Code 5.01.070(f). We hope that as the process moves forward, we can work collaboratively with Metro. We appreciate the opportunity to provide this additional information and hope it provides sufficient detail for staff and Council to approve the application.

Sincerely,  
WINTERBROOK PLANNING



Ben Schonberger

Columbia Environmental L.L.C.  
 Facility Recovery  
 Phase 1

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
<b>Wet Waste</b>				
Residential	95	5%	5	1,240
Commercial & Multi-Family	25	25%	6	1,631
Commercial Container & Boxes	30	30%	9	2,349
<b>Total Wet Waste</b>	<b>150</b>		<b>20</b>	<b>5,220</b>
<b>Dry Waste</b>				
Residential	10	50%	5	1,305
Commercial and C & D	50	40%	20	5,220
<b>Total Dry Waste</b>	<b>60</b>		<b>25</b>	<b>6,525</b>
<b>Total Phase 1</b>	<b>210</b>	<b>21%</b>	<b>45</b>	<b>11,745</b>

(Future) Phase 2

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
<b>Wet Waste</b>				
Residential	125	5%	6	1,631
Commercial & Multi-Family	30	30%	9	2,349
Commercial Container & Boxes	45	40%	18	4,698
<b>Total Wet Waste</b>	<b>200</b>		<b>33</b>	<b>8,678</b>
<b>Dry Waste</b>				
Residential	15	55%	8	2,153
Commercial and C & D	85	45%	38	9,983
<b>Total Dry Waste</b>	<b>100</b>		<b>47</b>	<b>12,137</b>
<b>Total Phase 2</b>	<b>300</b>	<b>27%</b>	<b>80</b>	<b>20,815</b>

(Future) Phase 3

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
<b>Wet Waste</b>				
Residential	170	5%	9	2,219
Commercial & Multi-Family	40	35%	14	3,654
Commercial Container & Boxes	50	50%	25	6,525
<b>Total Wet Waste</b>	<b>260</b>		<b>48</b>	<b>12,398</b>
<b>Dry Waste</b>				
Residential	20	55%	11	2,871
Commercial and C & D	130	50%	65	18,965
<b>Total Dry Waste</b>	<b>150</b>		<b>76</b>	<b>19,836</b>
<b>Total Phase 3</b>	<b>410</b>	<b>30%</b>	<b>124</b>	<b>32,234</b>

## Columbia Environmental: Haulers Most Likely to Use Sandy Site

Route Identification	Distance To Metro Facility	Distance To Lot	Distance To Col. Env.	Distance To Lot	Difference	Original Request at 55,000 Tons				New Request at 38,000 Tons			
						Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial	Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial
Alberta	11.90	16.00	5.50	4.50	17.90	322	5,764	4,611	1,153	225	4,035	3,228	807
Argay	13.50	10.25	0.00	4.75	19.00	340	6,460	4,845	1,615	238	4,522	3,392	1,131
PDR-Baldwin	11.90	16.00	5.50	4.50	17.90	667	11,939	10,745	1,194	467	8,358	7,522	836
PDR-Blains	6.20	16.33	8.80	4.50	9.23	113	1,043	939	104	79	730	657	73
Borgens	13.25	16.33	6.80	4.00	18.78	236	4,432	3,989	443	165	3,102	2,792	310
City Sanitary	9.00	15.50	9.00	1.00	14.50	167	2,422	1,211	1,211	117	1,695	848	848
Cloudburst	6.25	6.50	8.00	0.00	4.75	167	793	0	793	117	555	0	555
Daves	10.25	20.00	10.00	0.00	20.25	260	5,265	4,212	1,053	182	3,686	2,948	737
Eastside Waste	15.00	17.50	2.50	5.00	25.00	667	16,675	10,005	6,670	467	11,673	7,004	4,669
Egger	9.50	11.00	4.50	4.00	12.00	114	1,368	1,300	68	80	958	910	48
Elmers	13.00	20.00	7.00	0.00	26.00	314	8,164	7,756	408	220	5,715	5,429	286
Flannery's						83	850	0	850	58	595	0	595
Eckert						83	850	0	850	58	595	0	595
Kiltow	16.00	16.33	10.25	4.00	18.08	282	5,099	4,844	255	197	3,569	3,391	178
Gresham						1,667	25,000	12,500	12,500	1,167	17,500	8,750	8,750
Helberg						333	3,500	0	3,500	233	2,450	0	2,450
Irvington	13.00	16.00	7.00	4.00	18.00	110	1,980	1,881	99	77	1,386	1,317	69
Welsenfuh	11.00	14.00	4.50	4.00	16.50	291	4,802	4,321	480	204	3,361	3,025	336
Cloudburst-Schnell	6.03	6.50	8.00	0.00	4.53	80	362	326	36	56	253	228	25
Cloudburst-Lofink	6.50	6.50	8.00	0.00	5.00	80	400	360	40	56	280	252	28
PDR						1,333	16,000	12,800	3,200	933	11,200	8,960	2,240
PDR-Drop Box						70	1,000	0	1,000	49	700	0	700
Wooten	14.50	16.03	2.50	0.00	28.03	342	9,585	7,668	1,917	239	6,709	5,367	1,342
Trashco						834	9,000	0	9,000	584	6,300	0	6,300
Weber	16.00	18.00	5.50	4.00	24.50	435	10,658	8,526	2,132	305	7,460	5,968	1,492
						<b>9,390</b>	<b>153,409</b>	<b>102,838</b>	<b>50,571</b>	<b>6,573</b>	<b>107,386</b>	<b>71,986</b>	<b>35,400</b>



**Evaluation Factors Summary - Revised by Columbia Environmental, April 2005**

- Table 1 summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors. Table 2 summarizes additional evaluation factors introduced by Councilor Park for consideration at the December 16, 2004 Council hearing on Ordinance No. 04-1063.

**Table 1- Metro Code Evaluation Factors**

Metro Code Evaluation Factors	Favorable	Neutral	Unfavorable	Findings on the Columbia Environmental Application
<p>1. <i>Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p>Will there be a <i>Net Benefit</i> to the regional solid waste system?</p>	X			<p>On balance, the proposed facility is consistent with the RSWMP. The proposal will improve accessibility for haulers, reduce regional VMTs, support local business, bolster competition, and enhance regional material recovery capacity.</p>
<p><u>RSWMP considerations:</u></p>				
<ul style="list-style-type: none"> <li>• Accessibility</li> </ul>	X			<p>The proposed facility will increase access to the system for haulers serving the most populous area of the region. It will significantly increase efficiency for haulers by reducing travel times. Access to the only other transfer station in the area (Troutdale), is effectively restricted because this station already exceeds Metro's tonnage cap, and because it is owned by a competitor.</p>
<ul style="list-style-type: none"> <li>• Recovery</li> </ul>	X			<p>The new facility will recover of a significantly greater percentage of recyclable materials from the wet and dry waste streams than any other facility in the region. This furthers Metro's regional recovery goals. High recovery rates result from proximity to an existing recycling processing operation, innovative equipment and systems, and a strong economic incentive for recovery.</p>
<ul style="list-style-type: none"> <li>• Competition</li> </ul> <p>(competition also relates to Cost, which is discussed in Evaluation Factor #2)</p>	X			<p>The proposal allows a new, locally-based entrant into the market. Increased competition promotes efficiency, and could lower prices. The proposal will also preserve a competitive marketplace for independent waste haulers, which is threatened by large, vertically-integrated, multi-national firms. Over the long run, competition will hold down prices.</p>
<ul style="list-style-type: none"> <li>• Cost to regional ratepayers</li> </ul>		X		<p>Cost savings on all residential and some commercial routes are passed through to ratepayers. Depending on rate-setter decisions, this lowers consumer costs or holds down increases. Metro and other facilities may respond to lost market share by increasing fees, which could raise costs for others. Costs to regional ratepayers would rise faster without the proposed facility because industry consolidation will reduce competition.</p>
<ul style="list-style-type: none"> <li>• Capacity</li> </ul>			X	<p>The existing system has adequate capacity to accept, manage and transfer the region's waste well into the future. (See to Metro's Regional Transfer Capacity Analysis, April 2004).</p>



**Table 1- Five Metro Code Evaluation Factors (continued)**

<p>...continued...</p> <p><b>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</b></p>	<p><b>Favorable</b></p>	<p><b>Neutral</b></p>	<p><b>Unfavorable</b></p>	<p><b>Findings on the Columbia Environmental Application</b></p>
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1-RSWMP consistency)</p>		<p>X</p>		<p>If the application were approved, citizens of the region would see a mix of higher and lower costs. Actual savings will depend on the responses of Metro, other firms, and rate setters.</p> <p>In the first phase of development, lower dry waste tip fees at the facility result in a savings of \$300,000. Transportation savings will be between \$1.0 million and \$1.6 million annually—assuming costs of \$9 to \$15 per mile. Haulers must pass through transportation savings from residential routes, based on decisions made by local rate setters.</p> <p>Transportation savings from residential routes (and non-Portland commercial routes) are passed through to local ratepayers. Therefore, the potential annual benefit to ratepayers is <i>at least</i> \$0.6 to \$1.1 million. Government rate setters use formulas to determine whether savings translate into lower rates.</p> <p>Metro may choose to respond to lost market share by raising its wet waste tip fee. Other transfer stations may then respond to Metro's actions by raising their prices, too. Rate-setters would use this information in determining rates. Alternatively, Metro could re-capture lost market share by redistributing tonnage and changing the caps at other private facilities.</p> <p>In the long run, greater competition from small haulers will hold down costs in the system. Because the facility increases hauler efficiency, citizens also benefit from lower levels of roadway congestion, noise, and air pollution, which carry social costs.</p>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i></p>	<p>X</p>			<p>The applicant can meet this standard.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	<p>X</p>			<p>The applicant can meet this standard.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	<p>X</p>			<p>The applicant can meet this standard.</p>

**Table 2- Additional Council Evaluation Factors**

The following additional five evaluation factors were introduced by Councilor Park for Council consideration at the December 14, 2004 Council hearing on Ordinance No. 04-1063.

Table 2 Additional Council Evaluation Factors	Favorable	Neutral	Unfavorable	Findings on the Columbia Environmental Application
6. <i>The ability for a significant number of small independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system.</i>	X			The proposed facility would benefit affiliated haulers with transportation and tip fee savings. The proposed local transfer station would help the small independent haulers achieve better economies of scale, allowing them to remain competitive in a vertically integrated system.
7. <i>An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.</i>	X			Increased mechanization, innovation, and an economic incentive to maximize recovery will result in significantly higher levels of recovery than any other regional facility. The applicant provided details about recovery systems expected to be in place at the facility.
8. <i>A significant reduction in truck VMT given Columbia Environmental's proximity to their customers.</i>	X			Annual truck VMT are reduced by 107,000 miles in the first phase as a result of this facility. Two thirds of these are from residential routes.
9. <i>Potential cost savings to ratepayers on the east side.</i>	X			The applicant has indicated that users of the facility will realize savings. Residential ratepayers may experience lower rates based on these savings as determined by local government rate setting formulas. Savings on residential routes, and some commercial routes, are passed through to customers as a consequence of the local government rate-setting process.
10. <i>Would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.</i>	X			<p>Metro has designated six transfer station service areas (waste sheds) based on distance. The existing waste shed on the east side of the region cannot accommodate the volume of waste generated within its boundaries. The estimated annual wet waste service area tonnages and the facility tonnage caps are:</p> <p><u>Local Transfer Station Service Areas</u>  <b>Pride Recycling</b> = 167,000 tons (65,000 ton cap).  <b>Troutdale Transfer Station</b> = 131,000 tons (68,250 ton cap).  <b>Willamette Resources (WRJ)</b> = 19,000 tons (68,250 ton cap).</p> <p><u>Regional Transfer Station Service Areas</u>  <b>Forest Grove</b>=52,000 tons (No cap. Accepted about 105,000 tons wet waste in 2004).  <b>Metro Central</b> = 353,000 tons (no cap, accepted about 395,000 tons wet waste in 2004).  <b>Metro South</b> = 160,000 tons (no cap; accepted about 172,000 tons in 2004).</p>



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## Cost Impact Analysis

A number of assumptions underlie Metro staff's analysis of the impact on "the cost of solid waste disposal and recycling services for the citizens of the region." Those assumptions and associated calculations are detailed in the following pages.

**Part 1. Summary of Findings.** This table describes the sources and amounts of potential cost impacts of Columbia Environmental's Phase 1 operations. If Columbia Environmental's haulers realize savings, it is unlikely that 100% of those savings will be passed on to the ratepayers; therefore, a range of probable ratepayer impacts is included. The percentages can be interpreted approximately as the probability that the haulers' savings will be realized *by the ratepayer*. The "bottom line" for two (high & low) cases shows the product of the percentage probabilities and the total potential cost reductions, or, in other words, the expected value of ratepayer impact. Key simplifying assumptions are included at the bottom of the page.

**Part 2. Supporting Calculations and Assumptions.** These tables and notes identify the detailed tonnage, budget, and rate structure assumptions which underlie the cost impact analysis of Part 1.

# Cost Impact Analysis

## Part 1: Summary of Findings

Sources of Ratepayer Impact					
	CE Hauler Costs (based on information provided by CE)		Metro Tip Fees	Non-Metro Revenue Matching	Net Ratepayer Impact
	Transportation	Tip Fees			
Amount	(\$268,465)	(\$248,976)	\$400,834	\$478,489	
Ratepayer Portion	from 77% to 100%*	from 22% to 100%**	100%	from 74% to 100%	
<b>Case 1: 77% of transportation, 22% of tip fees, 100% of Metro &amp; non-Metro</b>					
	(\$206,244)	(\$55,387)	\$400,834	\$478,489	<u><u>\$617,693</u></u>
<b>Case 2: 100% of transportation, 100% of tip fees, 100% of Metro &amp; 74% of non-Metro</b>					
	(\$268,465)	(\$248,976)	\$400,834	\$354,808	<u><u>\$238,201</u></u>
	<i>Reduced Costs</i>		<i>Increased Prices</i>		

**Notes:**

\* The lower estimate for transportation is most likely for year 1; the remainder is likely to be passed through to ratepayers over time as each CE hauler is sampled in the COP's rate setting process.

\*\* In the City of Portland where most of CE's haulers operate, whether or not to pass through commercial dry waste tip fee savings will be at the discretion of the hauler. In general, the more savings haulers share with the ratepayer, the lower CE's and the haulers' profitability.

**Assumptions:**

CE's haulers realize \$517,441 annually in lower transportation and disposal costs.

CE's "residential" vs. "commercial" is equivalent to the City of Portland's franchised/unfranchised designation.

The City of Portland's rate setting process examines costs for 75% of garbage customers.

Commercial waste is primarily dry; residential waste is primarily wet.

No more than 10% of dry waste in Gresham is unfranchised (C&D).

April 22, 2005

# Cost Impact Analysis

## Part 2: Supporting Calculations and Assumptions

### Effect of Tonnage Diversion on Metro's Per-ton Costs

53,600 tpy diversion

	12-mo. Budget (\$ millions)	Per-ton Cost		Diff (\$/ton)
		current tonnage*	tonnage w/ CE*	
<b>Transfer Operations Part of Tip Fee</b>				
New BFI Contract <small>(BFI budget amount varies with tonnage)</small>	5.4	\$9.63	\$9.69	0.06
WMI Disposal Contract <small>(WMI budget amount varies with tonnage)</small>	11.0	\$19.35	\$19.44	0.09
<b>Subtotal, Variable Costs only \1\</b>		<b>28.98</b>	<b>29.13</b>	<b>0.15</b>
Contribution to Renewal & Replacement	0.6	\$1.10	\$1.22	0.12
Scalehouse & Maint. <small>(fully loaded)</small>	2.1	\$3.75	\$4.14	0.39
<b>Subtotal, Fixed Costs only \2\</b>		<b>4.85</b>	<b>5.36</b>	<b>0.51</b>
<b>Subtotal Metro Transfer Station Operations:</b>		<b>\$33.83</b>	<b>\$34.49</b>	<b>\$0.66</b>
<b>Programs &amp; Gen. Govt. \3\</b>				
Regional Programs <small>(Regional System Fee)</small>	19.6	\$15.09	\$15.17	0.08
General Fund <small>(Metro Excise Tax) \4\</small>	11.1	\$8.58	\$8.63	0.05
<b>Subtotal Programs &amp; Gen. Govt.</b>		<b>\$23.67</b>	<b>\$23.80</b>	<b>\$0.13</b>
<b>Total Impact on Metro's per-ton Costs:</b>				<b>\$0.78</b>

\* Revenue Bases (FY05-06 projected)

	Tons		1=lo; 0=hi	
	current tonnage	tonnage w/ new facility	Lo Diff	Hi Diff
Metro:	565,203	511,603	-53,600	-80,600
non-Metro:	732,311	778,991	46,680	70,980
Regional:	1,297,514	1,290,594	-6,920	-9,620

including: 15,600 dry tons  
assumed improvement in recovery rates at CE for wet & dry waste, respectively: 10% 20%

Footnotes denoted with the \n\ symbol can be found on the reverse.

# Cost Impact Analysis

## Part 2 (continued): Supporting Calculations and Assumptions

### Subtotal Regional Ratepayer Disposal Costs 53,600 tpy diversion

**Transfer Operations**

	Metro	511,603	tons x \$0.15 =	<u>\$75,851</u>	
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**Fixed Costs**

	Metro	511,603	tons x \$0.51 =	<u>\$260,053</u>	
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**Programs & Gen. Govt.**

	Metro	511,603	tons x \$0.13 =	\$64,930	
	Non-Metro	778,991	tons x \$0.13 =	<u>\$98,866</u>	
		1,290,594		<b>\$163,796</b>	

**Non-Metro Revenue Matching Potential**

	Wet	389,817	tons x \$0.66 =	\$255,942	(all wet waste matches)
	Dry	188,374	tons x \$0.66 =	<u>\$123,681</u>	(all dry waste matches) <sup>15\</sup>
		578,191		<b>\$379,623</b>	(both wet & dry waste match)

**Potential Cost to Ratepayers Annually:**

	between	<b>\$755,642</b>	(wet matches)
	and	<b>\$879,323</b>	(wet & dry match) <sup>16\</sup>

**Notes**

<sup>1\</sup> Changes in variable costs are based on current contract terms & the tonnage projection in the requested FY 05-06 budget.

<sup>2\</sup> Fixed costs: Contribution to R&R is the FY05-06 amount; Scalehouse costs are based on a \$7.50 transaction fee, assuming 2 tons/load.

<sup>3\</sup> Programs & General Gov't. figures are based on the FY04-05 per-ton RSF and Excise Tax, but FY05-06 tonnage.

<sup>4\</sup> A per-ton increase in excise tax would not occur until Year 2; all other increases likely would occur in Year 1.

<sup>5\</sup> Excluded from the total are about 218,000 tons of dry and special wastes delivered to the Washington Co. landfills, where a rate increase is less likely because those facilities are rate regulated by the county.

<sup>6\</sup> In recent years, the tip fees at private facilities have, on average, followed Metro's rate changes. For this reason, staff believe that the cost increases shown here have a high probability of being passed on to ratepayers regionwide.

April 22, 2005

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 04-1063A FOR THE PURPOSE OF DENYING A SOLID WASTE FACILITY FRANCHISE APPLICATION OF COLUMBIA ENVIRONMENTAL, LLC TO OPERATE A LOCAL TRANSFER STATION

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Date: November 2, 2004  
Amended: May 4, 2005

Prepared by: Michael Hoglund

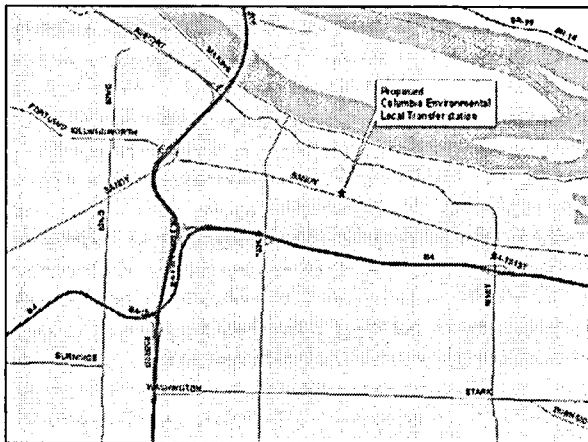
#### SUMMARY

Based on the criteria contained in Metro Code sections 5.01.060 and 5.01.070, the Chief Operating Officer recommends approval of Ordinance No. 04-1063A that would deny the solid waste facility franchise application of Columbia Environmental, LLC.

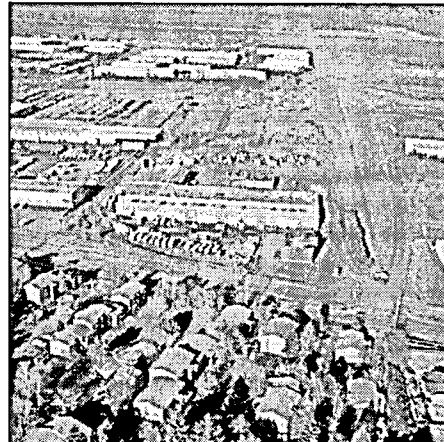
#### BACKGROUND

Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (Site Location Map #1) and located in Metro Council District 1. The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, the frequently-used Union Pacific rail line atop the berm, and NE Sandy Boulevard.

Site Location - Map #1



Aerial Photo of Subject Site



The proposed facility is owned by a partnership. The partnership includes independent haulers that also own Oregon Recycling Systems (ORS), which is a recycling business

operating on the site that is currently limited to accepting source-separated recyclable materials. According to the applicant, there are two equal investment partners in Columbia Environmental that contribute equally to a six-member board of managers. The board consists of members from each of the two equal ownership partners KCDK, L.L.C., and ORS. The three ORS members on the board are Mike Miller, David McMahon, and Richard Cereghino. The names of three of the members associated with KCDK are David Ross, Kirk Ross and Ty Ross. No other information was submitted regarding KCDK, LLC.

The aerial photo shows the location of ORS, the existing 96,000 square-foot building in the center of the photo. This building presently serves as a recycling processing business for residential source separated recyclables. The proposed transfer station would be housed in a new 36,000 square-foot building to be located in the center of the site, north of the existing building.

#### The application process

Columbia Environmental submitted its local transfer station franchise application to Metro on July 30, 2004. Columbia Environmental representatives met with Metro staff for a pre-application conference on August 11, 2004, where upon providing additional information requested by Metro and proof of insurance, the application was determined to be complete and the 120-day review period was initiated. However, in accordance with Metro Code section 5.01.070(h)(3), the COO and the applicant agreed to a 30-day extension to the application review process.

On December 16, 2004, the Metro Council extended the review period for its decision on Columbia Environmental (Ordinance No. 04-1063) for an additional 60 days, as allowed by Code. The purpose of the extension was to provide Metro staff and the applicant with more time to further analyze fiscal impacts and evaluate the applicant's proposed recovery plan and report back to Council by March 9, 2005 (see **Attachment 1**, Agenda Item #5.1).

In addition to the five Metro Code evaluation criteria, at the December 16, 2004 Council hearing, a Metro Councilor introduced five additional evaluation factors for Council consideration in its review of the Columbia Environmental proposal. These included:

- 1) The ability for a significant number of remaining small independent haulers to compete in this region and ensure their competitiveness in the ever increasing vertically integrated system.
- 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family putrescible waste.
- 3) A significant reduction in truck Vehicle Miles Traveled (VMT) given Columbia Environmental's proximity to their customers.
- 4) Potential cost savings to ratepayers on the east side.



- 5) The facility would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.

These evaluation factors were discussed at the February 22, 2005 Council work session. Council provided no direction to the COO to incorporate the factors into the staff analysis. Therefore, each Councilor may consider these additional factors as he or she deems appropriate.

Metro staff met with Columbia Environmental representatives on December 21, 2004 to discuss the information that Metro required, including information requested by the Metro Council. In a letter from Columbia Environmental dated January 19, 2005, the applicant provided Metro staff with some of the information that was previously requested (see **Attachment 2**). This was followed up with a fax on February 8, 2005 from the applicant containing more information (see **Attachment 3**).

On February 10, 2005, Metro staff sent a letter to the applicant requesting the balance of the information that was necessary to evaluate the application as requested by the Metro Council at its December 16, 2004 meeting and at the follow up meeting between the applicant and Metro staff on December 21, 2004 (see **Attachment 4**).

On February 22, 2005 Metro received a letter from Winterbrook Planning on behalf of Columbia Environmental regarding its application for a transfer station franchise (see **Attachment 5**). In that letter the applicant stated that it was revising its application to seek authority to accept 38,000 tons of putrescible solid waste rather than the 55,000 tons of putrescible waste requested in Columbia Environmental's original franchise application. In addition, other operational changes were described related to phases for the material recovery system installation.

Metro considered these changes to constitute a substantial modification of Columbia Environmental's franchise application. In accordance with Metro Code section 5.01.070(h)(2) which provides that should an applicant substantially modify its franchise application during the course of the review, the 120-day review period for the Council to act shall be restarted as of the date Metro received the applicant's modifications. As a result, on February 28, 2005, Metro notified the applicant that the 120-day review period for Columbia Environmental's modified franchise application would commence on February 22, 2005 and will expire on June 22, 2005 (see **Attachment 6**). The Council must approve or deny the application within 120 days of the date the modifications were submitted by the applicant.

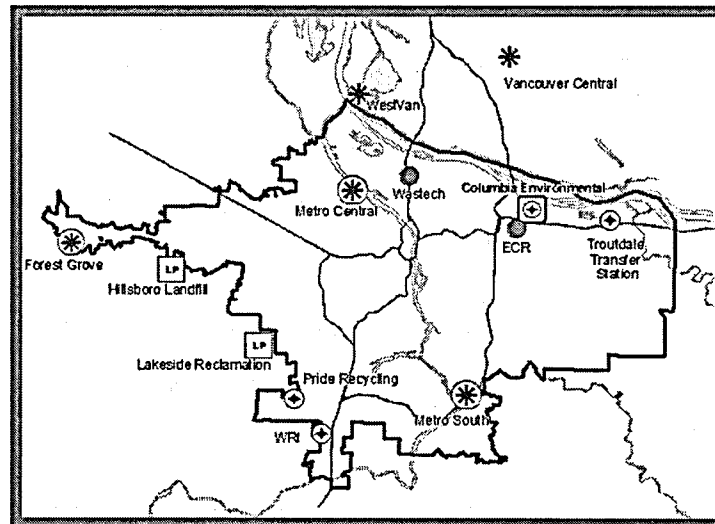
After conducting a review of the modified application information submitted by Columbia Environmental, Metro staff identified specific items that still required clarification in order to analyze the application consistent with Metro Code criteria. On March 8, 2005, Metro staff sent a letter to the applicant requesting clarification of those items (see **Attachment 7**).

On April 7, 2005 Columbia Environmental responded in writing to Metro staff questions (see Attachment 8). On April 13, 2005 Metro staff and the applicant met to discuss the information provided by the applicant.

Geographical context of the proposed local transfer station

The following map locates the proposed Columbia Environmental transfer station in relation to other primary facilities of the current solid waste system where waste generated in the Metro region is processed, transferred or disposed.

**Solid Waste Facilities and the Proposed Columbia Environmental Transfer Station – Map #2**



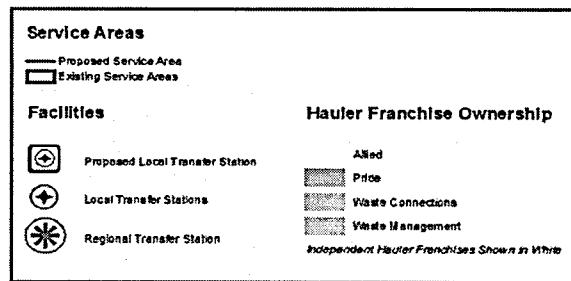
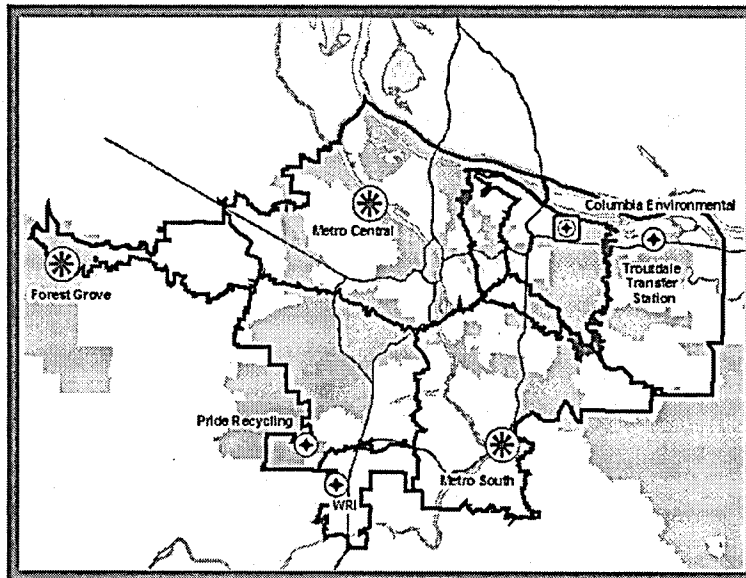
	Proposed Local Transfer Station
	Local Transfer Station
	Material Recovery Facility
	Landfill Designated Facility
	Transfer Station Designated Facility
	Transfer Station Non-Designated Facility

There are also numerous other specialized processing, composting and reload operations throughout the region (not shown). The two transfer facilities located in Clark County, Washington are used to process some solid waste generated from within the Metro region. Six other general and limited purpose landfills are found throughout Oregon and Washington and serve as disposal destinations for solid waste generated within the Metro region (not shown).<sup>1</sup> These landfills are located anywhere from 47 miles to 170 miles from the Metro region.

<sup>1</sup> Coffin Butte landfill, Columbia Ridge landfill, Finley Buttes landfill, Wasco landfill, Riverbend landfill, and Roosevelt landfill.

Each transfer station in the region has an associated service area based on the 2001 amendments to Chapter 5.01 of the Metro Code. Each of the service area boundaries are located equidistant from the next closest transfer station. Map #3 illustrates how the existing transfer station service area boundaries would change if Columbia Environmental's application were approved.

**Proposed Transfer Station Service Areas  
with Approval of Columbia Environmental – Map #3**



As illustrated, inserting a new local transfer station service area into the regional system shrinks the service areas of the existing transfer stations (both Metro and non-Metro). The service area concept was adopted by the Council as a rationale for establishing the local transfer station tonnage caps, and as specified in Metro Code, are to be arrived at by: 1) establishing geographic service areas based on distance, 2) calculating the amount of putrescible waste for disposal in each service area (“demand”), and 3) limiting the putrescible waste tons that could be delivered to local transfer stations to the calculated demand.<sup>2</sup> In other words “demand” in each service area would set the “tonnage cap” for

<sup>2</sup> Annual putrescible waste tonnage authorizations are currently: Pride-65,000 tons, Troutdale-65,000 tons; and WRI-68,250 tons (2005-2006).

each local transfer station. Council was also interested in minimizing distances traveled by waste collection vehicles or reducing Vehicle Miles Traveled (VMT). This was to be accomplished by requiring each facility to serve haulers within its service area.

## **EVALUATION OF PROPOSED FRANCHISE APPLICATION**

Columbia Environmental promotes several key points as part of its franchise application package, including:

- Granting the franchise would allow its members to reduce their transportation costs, in order to offset other ongoing increases in their solid waste collection costs. They claim this could result in lower franchise collection rate increases, allowing them to charge more competitive fees to Portland commercial customers;
- The proposed facility would help maintain the presence of small haulers as a stabilizing factor in providing solid waste services in the Metro region. The emphasized features of the proposal are improved accessibility to haulers, increased competition and enhanced material recovery capacity. The applicant provided a financial analysis showing a net “benefit” to the overall system of more than \$1.3 million.

### Franchise application substantially modified

As noted, on February 22, 2005, Columbia Environmental submitted a letter to Metro that contained information that constituted a substantial modification to its original franchise application. In its letter, the applicant requested authority to accept and transfer 38,000 tons of putrescible solid waste per year. This is a reduction from its original request of 55,000 tons of putrescible solid waste per year. Based on the applicant’s Phase 1 estimates, the proposed facility would accept about 15,600 tons of dry waste per year (originally 32,000 tons per year).

In its modified application letter, Columbia Environmental proposes a three-phase approach to its investment in recovery equipment. This phased approach is a result of the reduction in putrescible waste tonnage. The applicant states that it is not economically viable for it to make all of its capital expenditures in recovery equipment at once. The applicant’s phased recovery plan is based on increases in its putrescible waste tonnage authorization from Metro as summarized as follows<sup>3</sup>:

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<sup>3</sup> The annual tonnages for Phase 1 through Phase 3 are estimates based on information provided by the applicant.

Proposed amounts (tons/year)	Original Application	Modified Application Phase 1	Modified Application Phase 2	Modified Application Phase 3
Putrescible waste	55,000	38,000	51,000	66,000
Non-putrescible waste	37,000	15,600	25,500	38,000
Recovery	29,000	11,745	20,815	32,234

The following is a brief summary of some of the additional information that was contained in Columbia Environmental's modified application information:

- The general geographic service areas where the applicant's waste will be collected.
- The applicant's cost savings estimates (lower tip fees for dry waste and transportation savings).
- A description of the applicant's recovery plans, proposed equipment and updated estimate of wet and dry waste recovery.
- A site plan illustrating the location of the proposed recovery equipment.
- Estimates of applicant's "vehicle miles traveled" (VMT) savings from reduction in truck travel times.
- A list of the ownership and membership of Columbia Environmental.
- Applicant's discussion on competitiveness of small haulers.
- Applicant's discussion of its proposed innovative approach to recovery.
- Tables illustrating the applicant's own findings regarding how its application meets the Metro Code evaluation factors.

Technical considerations with the Columbia Environmental application

As a result of several meetings and letters regarding the inconsistencies and lack of detail or clarity in some of Columbia Environmental's application information, Columbia Environmental expressed concerns about the amount of information required for the review process. However, staff notes the following regarding any application for a local transfer station franchise: 1) the applicant has the duty to demonstrate system benefit and consistency with the RSWMP, and 2) the applicant should provide accurate, verifiable and consistent data. Moreover, Metro Council requested additional information from Columbia Environmental.

## **Description of Evaluation Factors**

*This section provides analysis of explicit criteria for Metro Council consideration in determining whether to grant or deny the franchise application.*

### **Metro Code**

Metro Code 5.01.070(f) provides that the Council “shall consider but not be limited by” the five factors listed in the Evaluation Factors Summary Table shown on the next few pages. Further, as part of the Franchise application, Metro Code 5.01.060(d) requires the applicant to provide an analysis of the same factors described above (Metro Code 5.01.070(f)(1-5)). In its application, Columbia Environmental provided a narrative of how the proposal responds to these five factors.

### **Other evaluation factors for Council consideration**

At the December 16, 2004 Metro Council hearing on Ordinance No. 04-1063, a Metro Councilor introduced five additional considerations for the Council to consider in its review of the Columbia Environmental proposal. They are:

- 1) The ability for a significant number of remaining small independent haulers to compete in this region; and ensure their competitiveness in the ever increasing vertically integrated system.
- 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.
- 3) A significant reduction in truck VMT given Columbia Environmental’s proximity to their customers.
- 4) Potential cost savings to ratepayers on the east side.
- 5) The facility would provide a second transfer station in a wasteshed that currently generates about 130,000 tons a year.

At the February 22, 2005 Council work session, these additional evaluation factors were discussed. The Council generally agreed that they were not adopted by the Council, but they were submitted only for individual Councilor consideration. It was further clarified by the Office of Metro Attorney, that the Metro Code requires the Council to consider the five factors in sections 5.01.070(f)(1) to- (5) before making its decision. Council could consider any other factors it thought were relevant and could weigh those factors however it felt was appropriate. There is no preset formula on how the factors should be weighed.

**Table 1 – Summary of Evaluation Factors - Comparison of Original Application with Revised Application**

This table compares staff findings from the original application with staff findings based on the modified application submitted by Columbia Environmental. The table summarizes whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors.

Staff Findings From Original Application			Staff Findings From Modified Application						
The Five Metro Code Evaluation Factors	Meets Criteria	Neutral	Does Not Meet Criteria	Summary of new information submitted by the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application	
									<p><i>1. Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p><b>Will there be a Net Benefit to the regional solid waste system?</b></p> <p><u>RSWMP considerations:</u></p> <ul style="list-style-type: none"> <li>Capacity</li> <li>Access (under-served area)</li> </ul>
			X	No new information was submitted by the applicant.				X	Staff findings have not changed. The region has more than adequate capacity to accept, manage and transfer all of the region's waste for many years to come (refer to Metro's Regional Transfer Capacity Analysis, April 2004).
			X	The applicant provided geographic areas served by affiliated haulers, and estimates of VMT savings associated with the proposed facility (107,386 miles saved), with less traffic congestion and pollution and produce more efficient hauling operations and greater profitability. In addition, applicant contends that the closest facility (Troutdale Transfer Station) is effectively restricted because it is owned by a competitor and is capped.				X	Staff findings have not changed as the proposed facility location does not meet the RSWMP standard for an under-served area (characterized as more than 25 minutes to a transfer station). Staff notes that the RSWMP does not explicitly define an "underserved area."  However, the facility would improve access and increase efficiency for its affiliated haulers by reducing travel times. It is by hauler choice that access to the nearby Troutdale Transfer Station is effectively restricted because it is owned by a competitor. Increasing its cap would not improve access for applicant's affiliated haulers – since they claim they will not use it.

Staff Findings From Original Application			Staff Findings From Modified Application					
The Five Metro Code Evaluation Factors	Meets Criteria	Neutral	Does Not Meet Criteria	New information submitted by the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
<i>RSWMP considerations</i> (continued):								
<ul style="list-style-type: none"> <li>Recovery</li> </ul>	X			The applicant provided more detail on its proposed recovery plan. Overall recovery rates are projected at: 10% from wet waste and 45% from dry waste. This exceeds the performance of any other similar facility. Applicant contends that high recovery rates result from innovative equipment, proximity to existing recycling processing, and a strong economic incentive (not affiliated with a landfill).	X			Staff findings have not changed. The applicant has proposed an aggressive recovery plan that would recover more from the waste stream than any other similar facility in the region (10% from wet and 45% from dry). According to the applicant, high recovery rates would result from equipment that includes "disk screens" to assist sorting, a strong economic incentive for recovery, and proximity to an existing recycling processing operation.
<ul style="list-style-type: none"> <li>Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2)</li> </ul>		X		The applicant contends that approval of its facility would allow a new, locally based entrant into the market. That increased competition promotes efficiency, and could lower prices. That the proposal would preserve a competitive marketplace for independent waste haulers which are threatened by large, vertically integrated, multi-national firms.		X		Staff findings have not changed. The proposed facility would allow a new locally based entrant into the market and could help the affiliated haulers become more competitive.  However, the proposed transfer station could have negative impacts on competition by: 1) causing tip fee increases throughout the region that would be detrimental to many haulers that rely on Metro's public transfer stations, and 2) increased tip fees at private facilities could provide a windfall to other solid waste operations in competition with the applicant.
<ul style="list-style-type: none"> <li>Cost to regional ratepayers</li> </ul>			X	The proposed facility will produce some cost savings to its haulers and residential customers associated with lower tip fees on dry waste and transportation savings. However, depending on rate-setter decisions this could help lower rates or hold down increases.			X	Staff findings have not changed. The potential cost savings to the applicant's affiliated haulers and customers would be offset by the certain increase in Metro's tip fee. Further, other facilities would also raise tip fees, resulting in an overall increase in cost to all the regional ratepayers.



Staff Findings From Original Application			Staff Findings From Modified Application					
The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications	Meets Criteria	Neutral	Does Not Meet Criteria	New information from the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i>			X	In its modified application for Phase 1, Columbia Environmental proposes to accept 38,000 tons of wet waste and about 15,600 tons of dry waste per year. The applicant states that its cost savings are divided into two main categories: 1) lower dry waste tip fees, and 2) transportation savings.  <u>Applicant's estimated savings</u> Dry waste tip fees = \$300,000 Transportation = \$1 million - \$1.6 million <b>Total savings = \$1.3 to \$1.9 million per year</b>			X	Staff findings have not changed. If approved, Columbia Environmental's Phase 1 proposal will bring about a \$0.78 per ton increase in Metro's tip fee.  As a result, the citizens of the region will incur net increased costs between \$238,000 and \$618,000, depending on how much of the cost reductions realized by CE's haulers are passed on to the ratepayers.  For Phase 1, the applicant has overstated its projected transportation savings by \$732,000 to \$1.3 million.  Phase 3 of the applicant's proposal would result in a tip fee increase of \$1.63 per ton, with a net increase in costs to citizens between \$534,000 and \$1,353,000.
3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.
4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.
5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.

Based on balancing the Councilor Values for the Solid Waste System (see Table 2 below) staff suggests that the most important Metro Code evaluation factors are the first two: Consistency with the RSWMP and cost for the citizens of the region. Values 1, 3, 5 and 7 apply directly to Columbia Environmental's application and allows staff to consider Code criteria regarding RSWMP considering cost to the ratepayer as the most important criteria. Values 2, 4, and 6 are neutral as they pertain to Columbia Environmental's application.

**Table 2**  
**Councilor Values for the Solid Waste System**

(As expressed at the public work session on July 2, 2003 and ordered according to the Council priorities)

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Protect the public investment in the solid waste system.</li> <li>2. "Pay to Play". Ensure participants/users pay appropriate fees/taxes.</li> <li>3. Environmental sustainability.</li> <li>4. Preserve public access to the disposal options (location &amp; hours)</li> </ol> | <ol style="list-style-type: none"> <li>5. Ensure regional equity - equitable distribution of disposal options.</li> <li>6. Maintain funding source for Metro general government.</li> <li>7. Ensure reasonable / affordable rates.</li> </ol> |
|--|---|

In its analysis of the Columbia Environmental transfer station franchise application, staff relied on 1) the evaluation criteria set forth in Metro Code section 5.01.060 and 5.01.070, and 2) the information submitted by the applicant. There are five evaluation factors listed in Metro Code that Council must consider. Again, Council is not limited by these five factors and may weigh them differently than staff, and may consider other factors.

**Analysis of the Five Metro Code Evaluation Factors**

*The following is a detailed discussion and analysis of each of the five evaluation factors.*

**Evaluation Factor #1**

***Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)]***

The Recommended Practice in the current RSWMP regarding new transfer stations is to:

*“Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards.”*

To determine consistency with the RSWMP, the application must show that it will result in an overall *net benefit* to the existing solid waste system. In order to evaluate the net benefit, the RSWMP includes provisions to be considered and balanced. These are:

- Capacity
- Accessibility (under-served area)
- Material recovery
- Competition
- Cost to regional ratepayers

In its application, Columbia Environmental indicates that the proposed transfer station will be consistent with the RSWMP because the proposed facility will: 1) improve accessibility to haulers, 2) provide services to an under-served area, and 3) enhance the material recovery capacity of the region, contributing to Metro's overall recovery and recycling goals.

The following section provides staff comment and analysis on each of the RSWMP provisions to be considered in order to assist the Council in its consideration of the application.

#### **A. Capacity**

The RSWMP policy on capacity: "...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors."

##### Summary of applicant's analysis

The applicant did not address capacity.

##### Analysis/findings

In April 2004, Metro Solid Waste & Recycling staff issued the *Regional Transfer Capacity Analysis* report that addressed the capacity of the region's solid waste facilities to accept and load waste for transport to disposal sites. The analysis concluded that 1) the region's transfer capacity for putrescible waste currently exceeds the needed capacity by approximately 1.1 million tons per year, and 2) by 2015, the transfer stations that service the region will still have, at a minimum, 841,000 tons of unused capacity.

#### **B. Accessibility**

The RSWMP policy on accessibility: "...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors."

The RSWMP's *Key Elements of the Recommended Practice* provide further clarification of the question of *accessibility*, with an emphasis that new transfer stations be located in "under-served" areas:

- *"Provide more uniform access to transfer stations, in order to improve system efficiencies in those areas of the Metro region that are under-served."*
- *"New transfer stations may be authorized where they benefit residents, businesses and solid waste haulers within the under-served areas."*

### Summary of applicant's analysis

Columbia Environmental's application includes information on how its proposed facility would improve accessibility to its affiliated haulers. The applicant states that physical proximity is not the only factor that determines accessibility to haulers, and that price and ownership are also important. The applicant states that accessibility must be interpreted broadly to include all the factors that influence access to transfer stations. The applicant claims that the proposed new transfer station will significantly reduce travel times (and truck VMTs) for haulers in the areas it will serve. Further, the applicant claims that the proposed transfer station is located in an "underserved" area for transfer stations.

### Analysis/findings

If approved, Columbia Environmental's new local transfer station would improve accessibility and reduce travel times for some of its affiliated haulers. However, the proposed facility would be sited only about 7 miles from the existing Troutdale Transfer Station (about 12 minutes driving time).

The working standard used to guide RSWMP policy for underserved areas has been that facility access is an issue in areas of the region that are more than 25 minutes travel time from a transfer station.<sup>4</sup> However, staff notes that the RSWMP itself does not contain an explicit definition for what would constitute an "underserved area."

Estimated travel times relative to each of the six existing transfer stations are illustrated in Map #4 below.<sup>5</sup>

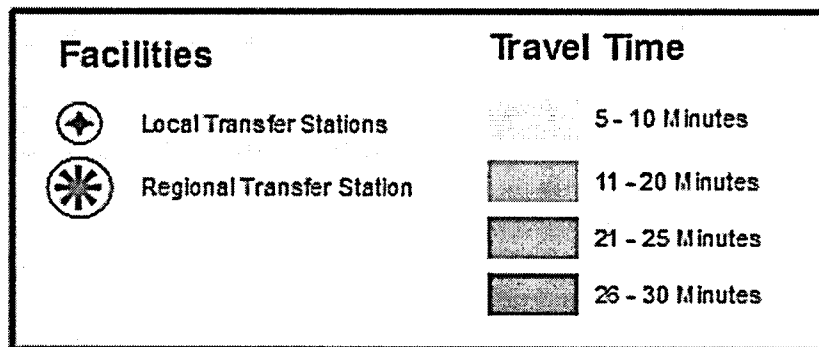
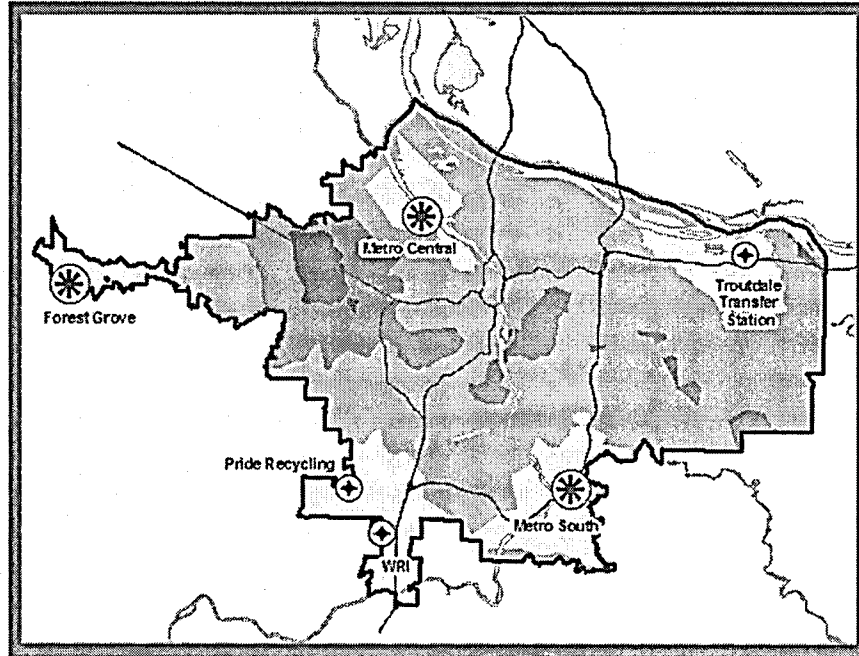
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<sup>4</sup> Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

<sup>5</sup> Metro modeling network mid-day auto travel times for year 2000 are based on the modeling network developed by the Metro Planning Department for transportation planning purposes.

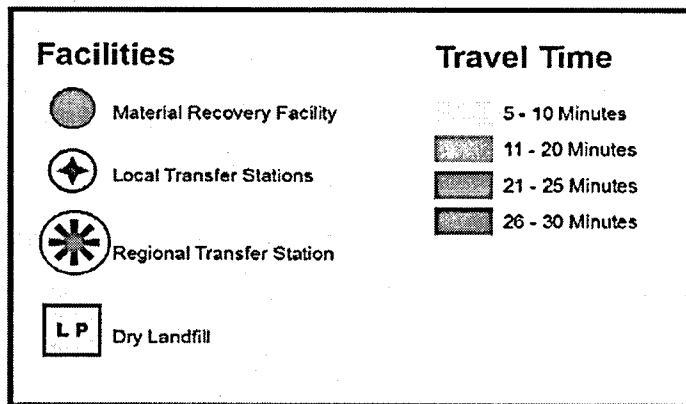
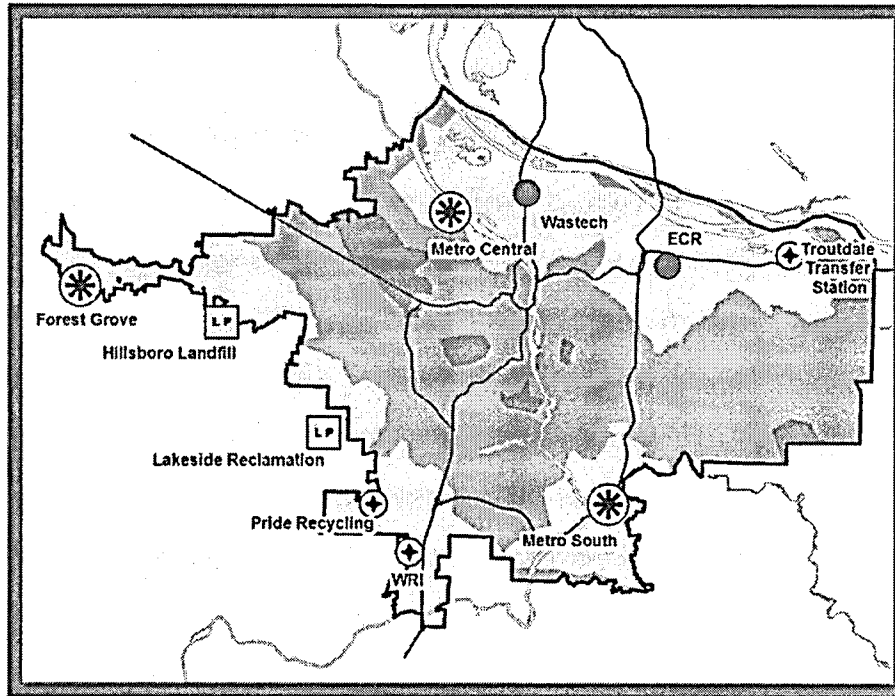
As illustrated, only an area in the western part of the region is more than 25 minutes away from an existing transfer station, and it would be unaffected by the proposed new transfer station.

**Wet Waste: Estimated Travel Time to Nearest Transfer Station – Map #4**



Moreover, regarding non-putrescible waste (“dry waste”), there are even more options available to the applicant’s affiliated haulers. This is because, in addition to the existing transfer stations that accept both wet and dry waste, there are also two mixed dry waste processing facilities located nearby: Wastech and East County Recycling (ECR), neither of which have any restrictions on the amount of waste Metro authorizes them to accept.

**Dry Waste: Estimated Travel Time to Nearest Processing/Disposal Facility – Map #5**



The applicant based its hauler travel time savings for solid waste on travel time to Metro’s regional transfer stations (Metro Central or Metro South) and did not include consideration of the location of available existing infrastructure, such as Troutdale Transfer Station or the two nearby dry waste recovery facilities (Wastech and ECR). The applicant states that price and ownership are important factors to accessibility, and that many of its affiliated haulers were not willing to use the Troutdale Transfer Station because it is owned by one of their competitors. The applicant did not explain why the nearby dry waste recovery facilities are not used.

While the proposed facility would improve access for some Columbia Environmental independent haulers with collection routes within the proposed facility's new service area, the benefits of improved access cannot be viewed in isolation. Any new transfer station in the Metro region will enhance accessibility for some haulers. At some point the benefits of reducing travel time to the nearest transfer station are outweighed by inefficiencies caused by deteriorating economies of scale and resulting increased costs to the region's ratepayers (see the cost analysis in Evaluation Factor #2).

However, staff notes that the applicant does contend that the proposed facility would increase access to the system for haulers serving the most populous area of the region, and that it would significantly increase efficiency for haulers by reducing travel times. The applicant has estimated that the number of miles saved per year during Phase 1 for its affiliated haulers would be about 107,386 miles with the proposed facility. The applicant also states that access to the Troutdale Transfer Station is effectively restricted because this station already is at its Metro's tonnage cap, and because it is owned by a competitor.

Based on the preceding analysis: 1) the proposed location of the new transfer station is not within an underserved area, and 2) while adding this transfer station will not improve overall system efficiencies for businesses, residents and haulers that are not affiliated with Columbia Environmental and are located in close proximity to the proposed facility, the addition of the proposed local transfer station would improve access and efficiencies for many of the independent small haulers that are affiliated with Columbia Environmental and serve businesses and residences in this vicinity. Access for many of the applicant's affiliated haulers would be improved, because the applicant contends there are some 107,386 VMT savings that would be associated with the proposed Columbia Environmental facility.

### **C. Material Recovery**

The RSWMP policy on material recovery: "*New transfer stations shall perform material recovery subject to facility recovery rate standards.*" Metro Code 5.01.125(b) specifies that franchised local transfer stations will recover at least 25 percent by weight of non-putrescible waste accepted at the facility.

#### Summary of applicant's analysis

The applicant states that recovery at the facility will be accomplished because Columbia Environmental has a strong economic incentive to recover recyclable materials from the waste stream. Columbia Environmental does not own a landfill to which the waste will be transferred and, therefore, has more of an incentive to conduct material recovery, which will bring revenue into the facility. For all phases of the proposal, the applicant states that the facility will operate using superior technology for sorting and recovery and that these systems are similar to the ones operating effectively in the two California facilities, as discussed in its February 22, 2005 letter. Further, the applicant states that the proposed facility is unique because of its proximity to existing recycling processing

activities, and that this creates efficiencies for the processing of recovered materials. The applicant states that while not all materials can be processed on site, cardboard, waste paper, glass, metal, and other specialty materials will be brought to the main building and turned into marketable commodities. Unlike other transfer stations, no additional truck trips will be needed to bring these materials to a processing center.

The applicant projects the proposed facility would conduct recovery at a rate of about 10 percent from putrescible waste and 45 percent from non-putrescible waste. In summary, the applicant claims that the proposed facility would have economic incentives for conducting greater recovery, that it would employ cutting edge sorting technology, and its proximity to recycling processing are innovative and unlike any transfer and recovery station in the region.

#### Analysis/findings

The applicant has indicated that it intends to maintain an aggressive recovery rate substantially greater than the minimum 25% standard required by Metro Code. According to Columbia Environmental's modified application material, during Phase 1, the proposed facility will recover 5% from putrescible residential waste, 25% from putrescible commercial and multi-family waste, and 30% from commercial containers and boxes. This represents a total of 5,220 tons of recovery from about 38,000 tons of putrescible solid wastes delivered to the facility. For non-putrescible wastes, the applicant proposes to recover 50% from residential drop boxes, 40% from commercial and construction & demolition debris. This represents about 6,525 tons of recovered materials from about 15,600 tons of non-putrescible solid wastes delivered to the facility. For Phase 1 operations, the proposed facility would recover a total of about 11,745 tons of materials each year.

The 11,745 tons of material the applicant projects will be recovered does not all represent *additional* tons recovered because wherever that waste is currently delivered, some amount of it is already being recovered. From the application, it is not clear whether any of that waste is currently being delivered to the two dry waste recovery facilities (Wastech and ECR) located closest to where Columbia Environmental is proposed to be located. Even so, there would likely be some increase in additional recovery, as both of these facilities achieve recovery rates somewhat lower than what the applicant is proposing for non-putrescible wastes.

If all of the estimated 15,600 tons of dry waste is currently delivered to one of the two Metro transfer stations, it would likely result in about 4,000 tons of recovery based on the 25% to 30% recovery rate at Metro transfer stations for dry commercial drop-box loads (the recovery rate for public self-haul loads is lower).

The additional recovery that the applicant claims it could achieve from recovery of both putrescible and non-putrescible wastes would be between 6,000 and 8,000 additional tons above and beyond that which already occurs at Metro facilities. This amount of new



recovery – at current generation levels – would add about three-tenths of a point to the regional recovery rate<sup>6</sup>.

While Metro staff supports the intention of the applicant to recover at a very aggressive level, staff is doubtful that the applicant will be able to achieve its projected recovery levels based on regional and national state of the art recovery experiences.

#### **D. Competition**

The RSWMP policy on competition: *“Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services. Metro shall consider whether the decision would increase the degree of vertical integration in the regional solid waste system and whether that increase would adversely affect the public. Vertical integration is the control by a private firm or firms of two or more of the primary functions of a solid waste system – collection, processing, transfer and hauling, and disposal.”*

##### Summary of applicant’s analysis

The applicant states that the proposed Columbia Environmental transfer station will preserve the presence of small independent haulers in the Metro system, which, in turn, improves competition. The applicant predicts that competition will increase efficiency and reduce system costs. For example, the applicant states that since 1988, there has been a significant decrease in the number of small haulers serving the Metro region due to consolidation and the presence of large, vertically integrated, multi-national firms. In response, the small haulers, in order to compete and survive in the business, need to engage in some of the same scale advantages as the larger, vertically-integrated corporations. The applicant contends that individually, the independent hauling companies are too small to provide their own processing or transfer station facilities. As a group, they can collectively compete for the waste and recycling business and remain viable in the marketplace. Recycling processing is a way that the coalitions of small haulers have maintained a revenue-generating activity that will allow them to grow. The applicant states that the best opportunity for small companies to participate in the waste business in the Metro region is for them to integrate processing, transfer, and hauling together, as does Columbia Environmental’s proposal.

##### Analysis/findings

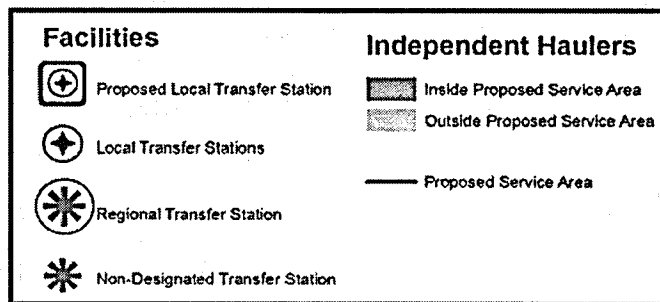
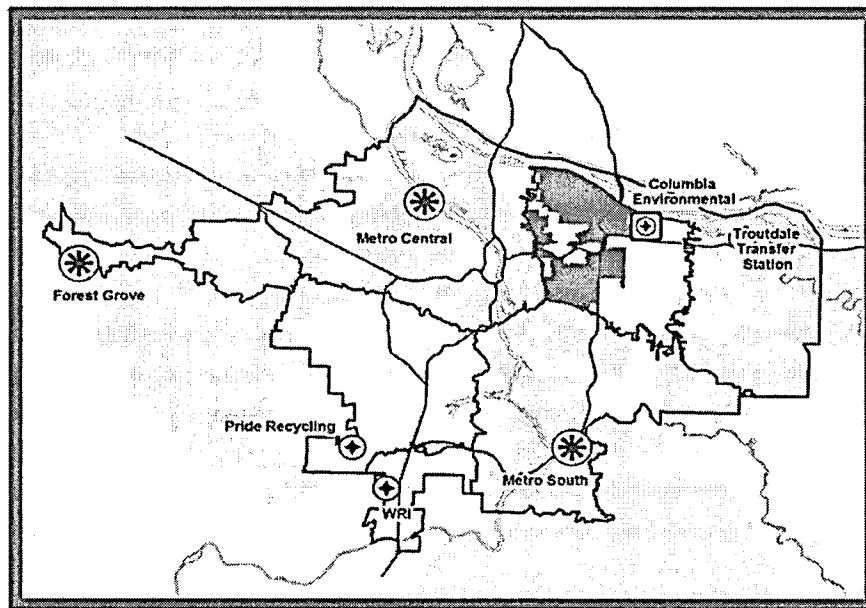
According to the RSWMP policy, competition should be encouraged in order to promote efficient and effective solid waste services. Further, Metro must consider whether the degree of vertical integration in the region would be increased and if it would adversely affect the public.

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<sup>6</sup> 8,000 tons additional recovery / 2,417,000 tons generated in region (2003) = 0.0033, or 3/10 of 1%.

The applicant has stated that its proposed facility would “preserve the presence of small independent haulers in the Metro system.” No quantitative information was included in the application to support that finding. In fact, as illustrated in Map # 6 below, there are many independent haulers located outside the new Columbia Environmental service area that will not benefit from the proposed transfer station.<sup>7</sup>

**Independent Hauler Franchises Located Inside and Outside the Proposed Columbia Environmental Service Area – Map #6**



As illustrated in Map #6 above, there are a number of independent hauler franchises (shown in darker shade) inside Columbia Environmental’s proposed service area.<sup>8</sup> These haulers will benefit from the proposed facility (through shorter drive time and lower dry waste tip fees). In contrast, if the transfer station were approved, the other independent

<sup>7</sup> For the purpose of this report, independent haulers mean those haulers that do not own or are not directly affiliated with their own transfer station or landfill.

<sup>8</sup> There are other Columbia Environmental affiliated haulers located outside the proposed service area that would use the proposed transfer station.

haulers in the region (franchises shown in lighter shade), many of whom also use Metro Central or Metro South, would be adversely impacted due to the expected increase in tip fees at Metro transfer stations (see Evaluation Factor #2). The applicant has represented that the owners of a number of these independent haulers who will be adversely impacted are also partners in the Columbia Environmental consortium. No detail was provided about revenue sharing among partners, so staff were unable to evaluate whether shared profits might offset some of the higher tip fees at Metro facilities; or what the net reduction in tip fees might be for those haulers using Columbia Environmental.

*Would the applicant's proposed facility result in competition leading to an improvement in the delivery of efficient and effective solid waste services?* Probably not. In a solid waste system that already has ample capacity and only limited access issues, the addition of new transfer capacity within a few miles of three other existing facilities (Wastech, ECR, Troutdale Transfer Station) is unlikely to noticeably improve service efficiency or effectiveness for more than a small subset of the region's haulers. Moreover, with tip fees expected to increase region-wide in response to Metro's higher per-ton costs if the facility is approved, the costs to most ratepayers would increase (see Evaluation Factor #2).

*Would approval of the proposed transfer station have an impact on the degree of vertical integration, and would the public be adversely impacted?* Yes to both questions. The Columbia Environmental haulers would become a new vertically integrated company, i.e., its members would control two of the three major pieces of the supply chain (collection and transfer). Hence, there would be a limited increase in the overall degree of vertical integration in the solid waste system. Whereas this new vertically integrated entity would likely gain some market power for commercial accounts, non-affiliated haulers and the general rate paying public would be negatively impacted due to the increased tip fees at other solid waste facilities (see Evaluation Factor #2).

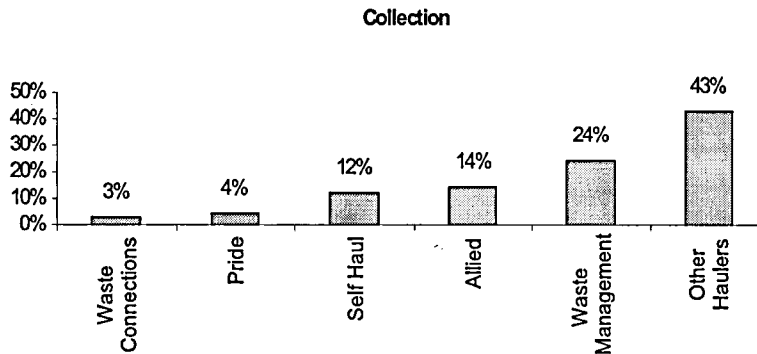
Classical measures of competition commonly utilize the concept of "market share," i.e., the proportion of the total market controlled by the firm in question. Typically, competition will also lead to either lower prices for the consumer, as a result of market entry, or innovation in service or products. The proposal will actually increase rates (see cost analysis). However, new innovation in services or products is identified in the application as the applicant's approach to recovery and recycling.

The following graph illustrates that independent haulers ("other haulers")—including Columbia Environmental affiliates and non-affiliates—collectively still control 43% of the total collection service market. If approved, the Columbia Environmental transfer station would likely accept about ¼ of the total solid waste delivered to transfer facilities by independent haulers, or about 11% of the total market.<sup>9</sup>

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<sup>9</sup> Estimated CY 2004 MSW tons taken to transfer stations by independent haulers is about 372,000 tons. Of this total, about 228,000 tons are delivered to Metro's public transfer stations.

### Solid Waste Collection Markets for the Metro Region (FY 2003/04).



From a competition standpoint, it should be noted that the City of Portland actively encourages multiple haulers for its residential collection franchised routes. In order to prevent a monopoly by any single company, the City of Portland limits the total number of households (50,000) any single residential franchise can serve.<sup>10</sup>

In summary, the applicant's proposed facility would allow some of its independent affiliated haulers to operate more profitably. However, the increased "competition" would at best lead to a reduction in some commercial dry waste disposal fees, but an increase for most residential ratepayers in the region. Granting the Columbia Environmental franchise would increase costs for haulers and ratepayers who continue to rely on Metro's public transfer stations, and could provide a financial windfall opportunity to other solid waste facilities in competition with the applicant. One potential use of these windfall revenues elsewhere in the region could be to subsidize the cost of commercial collection in the City of Portland, further squeezing the profitability of independent haulers who currently compete in this market.

Staff notes, however, that the applicant contends that the proposal would allow a new, locally-based entrant into the market and that increased competition promotes efficiency, and could lower prices for some consumer services in some areas. The applicant also contends that, more importantly, the proposed facility will help preserve a competitive marketplace for independent waste haulers, which are at a competitive disadvantage when compared to the large, vertically integrated, multi-national firms.

#### Consistency with the RSWMP Conclusion

Based on staff analysis and findings, the Columbia Environmental proposed transfer station would not result in a net benefit to the solid waste system. Therefore, the proposed new transfer station would not be consistent with the current RSWMP.

<sup>10</sup> The City of Portland estimates that there are about 135,000 total households.

## Evaluation Factor #2

### *The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)]*

#### Summary of applicant's analysis

In its modified application for Phase 1, Columbia Environmental proposes to accept 38,000 tons of putrescible waste and about 15,600 tons of non-putrescible waste. The applicant states that its cost savings are divided into two main categories: 1) lower tip fees for dry waste, and 2) transportation savings.

The applicant estimates dry waste tip fee savings of \$300,000 and transportation savings between \$1 million and \$1.6 million per year, for a total savings of \$1.3 to \$1.9 million.<sup>11</sup> Metro staff believe that increased tip fees regionwide will outweigh any Columbia Environmental savings.

**Dry waste tip fee savings:** The applicant states that it will charge its customers lower dry waste tip fees than does Metro's public transfer stations. Metro's current tip fee is \$70.96 per ton, and Columbia Environmental has represented that it would charge only \$55 per ton for dry waste. Columbia Environmental has indicated that it intends to charge the full Metro tip fee for wet waste at its proposed facility. Therefore, on dry waste received at the proposed facility, the applicant projects lower tip fees on 15,600 tons of dry waste will result in an estimated savings of \$300,000.<sup>12</sup>

**Transportation savings:** Off-route transportation costs are costs incurred after a truck leaves a collection route to deliver waste to a transfer station or disposal facility and then returns to the next collection point or the truck storage site. The applicant provided an estimate of 107,386 total off-route miles saved per year associated with using the proposed facility. The applicant modeled cost reductions based on a range of operational costs from \$9 per mile to \$15 per mile, resulting in projected savings of between \$1 million and \$1.6 million annually. The applicant states, however, that a per-mile operating cost is rarely used and much more difficult to estimate than per-hour cost because of widely varying time demands between on-route vs. off-route travel. So, in addition to the \$9 to \$15 per mile rate, the applicant provided an alternative \$70 per hour figure as more commonly recognized method to calculate the cost of operation.

Columbia Environmental states that savings realized by its affiliated, smaller haulers will: 1) have a constraining effect on their average collection costs, and, thus, will constrain rate increases for their residential customers, and 2) that it would allow their haulers the option to charge more competitive rates to provide service to Portland commercial customers. The applicant contends that it has no direct control over what fraction of the expected transportation savings is returned to the ratepayer, and that historically

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<sup>11</sup> Based on approximately 107,386 miles saved x \$9 to \$15 per mile.

<sup>12</sup> The \$300,000 estimated savings by the applicant is the difference between Metro's tip fee (\$70.96) and its proposed tip fee (\$55) per ton on some 15,600 tons of dry waste.

efficiencies in the waste collection system have been expressed as a downward pressure on prices rather than actual reductions.

### Analysis/findings

Introducing Columbia Environmental's Phase 1 operations into the region's solid waste system would, on balance, increase costs for ratepayers by about \$238,000 to \$618,000 annually. Potentially lower transportation and disposal costs for Columbia Environmental's haulers—some of which are likely to be passed through to ratepayers—would be more than offset by increased tip fees regionwide.

Metro staff estimate that based on the information provided by the applicant, haulers using the proposed facility could realize reduced annual costs of about \$249,000<sup>13</sup> in lower dry waste tip fees, and annual reductions in transportation costs of about \$268,000.<sup>14</sup> If realized, this would result in a total savings for Columbia Environmental's haulers of about \$518,000 per year. Furthermore, Metro staff believe that over \$250,000 of those reduced costs—if realized—would be passed through to ratepayers via local government rate setting.

At the same time, Metro's tip fee - which acts as the benchmark for local rate setters - would likely increase in response to higher per-ton costs at publicly-owned transfer facilities. In turn, private facilities would likely match Metro's tip fee increase. Thus, tip fees would increase regionwide. In total, higher tip fees regionwide are projected to add ratepayer costs of between \$755,000 and \$879,000 annually under Phase 1 tonnage assumptions, or between \$238,000 and \$618,000 net of Columbia Environmental savings.

### **Analysis of Applicant's Transportation Cost Parameters**

Using the applicant's projected mileage savings and industry standard parameters, Metro staff calculate potential transportation cost reductions significantly lower than the applicant projects: a total of about \$250,000 vs. the applicant's \$1 million to \$1.6 million.

#### *Reasonableness of Unit Cost Assumption*

Metro's transportation planning group uses an average freight trucking cost of \$35 per hour in its models. An industry rule of thumb for garbage truck operating costs is \$70 to \$75 per hour. In its analysis of the applicant's estimate, staff used the higher industry standard of \$75 per hour in its estimates of operating costs and an average 30 mile-per-hour off-route truck speed. The applicant's cost estimate of \$9-\$15 per mile becomes \$270 to \$525 per hour.<sup>15</sup>

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<sup>13</sup> \$250,000 is based on the difference between Metro's current tip fee of \$70.96 per ton and Columbia Environmental's projected \$55 per ton dry waste tip fee, times the number of dry waste tons:  $(\$70.96 - \$55.00) \times 15,600 \text{ tons} = \$248,976$ .

<sup>14</sup> Staff based its analysis on the applicant's projection of 107,386 miles saved per year. Taking an average truck speed on major roads and highways of 30 miles per hour and a truck operating cost of \$75 per hour would result in about \$268,000 cost reduction for Columbia Environmental's affiliated haulers.

<sup>15</sup> The \$9-\$15 per mile does seem reasonable as the average cost per mile for a residential collection vehicle for *on-route* mileage. However, it is not appropriate to use these averages for the off-route trip to the transfer station and back to the garage. For the most part, trips to the transfer station, in particular to Metro's facilities, are made on arterial streets or highways, which permit average speeds of 30 miles-per-hour or greater.

Using the more reasonable assumptions of \$75 per hour operating cost and 30 mph average speed, transportation cost reductions on 107,386 miles traveled would amount to \$268,000.

### **Impact on Regional Tipping Fees**

Metro's Tip Fee: Because Metro recovers some of its fixed costs from its direct customer base, all else equal; a loss of tonnage will increase Metro's per-ton costs. The tonnage diversion contemplated in Phase 1 would increase Metro's per-ton costs by about \$0.78 per ton. Phase 3 of the applicant's proposal would increase Metro's per-ton costs by about \$1.63 per ton. If the Metro Council maintained current cost recovery policies, those cost increases would translate directly to increases in Metro's tip fee. Thus, customers of Metro's two transfer stations would incur higher disposal costs as a result. Phase 1 and Phase 3 would add a total cost of about \$401,000 and \$755,000, respectively, for users of Metro's transfer stations. Projected tip fee increases at private facilities would about double that.

Non-Metro Tip Fees: Users of non-Metro facilities could also incur higher disposal prices. Private transfer stations and material recovery facilities in the Metro region tend to follow increases in Metro's tip fee. From an economics point of view, Metro can be viewed as the "price leader," while smaller private facilities are "price followers." In other words, Metro's tip fee sets the benchmark price in the region. If private facilities matched the projected increase in Metro's tip fee, then the total ratepayer impact of higher tip fees regionwide would be about \$755,000 to \$879,000 for Phase 1 and between \$1.5 million to \$1.8 million for Phase 3.<sup>1617</sup>

### **Net Ratepayer Impact**

On balance, ratepayers would pay more for disposal and recycling services if Columbia Environmental were to begin operation as a transfer station. Columbia Environmental may create some ratepayer savings as local governments in the course of their normal rate-setting processes consider haulers' lower costs in franchised areas (e.g., City of Portland residential, and most of Gresham residential and commercial). In addition, in unfranchised areas (e.g., primarily City of Portland commercial customers) Columbia Environmental's haulers may choose to share some of their lower costs with their ratepayers. Public and private disposal prices can be expected to increase in response. In all, Columbia Environmental's Phase 1 is likely to increase ratepayer costs by between \$238,000 and \$618,000, depending on how much of the cost reductions realized by Columbia Environmental's affiliated haulers are passed on to the ratepayers.

And if approved, Phase 3 would increase ratepayer costs by between \$534,000 and \$1,353,000, depending on how much of the cost reductions are passed on to the ratepayers.

Refer to **Attachment 9** for additional details on Metro's cost impact assessment for Columbia Environmental's proposed Phase 1 and Phase 3 operations.

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<sup>16</sup> The range of total tip fee impacts stems from uncertainty in how closely non-Metro disposal facilities match Metro's price increases. The lower estimates for both Phase 1 and Phase 3 assume that dry waste tip fees throughout the region remain unchanged, while all wet waste matches Metro's projected increase. The higher estimates assume both wet and dry waste tip fees match the projected increase.

<sup>17</sup> Note that ratepayers might see the same effect even if private facilities did not match a Metro tip fee increase, as Metro's rate is commonly allowed by local government rate setting authorities.

## Conclusion

The citizens of the region will likely pay between \$238,000 and \$618,000 *more* annually for solid waste and recycling services if Metro grants Columbia Environmental a local transfer station franchise.

### Phase 1 Ratepayer Impact Summary (refer to Attachment 9 for details)

Adjusted Gross Savings Passed on to Ratepayer:	\$261,000 to \$518,000
<u>Total Increase from Tip Fees:</u>	<u>\$756,000 to \$879,000</u>
<b>ANNUAL NET COST TO RATEPAYERS:</b>	<b>\$238,000 to \$618,000</b>

### Evaluation Factor #3

*Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]*

#### Summary of applicant's analysis

The applicant posits that the issue of adverse effects on area residents was completely reviewed as part of the City of Portland conditional use approval for the proposed Columbia Environmental transfer station. A "Decision of the Hearings Officer" was issued by the City of Portland (LUR 02-137433) in 2003 and the Hearings Officer concluded that:

- The "proposed waste-related uses pose no significant health or safety risk to nearby uses."
- Operations at the site "adequately address potential nuisance impacts."
- "Taking into consideration expected traffic impacts of the proposed use, both City and State requirements for traffic levels and safety on nearby streets would be met."
- From any residential property, "noise, vibration, odor, and glare will be difficult to detect at significant levels."
- "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

In summary, the applicant claims that based on the information presented to the City of Portland, the Oregon Department of Environmental Quality, and in its application to Metro, there is no indication that the activities on the proposed site would be likely to unreasonably adversely affect residents of the region.

#### Analysis/findings

The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated



recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, a frequently-used rail line atop the berm, and NE Sandy Boulevard.

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearings Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro. These are conditions that are also routinely included in Metro transfer station franchises. Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect the health, safety, and welfare of Metro's residents. In summary, the application satisfies this criterion.

#### **Evaluation Factor #4**

***Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]***

#### Summary of applicant's analysis

The applicant states that the potential for impacts on nearby residents and property owners was reviewed as part of the City of Portland conditional use approval for the proposed facility. The applicant refers to the Hearing Officer quotes listed above in responses to evaluation factor #4 as applicable to this factor. Further, the "existing character or expected future development of the surrounding neighborhood" was also considered as part of the land use case. The applicant asserts that the industrial area around the proposed facility is already mostly developed, with some vacant parcels, and the proposed transfer station would have no significant adverse impact on future development, residents, property owners, or the character of the area.

#### Analysis/findings

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearing Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use

permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro.

Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood. The area immediately adjacent to the facility is zoned for industrial uses, and two other solid waste facilities are already in operation on the site. The granting of this franchise therefore, is not likely to have any significant additional impact on nearby residents, property owners or the character and future development potential of the area. However, staff notes that there could be odor impacts on nearby residents or businesses that are created by Pacific Power-Vac (PPV), a tenant of Oregon Recycling Systems and co-located at the proposed Columbia Environmental facility. PPV treats sludges, wastewaters and sludge-like material for landfill disposal. In 2003, for example, Metro received a series of odor complaints regarding PPV's operations. In summary, the application satisfies this criterion.

#### **Evaluation Factor #5**

***Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter (Metro Code Chapter 5.01), the administrative rules and performance standards adopted pursuant to section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].***

#### **Summary of applicant's analysis**

The applicant states that Columbia Environmental will comply with all applicable regulations for the transfer station, and that the existing management team at the facility has an excellent history of meeting its regulatory obligations. Further, as stated by the City of Portland in the land use decision, "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

#### **Analysis/findings**

To evaluate the likelihood that the applicant will comply with all applicable regulations, staff contacted both the City of Portland's Bureau of Environmental Services and the DEQ in order to examine the applicant's past record of compliance. Neither agency has had compliance issues with Columbia Environmental. Oregon Recycling Systems is the recycling processing business currently located on the site.

Oregon Recycling Systems has not been regulated by Metro except to periodically inspect them to assure only source-separated recyclables are being taken. The facility operators have always been cooperative with Metro staff. There is a presumption of a strong likelihood that Columbia Environmental will comply with all the requirements and standards of Metro Code Chapter 5.01. In summary, the application satisfies this criterion.

### **CHIEF OPERATING OFFICER'S RECOMMENDATION**

The Metro Code requires the Chief Operating Officer to formulate recommendations to the Metro Council “regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of [Metro Code] section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.” (See Metro Code 5.01.070(c).) In addition, the Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The previous analysis in this report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

The Chief Operating Officer finds that the applicant is generally qualified to operate a local transfer station and has complied and can likely comply with all other applicable regulatory requirements. The Chief Operating Officer also finds that the application meets the requirements of Metro Code sections 5.01.060(a), (b) and (c), and 5.01.070(f)(3), (4) and (5).

The Chief Operating Officer believes, however, that the most important criteria are demonstration by the applicant that the proposed new facility will be consistent with the RSWMP and the effect that granting the franchise would have on the cost of solid waste services for the region's citizens (see Metro Code sections 5.01.070(c), (f)(1) and, (f)(2), and 5.01.060(d)). The RSWMP provides that new transfer stations may be considered when disposal services have been impaired by either of two factors: inadequate capacity or inadequate access.

It should be emphasized that the region's current transfer stations have more than adequate capacity to accept, manage, and transfer all of the region's waste for many years to come (refer to Metro's *Regional Transfer Capacity Analysis, April 2004*). If a new transfer station is to be granted, the primary rationale must be improved access. Moreover, the RSWMP also specifically provides that a transfer station may be approved if it will provide a net benefit for the region and if located in an “under-served” area.

The net benefit analysis of the applicant's proposal requires the weighing and balancing of several different RSWMP factors. Thus, to grant an application for a transfer station, an applicant must demonstrate that the benefits of doing so outweigh the costs that will accompany such a decision. Given this, prudence demands that new transfer station

franchises be approved only if the potential benefits are large and certain enough to outweigh potential risks and costs to the system.

Taking into consideration the changes made to the RSWMP in 2000 to allow consideration of new transfer station applications, the Chief Operating Officer concludes that the two most important issues to be considered are whether:

- (1) The proposed transfer station is located in an underserved area, and
- (2) The effect on the costs of solid waste and recycling services for the citizens of the region.

Furthermore, the Chief Operating Officer has considered the Councilor Values for the Solid Waste System in weighing the evaluation factors. In addition to each value, the Metro Council has indicated that all system-related scenarios or decisions will “maintain safety and public health throughout the solid waste system” as a minimal threshold for operation.

#### **Underserved Area**

One of Metro’s key objectives in deciding to consider the establishment of additional transfer stations was to provide for better access within the *underserved areas*. The working standard for underserved areas that guides the RSWMP policies for authorizing new transfer stations, are those areas within the region that are more than 25 minutes from a transfer station.<sup>18</sup>

As illustrated previously in the Estimated Travel Time Zone maps for both wet and dry waste (map #4 and map #5), the proposed transfer station would not be located in an area of the region where estimated travel time for wet waste would exceed 25 minutes. For dry waste, there are even more options available to haulers in this area when the dry waste recovery facilities are also considered since there are two nearby mixed dry waste processing facilities (Wastech and ECR). Therefore, based on the RSWMP considerations for establishing an under-served area, the proposed Columbia Environmental transfer station would not be located in an underserved area, and therefore does not meet the RSWMP requirement for approving a new transfer station.

As a local transfer station, Columbia Environmental would be located only 7 miles, or about 12 minutes away, from an existing local transfer station (the Troutdale Transfer Station), which already has both the authority and capacity to serve a substantial portion of their service area. Nevertheless, granting Columbia Environmental’s application would result in better access for those haulers affiliated with the proposed Columbia Environmental facility and located within its proposed service area boundary.

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<sup>18</sup> Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

However, almost any new local transfer station within the region would achieve similar results by improving local access by reducing travel time for some haulers, but at the same time create a very inefficient overall disposal system. Unless an area is truly underserved, the benefits of reducing travel time (and minimizing VMT) are outweighed by inefficiencies caused by deteriorating economies of scale at the region's existing transfer stations and resulting increase in cost to the regional ratepayers.

### **Costs to the Regional Ratepayers**

If this application were approved, the citizens of the region would almost certainly incur increased costs estimated to be between \$238,000 to \$618,000 annually (over the status quo for Phase 1 of Columbia Environmental's proposal). At the same time, Columbia Environmental's affiliated haulers may be able to reduce their own costs; they state that it is unlikely these lower costs will be passed on to the ratepayers via lower garbage bills. The applicant claims, however, that future rate increases might be delayed.

Even if it could be assured that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. That is to say, residents in franchised areas close to Columbia Environmental whose haulers began using that facility might see a savings in their garbage bills as their local governments factored the greater transportation efficiencies and localized tip fee savings into collection rates. However, the much larger group of ratepayers whose haulers continue to use Metro's transfer stations would be burdened with higher rates as Metro increased its tip fee to pay for its costs after having lost tonnage and, along with it, part of those stations' economies of scale.

Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee; other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses would likely increase even more.

In summary, significantly more rate payers in the region would see cost increases than those who would see cost decreases.

## **COO Conclusion and Recommendation**

While the COO continues to recommend denial of the application, the applicant's proposal is not without merit. It appears that granting its application would result in some transportation cost savings and some *dry waste* tip fee savings to its affiliated haulers. The question, however, is whether the estimated benefits are sufficiently certain, large, equitably distributed, and likely to be realized by the region's ratepayers to outweigh the likely costs and potential risks of granting this application. On balance, the Chief Operating Officer finds that the benefits to a limited number of haulers and customers do not outweigh the overall increases in costs to the rest of the citizens and businesses of the region.

For the above reasons, the Chief Operating Officer recommends approval of Ordinance No. 04-1063, denying Columbia Environmental's application for a local transfer station franchise.

## **Options for Council Consideration**

The Council must weigh several policy criteria before determining whether to grant or deny the application. The staff has provided analysis of those policy criteria and has made a recommendation to deny the application. Not surprisingly, the applicant objects to the staff's recommendation, and presents its own interpretations of those policy criteria and arguments for why its application should be approved. This is a matter of a difference of opinion regarding the best way to interpret the policy criteria established to determine whether to grant or deny an application for a solid waste transfer station franchise. The Council may consider the information put forward by staff and the applicant and decide, based on those policy criteria and others, as the Council deems appropriate, whether to grant or deny the application.

The following alternative options are offered for Council consideration. These options would require additional evaluation, some more than others. However, the Council could direct staff to implement any of the options listed below, individually or in some combination.

1. **Additional evaluation factors.** The Council may consider additional evaluation factors in making a decision about the applicant's proposed local transfer station.
2. **Weigh evaluation factors differently.** The Council may decide to weigh the five Metro Code evaluation factors differently than did staff, and as a result, come to a different conclusion about the applicant's proposal.
3. **Implement mitigation measures for Metro's public facilities and the ratepayers.** If Council wanted to approve Columbia Environmental's proposal and reduce the adverse impact on ratepayers, the Council could consider implementing specific mitigation measures that would help off-set the impacts of lost tonnages to Metro's

public transfer stations. Staff offers the following four examples for Council consideration:

- a) **Reallocate existing tonnage authorizations at the three existing local transfer stations.** The Council has granted annual tonnage authorizations of 65,000 tons of putrescible waste to each of the three existing local transfer stations (Pride, Troutdale, and WRI). The Council could reduce the authorizations and reallocate the tonnages to the proposed Columbia Environmental facility. All three local transfer station franchises will expire at the end of 2008.
  - b) **Reallocate tonnages from the Forest Grove Transfer Station.** Unlike other private transfer stations in the region, the Forest Grove Transfer Station has no annual cap on the wet waste tonnages it can accept, because it is considered a regional transfer station. The facility is currently accepting about 145,000 tons of solid waste per year. As part of its evaluation of a new franchise agreement after the current franchise agreement expires, the Council could impose a tonnage authorization on this facility, as it does with other private local transfer stations in the region. The tonnages could then be reallocated to the proposed Columbia Environmental facility. The Metro franchise agreement for Forest Grove will expire at the end of 2007.
  - c) **Reallocate tonnages from Metro Non-System Licenses (NSLs).** Metro has issued NSLs to various solid waste hauling businesses accounting for some 83,000 tons of putrescible solid waste per year generated inside the Metro region. This waste is currently hauled to transfer stations and/or landfills not operated by Waste Management and is considered to be ten percent of waste not required by contract to go the Waste Management facilities. The Metro Council approves issuance of NSLs to solid waste haulers that deliver putrescible solid waste to any facility outside the Metro region. One such example is Waste Connections (Arrow Sanitary and American Sanitary), that has two Metro NSLs to haul putrescible waste to its transfer station in Vancouver, Washington and disposed at Wasco County Landfill. The Council could limit the amount of tons that it grants in NSLs, and reallocate a commensurate amount to the proposed Columbia Environmental facility, since it intends to haul waste to Columbia Ridge – a Waste Management landfill.
4. **Restructure Metro's rates to mitigate impacts.** The Metro Council could adopt a rate structure that would insulate Metro's tip fee from solid waste tonnage diversions to other solid waste facilities (e.g., allocate Metro's fixed costs to the regional system fee).

If the Council decides to approve Columbia Environmental's local transfer station franchise application, then a franchise agreement will need to be drafted by staff, reviewed by the applicant and approved by the Metro Council. In such case, in order to ensure sufficient time for Council to act and approve the terms of a new franchise

agreement, Council should request that the applicant and the COO agree to extend the deadline for an additional 90 days as provided in Metro Code section 5.01.070(h)(3).

If the ordinance to deny the application is upheld by the Council and the matter is contested by the applicant, the Council has the option of having the matter heard by a Hearings Officer or by the Council (Metro Code section 2.05.025). The Chief Operating Officer recommends that the matter, if contested, be referred to a Hearings Officer for consideration. This would allow the Hearings Officer, an unaffiliated third party, to hear all of the evidence in the matter and to draft a Proposed Order, which the Council would then consider, along with any of the parties' objections to the Proposed Order, before issuing a Final Order in the matter.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

The applicant, Columbia Environmental, LLC and its affiliated haulers that would use the facility are opposed to the proposed legislation.

### **2. Legal Antecedents**

Metro Code Chapter 5.01 and the Regional Solid Waste Management Plan.

### **3. Anticipated Effects**

If the legislation were adopted, the proposed local transfer station franchise application would be denied.

### **4. Budget Impacts**

There would be no cost to implement the legislation, as the legislation would deny the franchise application.

## **RECOMMENDED ACTION**

Council should approve Ordinance No.04-1063A, denying Columbia Environmental's application for a local transfer station franchise.

BM:bjl

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Agenda Item Number 6.2

**Ordinance No. 05-1087, For the Purpose of Adopting a Process for  
Treatment of Claims Against Metro Under Ballot Measure 37**

*Second Reading*

Metro Council Meeting  
Tuesday, September 13, 2005  
PCC SE Tabor Bldg Rm 139/140

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A ) Ordinance No. 05-1087  
PROCESS FOR TREATMENT OF CLAIMS )  
AGAINST METRO UNDER BALLOT ) Introduced by Councilor Robert Liberty  
MEASURE 37 )

WHEREAS, the voters of Oregon enacted Ballot Measure 37 (Chapter 1 Oregon Laws 2005), which requires Metro under specified circumstances to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation; and

WHEREAS, claims have been filed under Measure 37 contending that provisions of Metro's Urban Growth Management Functional Plan have had the effect of reducing the value of the claimant's property; and

WHEREAS, the Metro Council wishes to implement Measure 37 faithfully and according to law; and

WHEREAS, the Council has responsibility under its Charter and state law to protect the livability of the metropolitan region, and wishes to implement Measure 37 in a manner that, to the extent possible, protects the livability of the region; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the claims process enacted by the ordinance and recommends the Council adopt it; and

WHEREAS, the Council held a public hearing on the ordinance and the claims process on September 13, 2005, and has considered the public testimony; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

- 1. Chapter 2.21, Claims Under Ballot Measure 37, attached and incorporated into this ordinance as Exhibit A, is hereby added to Title II, Administration and Procedures, of the Metro Code.
- 2. The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit B, explain how the claims process complies with the Regional Framework Plan and state law.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 05-1087

CHAPTER 2.21

CLAIMS UNDER BALLOT MEASURE 37

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 37. Metro adopts this chapter in order to afford property owners the relief guaranteed them by Ballot Measure 37 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement Measure 37 faithfully and in concert with its other responsibilities, including its charter mandate to protect the environment and livability of the region for current and future generations.

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.

(b) "Family member" means the wife, husband, son, daughter, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of

the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

(c) "Land use regulation" means a provision of a Metro functional plan or a land use regulation adopted by a city or county to comply with a Metro functional plan.

(d) "Owner" means the owner of the property, or any interest therein. "Owner" includes all persons or entities who share ownership of a property.

(e) "Reduction in value" means a reduction in the fair market value of real property, or any interest therein, resulting from enactment or enforcement of a land use regulation as of the date the owner makes a written claim for compensation.

(f) "Waiver" means action by the Metro Council to modify, remove or not apply the land use regulation resulting in a reduction in value.

#### 2.21.030 Filing a Claim

(a) A person may file a claim with Metro for compensation under Measure 37 without following the process set forth in this chapter. Metro will give priority to a claim filed under this chapter over claims filed without compliance with this chapter.

(b) A person filing a claim under this chapter must be the owner of the property that is the subject of the claim at the time the claim is submitted to Metro. The person must simultaneously file with Metro all claims against Metro under Measure 37 that involve the property. The person shall submit the claim or claims to the Chief Operating Officer (COO) and shall include, at a minimum, the following information:

- (1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
- (2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the

location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;

- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A copy of any and all specific, existing land use regulation the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the land use regulation that applied to the property at the time the claimant acquired the property;
- (6) An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (8) A statement whether the claimant is filing claims with other public entities involving the same property.

(c) A claim shall not be considered complete for purposes of paragraphs (4) and (6) of subsection 2 of Ballot Measure 37 until the claimant has submitted the information required by this section.

#### 2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the

COO does not notify the owner that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.

(b) If the COO receives a completed claim, the COO shall conduct a preliminary review to determine whether the claim satisfies all of the following prerequisites for full evaluation of the claim:

- (1) The property lies within Metro's jurisdictional boundary;
- (2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and
- (3) The claimant acquired the property before the effective date of the land use regulation.

(c) If the claim fails to satisfy one or more of the prerequisites in subsection (b) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim as provided in section 2.21.060(a)(1).

(d) If the claim satisfies each of the prerequisites in subsection (b) of this section, the COO shall complete the review of the claim to determine whether:

- (1) The claimant owns an interest in the property and has owned an interest in the property without interruption since the claimant acquired the interest and prior to the effective date of the land use regulation that is the basis for the claim;
- (2) The land use regulation that applied to the property at the time the claimant acquired the property allowed the claimant's proposed use and, if so, what criteria or conditions applied to the proposed use under the regulation;

- (3) The specific, existing land use regulation that allegedly reduced the value of the property allows the proposed use and, if so, what criteria or conditions apply to the proposed use under the regulation;
- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from Ballot Measure 37 under subsection 3 of the measure; and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt from Ballot Measure 37, the regulation restricts the proposed use and the restriction has reduced the value of the property.

(e) The COO may commission an appraisal or direct other research in aid of the recommendation whether a claim meets the requirements of Ballot Measure 37.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the owner and other persons who request a copy. If the COO determines that the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

#### 2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on the claim before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under section 2.21.030.

(b) The COO shall provide notification of the date, time and location of the public hearing at least 25 days before the hearing to the claimant, owners and occupants of property within 500 feet of the subject property, the local government with land use planning responsibility for the property and any person who requests notification. The notification shall indicate that a copy of the COO's recommendation under section 2.21.040 is available upon request.

#### 2.21.060 Action on Claim by Metro Council

(a) After the public hearing, but not later than 180 after the filing of a claim under section 2.21.030, the Metro Council shall consider the COO's recommendation and:

- (1) Determine that the claim does not qualify for compensation;
- (2) Determine that the claim qualifies for compensation and provide relief in the form of compensation or enhancement of the value of the property or decide not to apply the land use regulation; or
- (3) Determine that the claim qualifies for compensation and resolve to modify or remove the land use regulation.

(b) The Council shall take the action that is most consistent with the purpose of this chapter and the Regional Framework Plan.

(c) The Council shall issue an order with its decision and direct the COO to send the order to the claimant, persons who participated at the hearing held under section 2.21.050, other persons who request a copy, and the Oregon Department of Administrative Services if the Council adopted the land use regulation to comply with state law.

#### 2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this chapter. The Council shall place a condition a decision under section 2.21.060(a)(1) or (2) that the decision



constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under section under section 2.21.060(a)(2).

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under section 2.21.060 the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

**Exhibit B to Ordinance No. 05-1087**  
**Findings of Fact and Conclusions of Law**

Measure 37 requires Metro, under specified circumstances, to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation. If Metro concludes that a claim brought against it entitles the claimant to relief under the measure, Metro must make a choice: compensate for the reduction in value or modify, repeal or not apply the land use regulation that caused the reduction in value.

The claims process adopted by this ordinance provides a way for Metro to determine whether a claim against Metro is valid, and whether the specific circumstances require Metro to provide relief under the measure.

If Metro chooses to compensate the property owner for the reduction in value, there is no “land use decision” to which the policies in Metro’s Regional Framework Plan (“RFP”) or state planning law would apply. Further, the compensation would prevent any land use that is contrary to the regulation, itself in compliance with state and regional land use laws.

If Metro chooses to modify or repeal the land use regulation, Metro will have to demonstrate at the time it adopts an ordinance to modify or repeal the regulation that its action is consistent with the RFP and state planning laws.

If Metro chooses not to apply the land use regulation to the claimant’s property, Metro may be authorizing a use that does not comply with the RFP or with state planning laws. Measure 37, however, expressly allows Metro to take that action, RFP and state planning laws notwithstanding. In short, if there are no funds for compensation, Metro must take action to allow a use that may violate the RFP and state planning laws if Metro is presented with a valid claim that meets the requirements of the measure.

In conclusion, Ordinance No. 05-1087 and the claims process it adopts are consistent with the RFP and state planning laws.

## **STAFF REPORT**

### **ORDINANCE NO. 05-1087, FOR THE PURPOSE OF ADOPTING A PROCESS FOR TREATMENT OF CLAIMS AGAINST METRO UNDER BALLOT MEASURE 37**

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**Date: July 27, 2005**

**Prepared by: Lydia Neill**

#### **INTRODUCTION**

Measure 37 was passed by the voters in 2004 and allows property owners to receive compensation for diminished property values as a result of the application of land use regulations. Metro has begun to receive applications from property owners requesting payment or waiver of land use regulations. Metro has received approximately 20 claims as of July 2005. The majority of the claims that have been filed have been reviewed by Metro's attorney and deemed invalid. Measure 37 specifies that local governments must process applications within 180 days of receipt. The proposed ordinance provides a process for the review, notice and resolution of claims that have been filed with Metro.

#### **BACKGROUND**

Measure 37 potentially applies to Metro for requirements that have been adopted in the Functional Plan. The major areas in the Functional Plan that could generate claims include: Title 3- Water Quality, Flood management and Fish and Wildlife Conservation; Title 13- Nature and Neighborhoods that protect habitat and water quality; Title 4- Industrial and Other Employment Areas that restrict uses on industrial and employment lands and new urban area planning requirements in Title 11- Planning For New Urban Areas.

Measure 37 requires property owners to demonstrate ownership of the property prior to when the land use regulation was adopted and to substantiate that the value of the property was diminished by the regulation. To evaluate these threshold issues the proposed ordinance requires that the property owner submit title and appraisal reports, copies of land use regulations and a description of the proposed use of the property if a waiver were to be granted. The proposed ordinance requires public hearings and notice for all applications to all property owners and local governments within 500 feet at least 25 days before the hearing by the Metro Council. A fee is recommended to offset the staff costs to evaluate and process the application.

#### **KNOWN OPPOSITION**

There is no known opposition to this proposed ordinance.

#### **LEGAL ANTECEDENTS**

Ballot Measure 37.

#### **ANTICIPATED EFFECTS**

Adoption of Ordinance No. 05-1087 allows Metro to process claims arising from Ballot Measure 37. Decisions on claims may have policy and monetary effects depending if the land use regulations are waived to satisfy the claims or if the owner receives monetary compensation. Claims filed with Metro may also require claims to be filed with both the County and the State.

#### **BUDGET IMPACTS**

If claims are received they will require staff time to analyze the application, prepare notice and prepare a staff recommendation for review by the Metro Council. If the applicant pays the fee in the form of a deposit then this action will technically be budget neutral. If the applicant chooses not to pay the required fee or provide adequate documentation of the ownership of the parcel of the diminution of value then

there may be a budget impact that could range from approximately \$500 to several thousand dollars per application. The measure does not require the property owner to pay a fee to file an application for relief. The proposed ordinance gives priority to those applicants that have submitted a fee for processing expenses. Title reports to research ownership and transfers in addition to property appraisals to substantiate a diminution of value.

**DECISION**

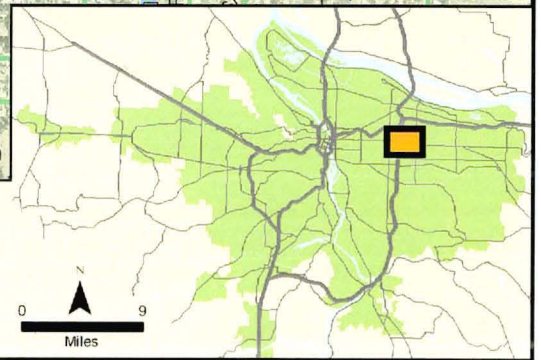
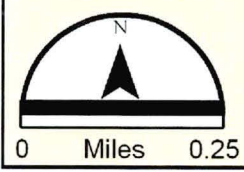
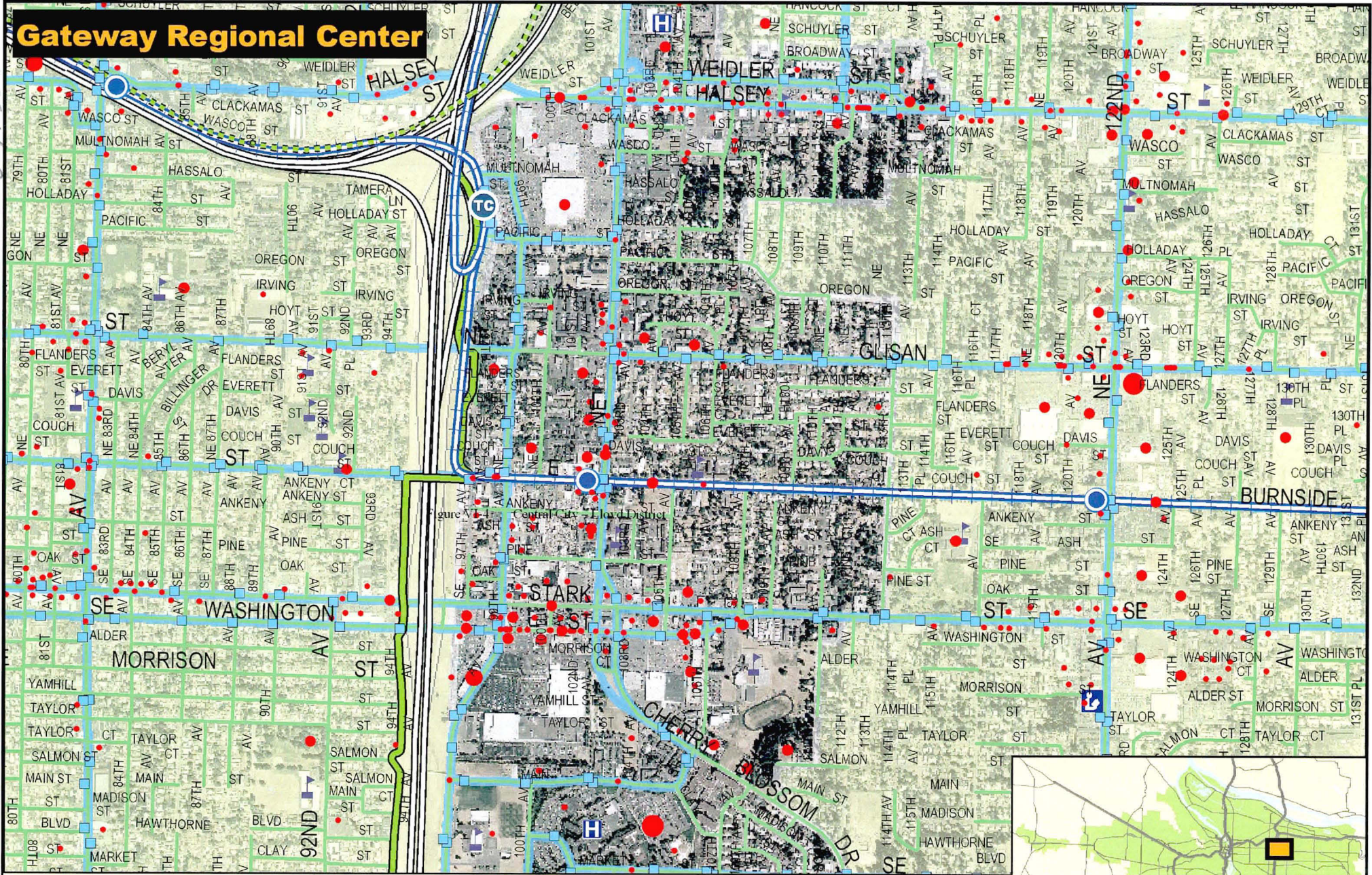
Adopt or amend the proposed Ordinance No. 05-1087.

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091305-01

# Gateway Regional Center





091305c-02



# Division Green Street/Main Street Plan

August 2005 Proposed Plan

**division**

green street | main street project





**FOR MORE INFORMATION, PLEASE CONTACT:**

Portland Bureau of Planning  
1900 SW 4th Avenue, Suite 4100  
Portland, OR 97201-5350  
503-823-7700 phone  
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E-mail: [pdxplan@ci.portland.or.us](mailto:pdxplan@ci.portland.or.us) RE: Division Plan

A digital copy of this document can be found at:  
[www.portlandonline.com/planning](http://www.portlandonline.com/planning)

**TO COMMENT ON THE PROPOSED PLAN:**

- Testify at the Planning Commission hearing:

**Tuesday, September 27, 2005, at 7:00 p.m.**

1900 SW 4th Avenue, Room 2500A, Portland, Oregon

For the scheduled time of this item, please call 503-823-7700 one week prior to the hearing.

- Send written testimony for Planning Commission to:

1900 SW 4th Avenue, Suite 4100, Portland, Oregon 97201;

FAX comments to 503-823-7800; or

e-mail comments to [pdxplan@ci.portland.or.us](mailto:pdxplan@ci.portland.or.us) RE: Division Plan

Written and e-mailed testimony must be received by the time of the hearings and must include your name and street address to be included in the public record.

The Bureau of Planning is committed to providing equal access to information and hearings. If you need special accommodation, call Jay Sugnet at the Bureau of Planning at (503) 823-5869. (TTY 503-823-6868)

This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed in part by federal Transportation Equity Act for the 21st Century (TEA-21), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.



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**Sam Adams**, Commissioner  
**Randy Leonard**, Commissioner  
**Dan Saltzman**, Commissioner  
**Erik Sten**, Commissioner  
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**Jean Baker**, Division/Clinton Business Association, business owner  
**Carolyn Brock**, National Federation of the Blind, resident  
**Chris Eykamp**, resident  
**Eshawn Chase**, high school student  
**Todd DeNeffe**, Bicycle Advisory Committee  
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**Troy Hayes**, South Tabor Neighborhood Association  
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*A special thanks to People's Food Co-op and Richmond Elementary School for providing meeting spaces.*



## Summary and Recommendations

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## Technical Appendix (under separate cover)

This appendix contains background information and is available for viewing, downloading, or purchase on the City's web site, or by calling the Portland Planning Bureau at 503-823-7700.

- A. Background  
History of East Portland and SE Division Street; Planning and Policy Technical Memo; Multi-modal Transportation and Urban Design Analysis
- B. Land Use  
Existing Land Use Inventory; Land Use Alternatives Memo; Zoning Posters
- C. Transportation  
Traffic Glossary; Street Classifications; Mode Split Table; Transportation Alternatives Analysis; 7 Corners Roundabout Analysis
- D. Public Involvement  
Declaration of Cooperation – May 8, 2003; Schedule of Meetings and Events; Community Working Group – Purpose, Responsibilities, and Relationships; Neighborhood Walk Summary; Community Workshop Summaries

## Staff Recommendation

The Bureau of Planning seeks Planning Commission's recommendation of approval of this plan. This recommendation should include the following actions:

- Adopt the Division Green Street/Main Street Plan;
- Recommend that City Council adopt the Plan;
- Recommend that City Council amend the Comprehensive Plan to include the Plan's goals and objectives;
- Recommend that City Council amend the Comprehensive Plan to revise the street design classification for SE Division; and
- Recommend that City Council amend the Zoning map and Comprehensive Plan map as shown in Part VII of this report.

### **Division Vision Coalition**

In January 2002, the Division Vision Coalition (DVC) formed in recognition of the similar goals and objectives of multiple Division stakeholders, and the overlap in activities being initiated. The coalition allows the community to better coordinate volunteer efforts, pool resources, and access funding opportunities. DVC brings together residents and business owners in the Richmond, HAND, Mt. Tabor, and South Tabor neighborhoods, Seven Corners Localization Initiative, and the Division Clinton Business Association. The coalition has organized the neighborhood around the idea of a sustainable urban main street

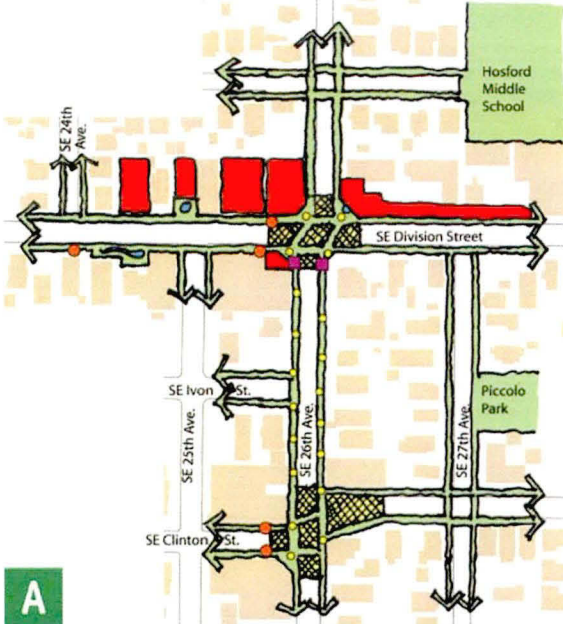


### Introduction

The Division Green Street/Main Street Project is a collaborative effort between the City of Portland and the community to improve the livability and economic vitality of the SE Division Street corridor over the next 20 years. Focusing on the area between SE 11th and SE 60th, the plan contains proposed goals, objectives, and implementation strategies to create a pedestrian-friendly commercial district that reflects and reinforces community values, including a focus on sustainable and “green” development. Project considerations included:

- Improving access to transit
- Improving safety for pedestrians, bicyclists, and drivers
- Improving traffic signalization
- Examining alternative vehicle lane and on-street parking configurations
- Examining innovative rainwater management techniques
- Examining land use patterns in relation to existing zoning
- Proposing zoning changes consistent with project goals (zoning changes do not result in major changes in development density)
- Examining “green” building techniques

A State of Oregon Department of Transportation (ODOT) Transportation and Growth Management (TGM) grant helped to fund the project. Included in the plan are two proposed transportation alternatives and a rezoning proposal for the study area. The plan is intended to guide the Division Streetscape and Reconstruction Project, which will repave the street and build streetscape improvements on Division Street between SE 6th Avenue and SE 39th Avenue. The street repaving and construction is funded with \$2.5 million of federal transportation funds and is scheduled to begin in 2007.



### Context

The project study area is SE Division from SE 11th to SE 60th Avenues. The Division Corridor is part of a much larger transportation system. Division Street begins in the central eastside industrial area and continues beyond the City of Gresham. The study area is adjacent to four neighborhood associations (HAND, Richmond, Mt. Tabor, South Tabor) and is within the Division Clinton Business Association.

- A – Urban design concepts were explored as part of the planning process.
- B – At community workshops, neighbors discussed the proposals and shared their ideas.
- C, D – Division’s eclectic mix of buildings is cherished by the community.
- E – The study area covers just a small portion of Division Street.



## Purpose and Process

Division Street has been established as one of the priorities for the City of Portland in redevelopment planning. Some of the zoning along the street is not consistent with its designation as a Main Street, and many nonconforming uses exist. The street itself is in disrepair and is slated for reconstruction beginning in 2007. The Division Green Street/Main Street process offers an opportunity to redesign the streetscape to meet the goals of the community and the City.

### The purpose of the Division Green Street/Main Street Plan is to:

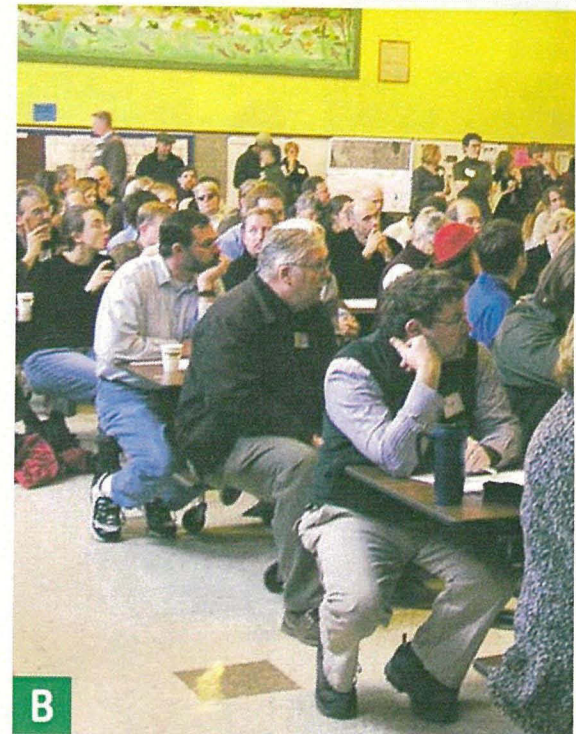
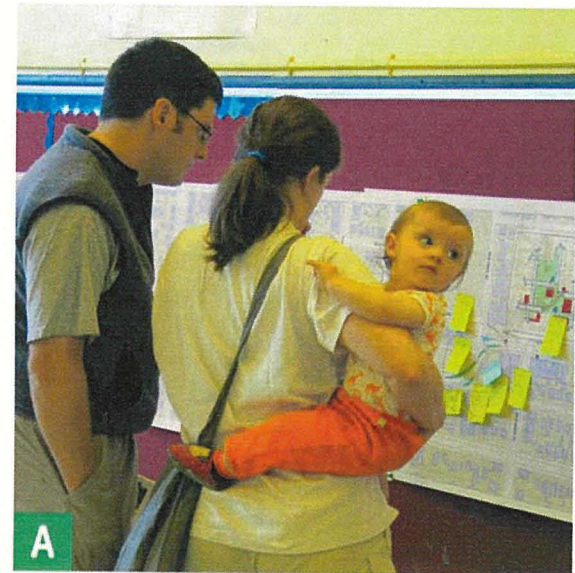
- Balance the competing transportation demands for Division Street, including local and through traffic, transit, automobiles, trucks, pedestrians, and cyclists.
- Treat the planning for Division Street as part of a coordinated community design strategy.
- Cultivate areas along the street that are distinguished by their economic, social, and cultural roles in the community, design character, history, and/or location.
- Support the economic vitality of Division Street for businesses and residences.
- Promote the understanding of and use of “green” approaches to design and construction that improve the long-term environmental performance of Division Street and the uses along it.
- Improve the design quality and urban form of Division Street and the buildings and spaces that line it.

### Process

The plan for Division was a collaborative effort between the City of Portland, a 17-member Community Working Group, and a 16-member Technical Advisory Group. The Community Working Group represented area neighborhood and business associations, pedestrian and bicycle advocacy groups, industrial area users, and the Division Vision Coalition. The Community Working Group met 17 times between September 2004 and September 2005, as illustrated in the work plan on page 5. The Technical Advisory Group met 8 times between September 2004 and June 2005. This group represented various City bureaus, TriMet, Metro, the neighborhood coalition, and community development organizations.

In addition to the regular meetings of the two groups, three community workshops were conducted at critical phases of the process. A January workshop was conducted to get feedback on the project goals and the draft concept. An April workshop provided feedback on the transportation alternatives and land use approaches, while the final workshop reviewed the draft plan and implementation strategies. This report summarizes each step of the planning process related to transportation and land use. A larger record of public involvement is part of the Technical Appendix.

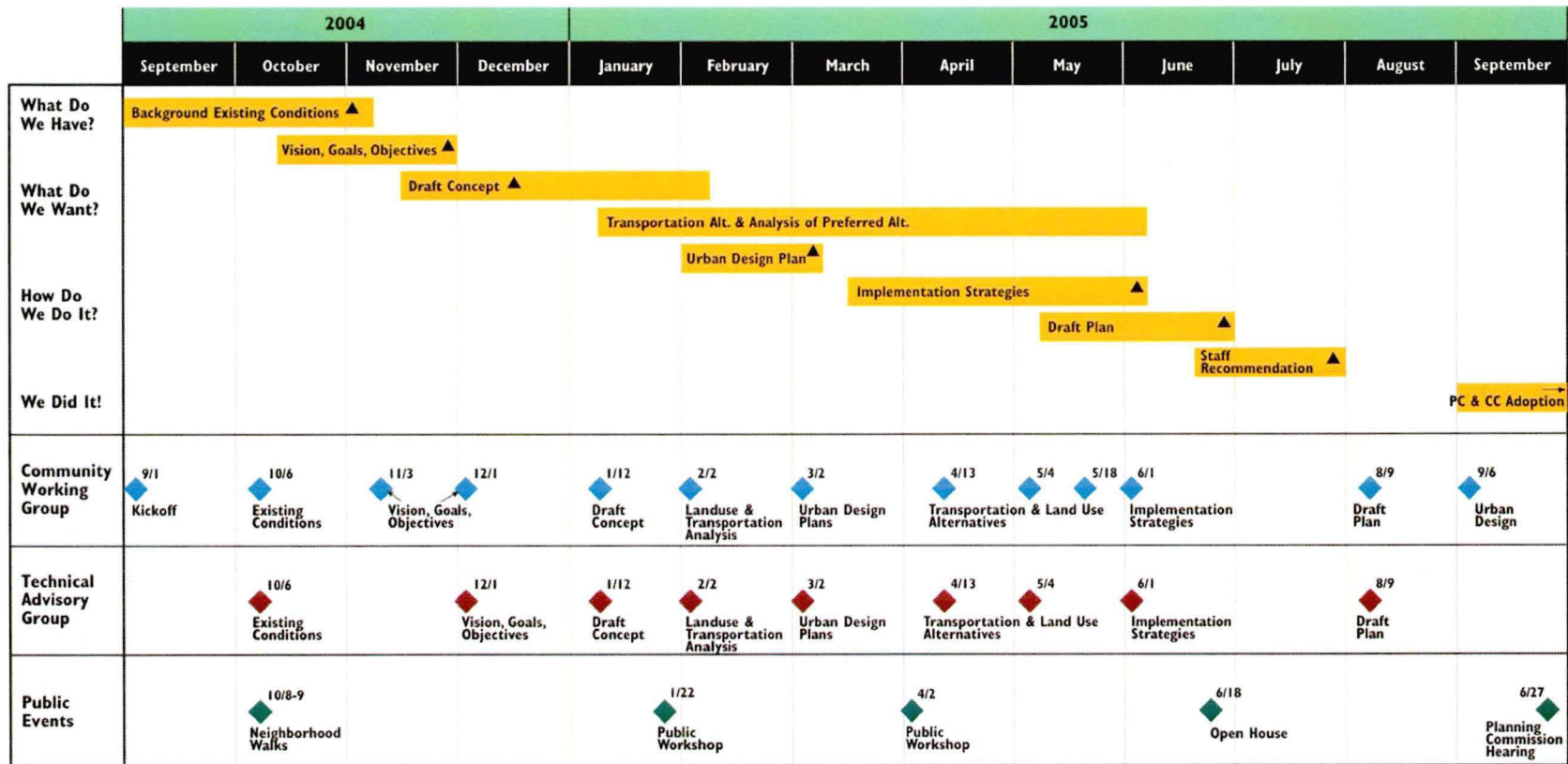
- A – At the workshops, information was presented in many different ways—through handouts, posters, presentations, and small group discussions.  
 B – The three workshops were well-attended, with over 100 people at each event.





**The major steps in the process were to:**

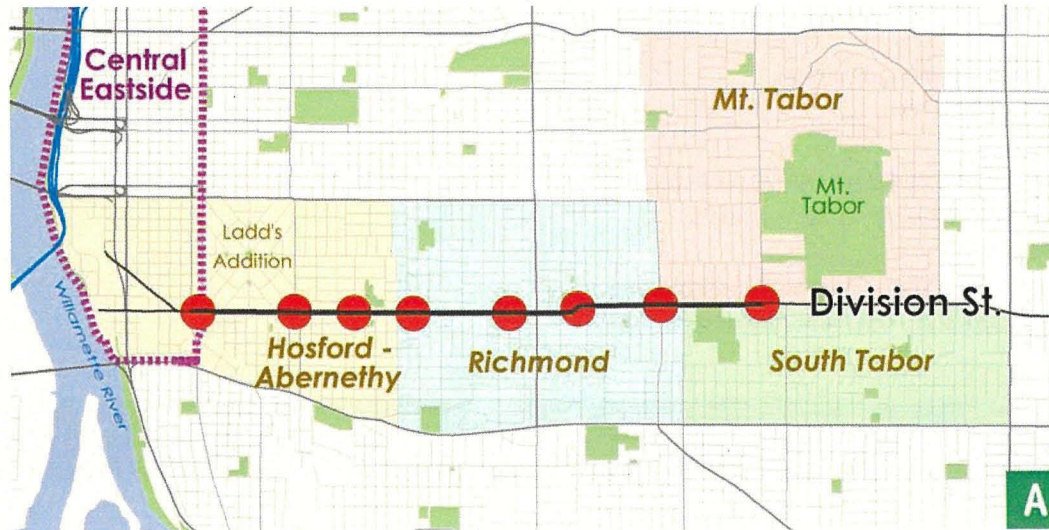
- Inventory existing plans, policies, and conditions occurring along Division.
- Observe and learn about Division through neighborhood walks.
- Establish project goals and objectives.
- Develop four corridor-wide transportation alternatives and three land use approaches.
- Develop urban design focus areas and transportation intersection enhancements.
- Evaluate and publicly review alternatives and approaches.
- Refine the rezoning proposal, transportation alternatives, and implementation strategies.
- Endorse the final plan by the Community Working Group and Technical Advisory Group.



▲ Product

The project schedule included monthly community working group and technical advisory group meetings, as well as regular opportunities for community input.





### Key themes expressed by citizens

#### Commercial Nodes

A string of two- to six-block commercial nodes that infuse the corridor with energy and vitality. These are well-lighted and connected by landscaping, housing, and other unifying elements. Between the commercial nodes are mostly residential areas that are quiet and less active spaces.

#### Art & Water

Art and water features at the neighborhood centers connected by a continuous or thematic flow of water through the corridor.

#### Education Corridor

Five primary and secondary schools, as well as nearby Portland Community College – SE Center and Warner Pacific, wholly embraced and integrated into the community fabric.

A – The community expressed a desire to see new commercial development focused at certain intersections, or nodes. The red circles represent existing or potential commercial nodes.

B, C, D – The community embraced the idea of using art and water features to help give Division a unique identity.

E, F – A neighborhood goal is to capture opportunities to better integrate the many schools along Division into the community.





## Goals

The following vision statement, goals, and objectives were developed by the Community Working Group in December 2004 and were embraced by the larger community at the January workshop. The project goals and objectives guided the development of the transportation and land use alternatives and are intended to guide future decisions in the study area.

### Creating a Green Street/Main Street for the Division Community



Over the next twenty years, Division Street between 11th and 60th will become a more pedestrian-friendly, economically vibrant, and environmentally sustainable corridor. The street will evolve into a series of bustling commercial nodes—connected by tree-lined walkways, multifamily residences, and thematic water features. The whole corridor will showcase energy efficient building design, innovative rainwater facilities, and a vibrant local business spirit—while providing easy movement by all modes of transportation to, from, across, and along Division.

## SHARED ECONOMY

### Focus commercial activity in a series of villages.

- Locate commercial areas in compact nodes of differing sizes and functions to serve the entire corridor.
- Build at pedestrian scale and orient buildings to the pedestrian realm. Support new mixed-use development.
- Provide places for small businesses to thrive. Integrate a variety of housing for all life stages.
- Include a mix of residential zoning along the corridor to reflect existing patterns and the opportunity for new housing.
- Support affordable housing alternatives to retain residents.
- Encourage work/live spaces in commercial and residential areas.

### Support a healthy local economy.

- Support local businesses and a localized economy by buying local.
- Encourage wealth to circulate in the community.
- Provide a diverse range of goods and services.
- Let local entrepreneurs know what market opportunities are needed in the corridor.
- Develop a coordinated investment strategy for the community.

## CLEAN AND GREEN ENVIRONMENT

### Restore and maintain environmental health.

- Promote healthy streams by reducing the amount of impervious surface, adding landscaping and tree canopy, and encouraging the use of pervious paving options.
- Cultivate biodiversity and restore native plant communities.
- Improve air quality.

### Integrate green infrastructure/building into the urban landscape.

- As the street corridor is upgraded over time, include innovative sustainable building techniques and infrastructure, such as efficient lighting options, into the corridor.
- Encourage eco-roofs and other rainwater management methods.
- Reintroduce water into the landscape in functional and symbolic ways.

### Promote cleaner alternatives to driving.

- Upgrade walking and cycling amenities to support these modes.
- Improve bus stop locations with benches, schedules, and shelters.
- Long term, look at cleaner transit options in the corridor.
- Balance the needs of local circulation with the corridor's role as a collector.

## HEALTHY COMMUNITY

### Collaborate to achieve a connected community.

- Foster partnerships among the neighborhood, businesses, schools, and agencies to achieve community goals.
- Empower people to improve their community.
- Welcome diversity to enliven the community.
- Include the elderly, ethnic communities, religious institutions, and schools in community activities and celebrations.

### Encourage walking and bicycling for individual and community health.

- Create safer crossing opportunities for pedestrians and bicycles.
- Enhance pedestrian access to open space, schools, commercial nodes.
- Upgrade sidewalks and create pedestrian stopping places.
- Improve bicycle parking opportunities along the corridor.

### Create a community that is safe for all.

- Improve lighting along the corridor to improve visibility of and for pedestrians and bicyclists.
- Support traffic speeds that are consistent with high levels of pedestrian activities.

## MAKING A PLACE

### Embrace and foster the educational landscape.

- Create resources and educational materials for residents and businesses that can help people choose healthier ways of maintaining, restoring, and developing their properties.
- Connect the schools to the corridor both physically and socially.

### Forge a unique identity that unites the Division corridor.

- Discover and create community gathering places for all ages.
- Develop a plaza where community activities can occur.
- Create corners that include building entrances and stopping places.
- Incorporate beauty and quality design into the fabric of the community.
- Inject new spaces with art and an aesthetic flair.

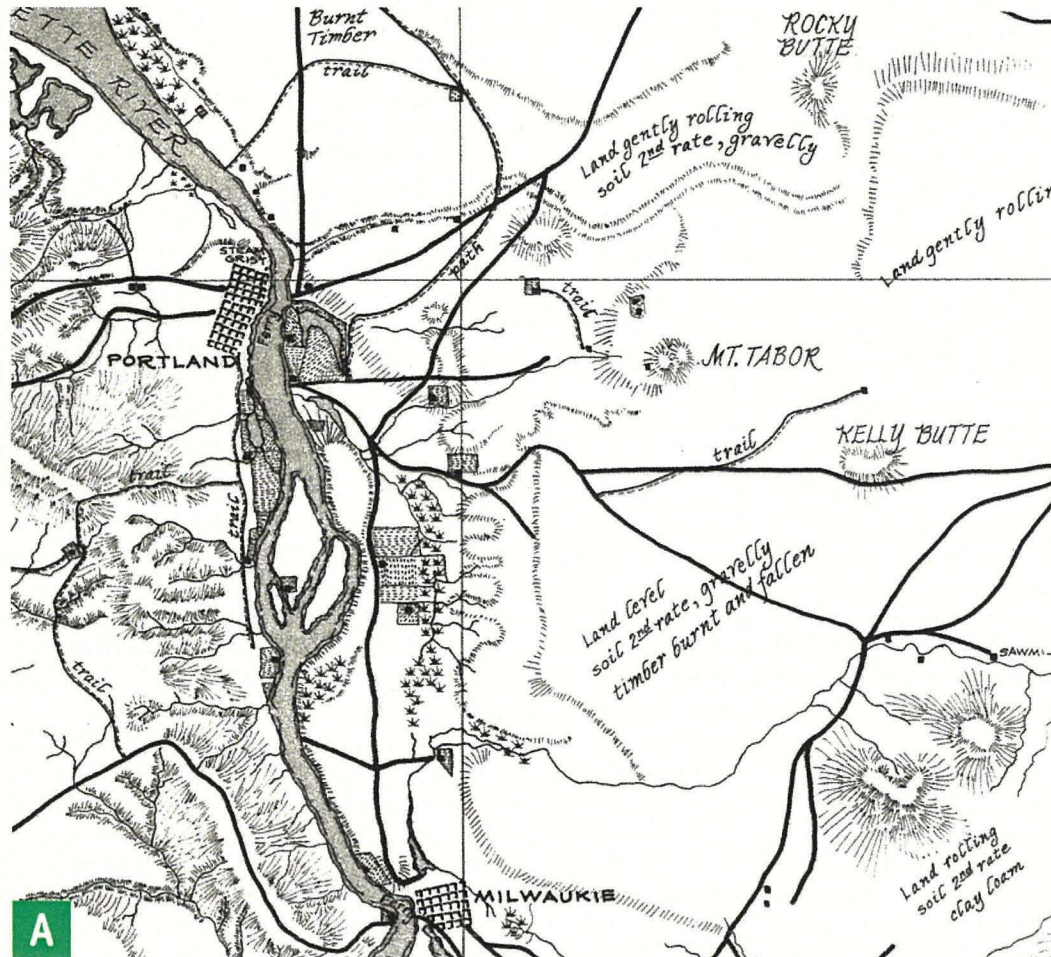
### Take advantage of cultural and historic assets—buildings, places, and people.

- Develop gateways and connections that celebrate special spaces.
- Locate markers that tell the story of the corridor—things that have happened in the past and things that are happening now.
- Develop community activities that align with the seasons and the rhythms of nature.



## History of Division

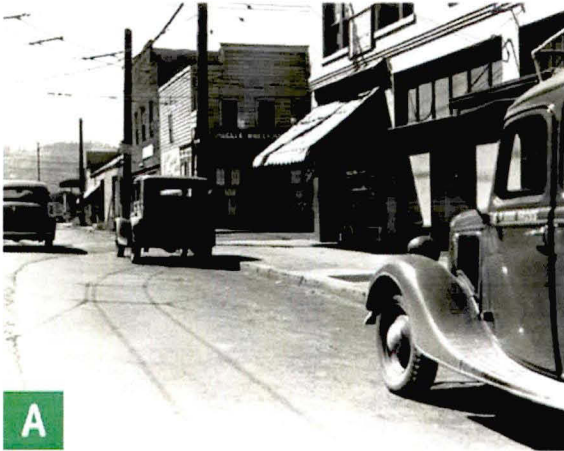
The physical character of the Division Green Street/Main Street Project area has changed tremendously over time, beginning with the more pedestrian- and streetcar-oriented commercial street of the turn of the century, and ending with the somewhat mixed, yet mostly automobile-oriented, residential and commercial corridor we see today. These changes are due to both land use and transportation decisions at all levels, from grassroots activism to City policy.



A – Survey Map, 1852. Oregon/Washington Bureau of Land Management, 1851-52, Cadastral Survey Map  
 B – SE 60th and Division, 1910. City of Portland Archives and Records, 1910 c\_60th Ave & Division St [72]\_5411-02 b39 f22







In the mid-1800s the first European settlers were gifted large Land Donation Claims east of the Willamette River, all of which were farmed for a short time. As population skyrocketed in the area over the next 70 years (from 821 people in 1850 to 258,288 in 1920), these farms were subdivided into neighborhoods and street alignments often referred to as additions; most of which we can still see in the area today.

In the 1970s there was heated controversy over the plan for a Mt. Hood Freeway which, had it not been popularly defeated, would have replaced SE Division, Ivon, Clinton, and Lincoln streets entirely. The controversy resulted in several outcomes visible in Portland today. The outcry over the freeway proposal and planning process galvanized and united an active citizen base, which has held together over many years.

The light rail system (MAX) was financed by the pool of federal money set aside for the Mt. Hood Freeway project. Other changes included transit service improvements and the creation of a bicycle network. Bicycle routes were established on Southeast Ankeny, Salmon, Lincoln-Harrison, and Clinton Streets and Southeast 26th Avenue through a planning process that was partially funded from the freeway money.



After the withdrawal of the Mt. Hood Freeway, a new transportation concept was needed to serve southeast Portland. In addition to constructing MAX, the Multnomah County Commission recommended that part of the funds for the freeway be diverted to restore the vitality of the southeast Portland and East County neighborhoods that would have been impacted by the Division-Powell freeway route. These improvements included traffic calming measures on local streets surrounding Division.

The Division Corridor Traffic Management Study was initiated by the City's Transportation Bureau in 1985. The Division corridor was defined as the portion of southeast Portland that is bounded by Lincoln and Harrison Streets on the north, Clinton Street on the south, 11th Avenue on the West, and SE 60th on the east. The study recommended strategies and projects to stabilize the increasing commuter traffic on Division and reduce it on local streets (Lincoln/Harrison and Clinton) based on citizen complaints about excessive traffic on these streets. Numerous changes were made to the corridor to limit through traffic on the local streets and minor changes were made on Division itself.



A – SE 11th and Division in another era. City of Portland Office of Archives and Records, 1937\_SE Division at 11th\_1325.3\_8403-03 b2 f9

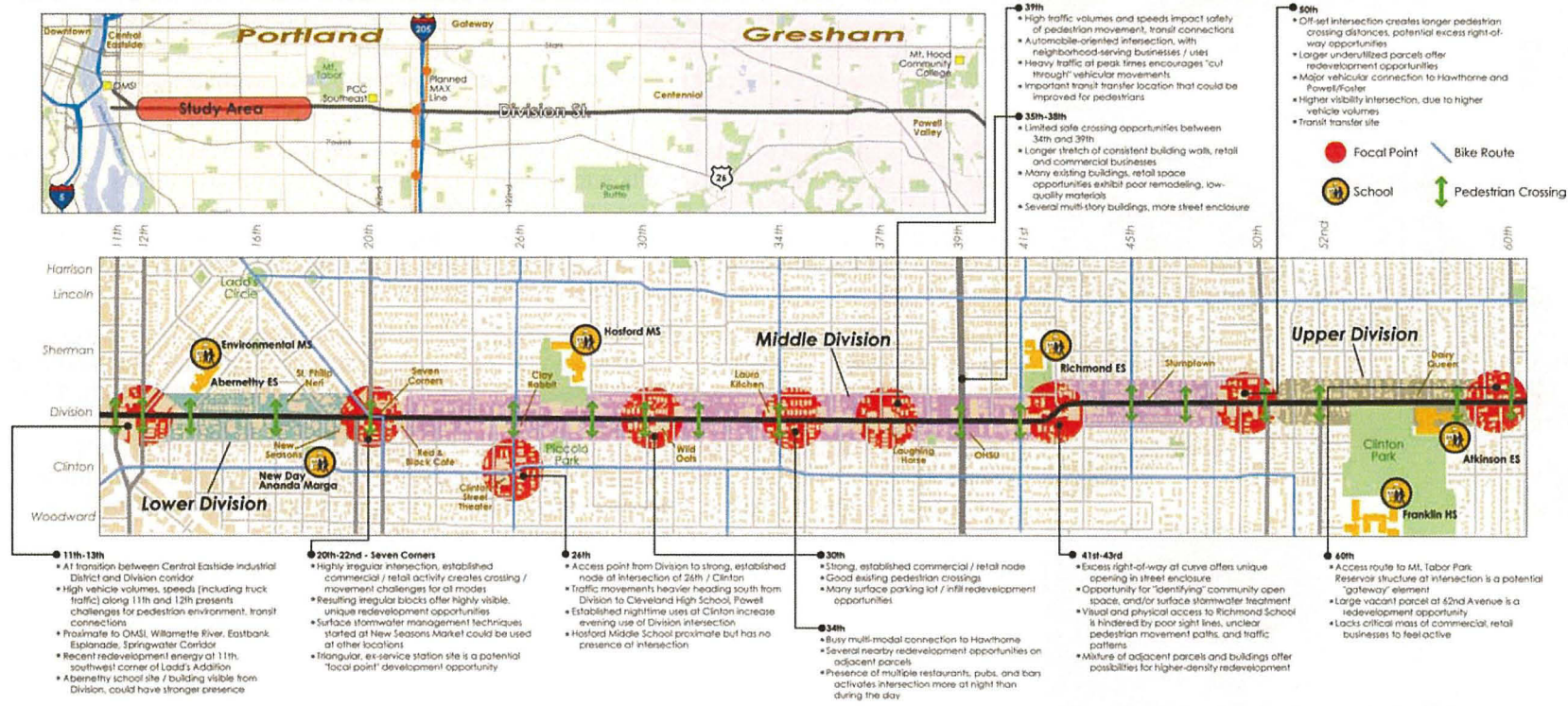
B – SE 11th and Division in another era. City of Portland, Archives and Records, 1937\_SE Division at 11th\_1325.4\_8403-03 b2 f9

C – SE 11th and Division in another era. City of Portland, Archives and Records, 1939 ca\_Looking E on Division\_1325.2\_8403-03 b5 f2



# Concept for the Division Corridor

The initial phase of the plan identified existing conditions along Division Street – depicted below. One of the primary observations was that Division has distinct lower, middle, and upper sections. The main street character, and corresponding commercial land uses, is focused between roughly SE 20th and SE 50th Avenues. The lower and upper sections are predominantly residential in character with some locally serving retail uses.



## Lower Division (11th-21st)

This segment is characterized by less active uses, mostly single family housing and the St. Philip Neri church and school complex. Due to Ladd's Addition's unique block pattern and larger uses on the north side of the street, Division feels "one-sided". The presence of pro-tem parking on both sides of the street (11th to 28th) may pose challenges for redevelopment opportunities.

## Middle Division (21st-50th)

This segment has the greatest concentration of commercial activity with many longtime established businesses. Permanent on-street parking exists along the majority of its length. There is a fairly consistent mixture of new and old residential, commercial and industrial buildings typical of other Portland main streets, and many larger parcels. The commercial areas are connected by pockets of single and multifamily housing.

## Upper Division (50th-60th)

Similar to Lower Division, this area is characterized by less active uses, single family housing and a "one-sided" character due to the large frontages of Franklin and Atkinson schools. New and existing businesses, as well as future redevelopment sites, offer potential strengthening activity near the 60th Street intersection.



Development of the plan was guided by an urban design concept for the corridor. The intent of this concept is to explain the opportunities and challenges facing Division Street in terms of both transportation and land use.

# Corridor Concept Plan

## Re - envision Division

Making a Place on Division Street

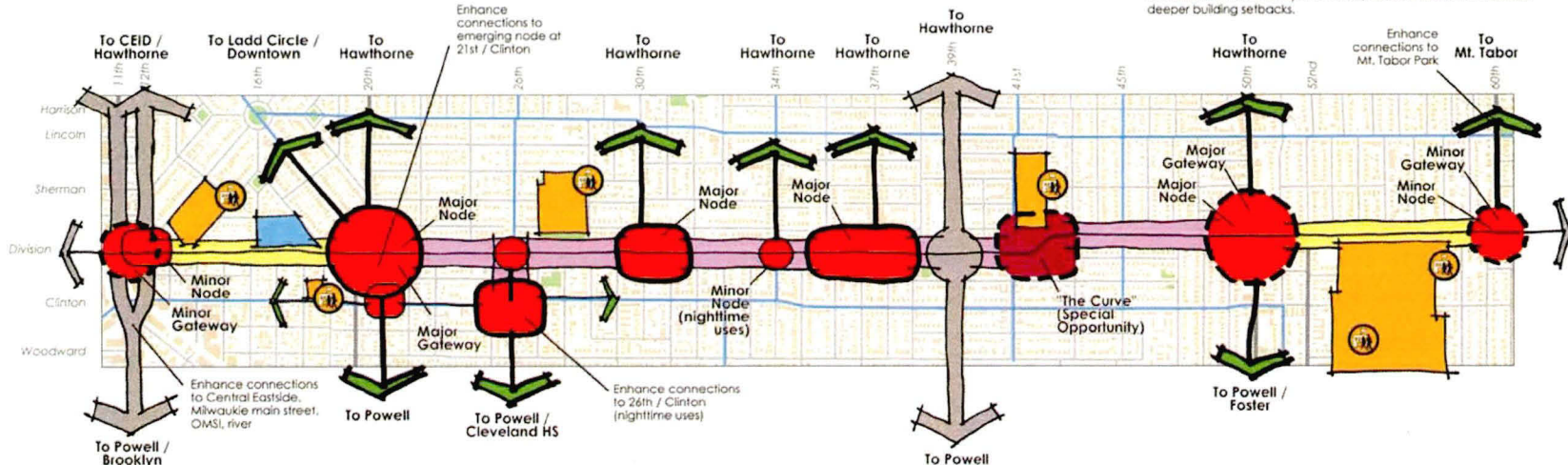


Division Street: A String of Pearls

**Vision Statement:**  
Over the next twenty years, Division Street between 11th and 60th will become a more pedestrian-friendly, economically vibrant, and environmentally sustainable corridor. The street will evolve into a series of bustling commercial nodes—connected by free-lined walkways, multi-family residences, and thematic water features. The whole corridor will showcase energy efficient building design, innovative rainwater facilities, and a vibrant local business spirit—while providing easy movement by all modes of transportation to, from, across, and along Division.



- Neighborhood Mixed-Use Centers**  
A string of two- to six-block commercial nodes that infuse the corridor with energy and vitality. These are well-lit and connected by landscaping, housing, and other unifying design elements.
- Education Corridor**  
Seven primary and secondary schools, as well as nearby PCC-SE Center and Warner Pacific, wholly embraced and integrated into the community fabric.
- Neighborhood Connections**  
The corridor is a welcoming place for neighborhoods east to west, north to south. What was once "divided" becomes unified.
- Residential Uses**  
Attractive multi-family residential buildings connect the neighborhood mixed-use centers. In the purple areas, encourage a more urban mixture of residential and commercial uses with buildings close to the street. In the yellow areas, focus on residential uses with deeper building setbacks.



**Bus to/along Division**  
Frequent transit with enhanced bus amenities.



**Walk to/along Division**  
Enhanced pedestrian crossings with marked crosswalks, along with curb extensions and landscaped sidewalks.



**Drive to/along Division**  
Enhanced signal timing, permanent on-street parking wherever possible, and other improvements.



**Streetscaping**  
Consistent line of street trees, efficient lighting, and water quality enhancing landscaping.



**Bicycle to/along Division**  
Increase quality and quantity of bike parking, with high usage of the parallel and connecting bikeways.



## Land Use

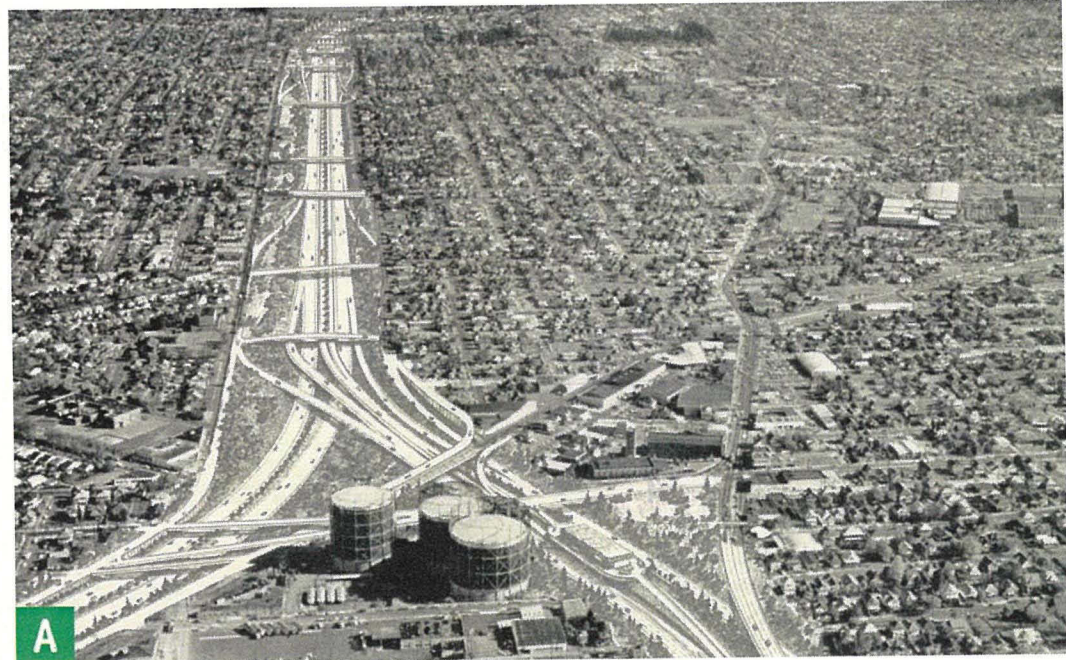
Division is often described as eclectic and “funky” with a diverse array of retail, housing, and industrial uses. This diversity is what attracts many residents and businesses to the area and is causing increased investment and redevelopment along the street. One strong desire among the community is to focus this new energy and vitality into a common vision for Division that revolves around the project goal of making a place by promoting a shared economy, a clean and green environment, and a healthy community.



One purpose of the Division Green Street/Main Street Plan is to rezone areas along the street to reflect the desired main street character. Current zoning, nonconforming uses, and poor design were identified as impediments to achieving the project goals.

## Existing Conditions

One of the most profound influences on the neighborhoods surrounding Division was the Mt. Hood Freeway proposal. At one point, the Oregon Department of Transportation owned one of every four properties within the proposed right-of-way, which caused decades-long neglect and disinvestment.



A – The Mt. Hood Freeway alignment would have displaced all development between SE Division and Clinton Streets up to about 50th Avenue.

Today Division is a healthy mix of commercial, residential, institutional, and industrial uses. With the help of a group of Portland State Students in the spring of 2004, the current uses along Division were mapped and compared to current zoning. This allowed staff to identify areas along the corridor where the zoning is inconsistent with the desire for “nodes” of mixed-use commercial development. In the past, auto-oriented zoning has been applied to scattered sites along the street. There are also several locations that are zoned residential, but are home to thriving commercial businesses.





### Nonconforming Uses

Nonconforming uses (NCU) are uses that are no longer allowed in the zone that is applied to the property. Many of Division’s nonconforming uses were created when commercially zoned property was rezoned to residential. From 1924 to 1959, Portland had only four zones, and virtually all properties fronting on Division Street were zoned commercial west of 51st Avenue. In 1959, zoning was changed on some parts of the street to allow for single- dwelling residential. In 1981, the zoning code and map were again changed. On Division, as on many arterials around Portland, large portions of properties fronting the street were rezoned from commercial to multidwelling residential. The purpose behind this large-scale policy shift was to prevent “strip” commercial development and to encourage more housing on streets with good access to transit.

Due to the zone changes over time, there are 27 properties along Division that are now considered nonconforming uses. A number of these sites were built as commercial properties and have continued with commercial uses over time—for example, the building that houses Stumptown Coffee at 45th and Division. Some of them are residential buildings operating as a business. Current nonconforming regulations require a review for expansions or changes of use, a policy which has become a source of concern for Division’s business community.

The twenty-seven nonconforming uses identified along in the study area fall into the following general categories:

- Retail sales and service use in a residential zone (10);
- Office use in a residential zone (4);
- Vehicle repair use in a residential zone (3);
- Industrial service use in a residential zone (2);
- Manufacturing use in a residential zone (2);
- Vehicle repair use in a commercial zone (3);
- Industrial service use in a commercial zone (2); and
- Quick vehicle service in a commercial zone (1).

These situations often create difficulties for property owners when they wish to expand a current use or sell the property. One of the objectives of the Division planning process was to assess the current policies related to nonconforming uses and consider solutions that could apply to other commercial corridors in the City.

- A – The building that houses Stumptown Coffee is a nonconforming commercial use in a residential zone.
- B – Though this building at 60th and Division is oriented to the pedestrian, the overlying General Commercial zoning is inconsistent with the community’s vision for Division Street.
- C – This auto-oriented vehicle repair shop is a nonconforming use.



### Design of Infill Development

The Bureau of Planning is currently working on the Infill Design Project. The objective of the project is “to foster medium density infill development that contributes to meeting City design objectives, such as those calling for design that is pedestrian oriented and serves as a positive contribution to neighborhood context.” A draft report with zoning code amendments is available on the Planning bureau’s web site.

Many of the issues raised by the community as part of this project are discussed in this report, such as the contrast of scale and height in relation to existing development, privacy impacts, compatibility with existing neighborhood character, etc. Below is an example of the design issues related to medium-density infill development.



These two developments are on similarly sized sites, with the same R1 zoning and number of units. “The devil’s in the details.”

“Contrasting images, of similarly configured apartment developments, highlighting the difference that details such as façade articulation, materials, window treatments, roof forms, and trim can make. A challenge is finding ways to achieve quality design in ways that are affordable,” (Infill Design Project Report, December 2004)

### Land Use Alternatives

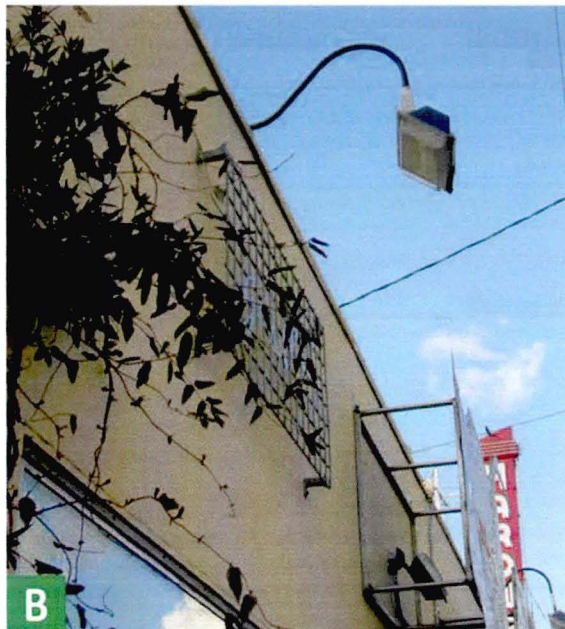
The planning process developed a set of alternatives that was presented at the March Community Working Group and Technical Advisory Group meetings and the April 2nd community workshop. The three alternatives were: regulatory amendments (changes to the zoning code); nonregulatory measures (voluntary or educational); and rezoning (minor changes to the zoning map).

#### *Regulatory Amendments*

Potential regulatory amendments to achieve project goals included modifying the nonconforming use regulations, increasing setbacks for new residential development, creating a main street overlay to modify specific aspects of the development code, and applying a design overlay to achieve better quality design. At the April community workshop, written comments were strongly in favor of nonregulatory approaches rather than additional regulations for Division. Many stated that addressing nonconforming uses and helping to implement the concept for the street through the rezoning proposal (see next page) would best achieve project goals.



**After the April workshop, members of the Community Working Group expressed an interest in pursuing a regulatory approach to design in the form of either a design overlay or a new regulatory tool. Those discussions will continue through the summer and may result in a separate proposal to Planning Commission and City Council in the near future.**



### *Nonregulatory Measures*

Three nonregulatory approaches to achieving the vision for Division were identified. The first was landscaping techniques that could be used to alter the character of an area. By encouraging more landscaping and street trees in the residential areas, a transition between the commercial nodes and residential areas becomes more apparent. In addition, wider sidewalks with tree wells in the commercial nodes allow space for outdoor café seating.

Second, storefront lighting is a simple nonregulatory measure to differentiate the commercial nodes from the residential areas. Both interior and exterior storefront lighting add nighttime visibility and provide a visual connection to commercial areas.

Finally, education is an essential tool. Property owners and potential developers benefit from tapping into the community's desires for Division. New developments, or redevelopments, are more successful if they work within the existing context of Division and help move towards the future vision.

In an effort to illustrate these and many other ideas, the consultant team developed urban design focus area concept drawings (see following pages) that show examples of solutions that are potentially applicable to the entire street. Most important, the illustrations highlight many creative ideas that were generated as part of the community planning process.

### *Rezoning*

The rezoning proposal on page 22 is the result of discussions with property owners, the CWG, the TAG, and the community. The proposal is guided by one primary goal – the changes do not increase or decrease the overall number of automobile trips or the number of housing units currently allowed in the study area. The most notable changes are rezoning Neighborhood Commercial and General Commercial properties to Storefront Commercial (CS). The CS zone is an urban commercial designation intended for Portland's main streets and provides additional flexibility for future redevelopment projects along Division.

**A, B – Simple steps toward successful commercial nodes: encourage wide sidewalks with landscaping and storefront lighting.**



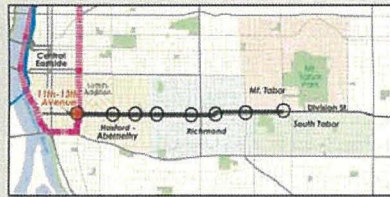
Urban Design Focus Areas



# Urban Design Focus Area 11th Avenue to 13th Avenue

### EXISTING CHARACTER

- Transition area from Central Eastside Industrial District to the Hosford-Abernethy Neighborhood and Division Corridor
- High vehicle volumes, speeds, and truck traffic along 11th and 12th presents challenges for pedestrian environment and transit connections
- Mix of light industrial, commercial and office uses
- Proximate to OMSI, Eastbank Esplanade and Springwater Corridor
- Recent redevelopment energy at 11th and southwest corner of Ladd's Addition (12th and Division)
- Adjacent to Abernethy School, visible from Division Street



FOCUS AREA CONTEXT

### CREATE A PEDESTRIAN-FRIENDLY ENVIRONMENT



Grade Separation for Outdoor Seating



Building Articulation Creates a Wider Pedestrian Zone



Enhance Pedestrian Zone with Green Courtyards

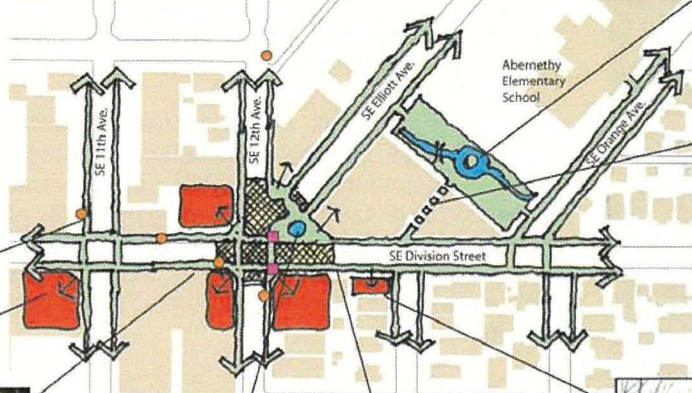
### ENHANCE CONNECTIVITY TO THE SCHOOL



Opportunity for a Rain Garden. At Glencoe, the Rain Garden relieves sewer back-ups by infiltrating stormwater, improves water quality, and provides an aesthetic & education amenity to the school & community



Create an Entrance to the School by Enhancing the Existing Alley-Way



Provide Connectivity to Nearby Amenities with Signage



Orient Redevelopment to Corners



Infiltration of Roof Run-off



Create a Minor Gateway to the Neighborhood with an Entry Plaza and Sculpture



Soften Street Edge in Neighborhood by Replicating Existing Planting Scheme on the South Side of Division



Residential Infill Opportunity Site

LEGEND	
	Opportunity Site
	Pedestrian Realm
	Special Node Treatment
	Water/Stormwater Feature
	Bus Stop
	Public Art Opportunity

### TRANSITION FROM INDUSTRIAL DISTRICT TO NEIGHBORHOOD



Urban Design Focus Areas

# Re - envision Division Making a Place on Division Street

## Urban Design Focus Area 24th Avenue to 27th Avenue

### EXISTING CHARACTER

- Access point from Division to established commercial node at intersection of 26th/Clinton
- Traffic movements heavier heading south on 26th from Division to Cleveland High School and Powell Blvd.
- Nighttime uses at Clinton increase evening use of 26th/Division intersection
- Hosford Middle School proximate but has no presence or visibility from this node

FOCUS AREA CONTEXT

### INTEGRATE NEW MULTI-FAMILY RESIDENTIAL AND ENHANCE EXISTING

10.5' Driveway Serving 8 Townhouse Units

Upgrade Existing Apartment Housing by Consolidating Parking, Removing Curb Cuts and Increasing Landscaped Area

Opportunities to Enhance Existing Billboards

### IMPROVE CONNECTIVITY TO CLINTON STREET

Enhance Connectivity to Clinton Street & Nighttime Visibility of Node with Lighting, Banners, Water Features or Public Art

### INNOVATIVE STORMWATER MANAGEMENT

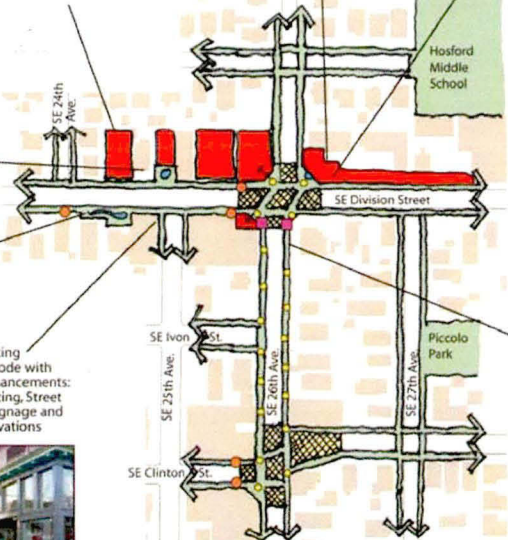
Pervious Paving Within Parking Lane

Vegetated Swale for Infiltration of Street Run-off

Vegetated Park Strip

Opportunities to Enhance Streetscape with Vegetation and On Site Stormwater Management

Revitalize Existing Commercial Node with Storefront Enhancements: Awnings, Lighting, Street Furnishings, Signage and Facade Renovations



LEGEND	
	Opportunity Site
	Pedestrian Realm
	Special Node Treatment
	Water/Stormwater Feature
	Bus Stop
	Public Art Opportunity
	Street Lighting



Urban Design Focus Areas



Urban Design Focus Area 41st Avenue to 44th Avenue

**EXISTING CHARACTER**

- The Curve on Division at 42nd Ave. creates an open space that is the unique to the study area
- The Curve provides excess right-of-way which is an opportunity for developing a community gathering space
- Area has a significant amount of asphalt with surface parking lots and wide right-of-way
- Visual and physical access to Richmond School is hindered by poor sight lines, unclear pedestrian paths and traffic patterns
- Richmond Place serves as the mixed-use anchor to this node, providing ground-level retail & office with housing above

FOCUS AREA CONTEXT

**CREATE RAIN GARDEN FOR SCHOOL**

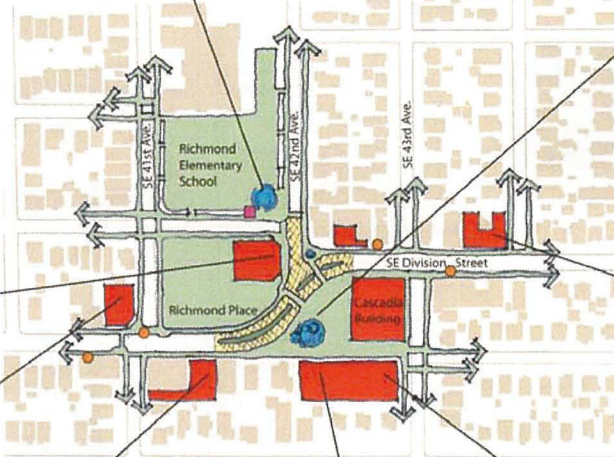
Japanese-Influenced Rain Garden to Reflect Richmond Elementary's Curriculum

**TRANSFORM CURVE INTO A COMMUNITY GATHERING SPACE**

Create a flexible space for community events

**HIGHLY VISIBLE MIXED USE REDEVELOPMENT**

Examples of New Mixed-Use Developments



Add Median to Green Up Roadway and Reduce Crossing Distances

Integrate a Water Feature

Infill Vacant Lot with Multi-Family Housing

Upgrade Existing Parking Lots with Screening and Stormwater Treatment

Opportunity for Multi-Family Housing or Mixed-Use Infill Development

Integrate Off-Street Parking into New Development

**LEGEND**

	Opportunity Site
	Pedestrian Realm
	Special Node Treatment
	Water/Stormwater Feature
	Bus Stop
	Gateway



Urban Design Focus Areas

# Re - envision Division

## Making a Place on Division Street

### Urban Design Focus Area

#### 48th Avenue to 50th Avenue

#### EXISTING CHARACTER

- Off-set intersection creates longer pedestrian crossing distances and excess right-of-way
- Larger underutilized parcels offer redevelopment opportunities
- Major vehicular connection to Hawthorne and Powell/Foster
- Higher visibility intersection, due to higher vehicle volumes
- Transit transfer site

FOCUS AREA CONTEXT

#### IMPROVEMENTS AT "T" INTERSECTIONS

SE Ardenby Street BES

#### HIGHLIGHT INTERSECTION OF DIVISION AND 50TH

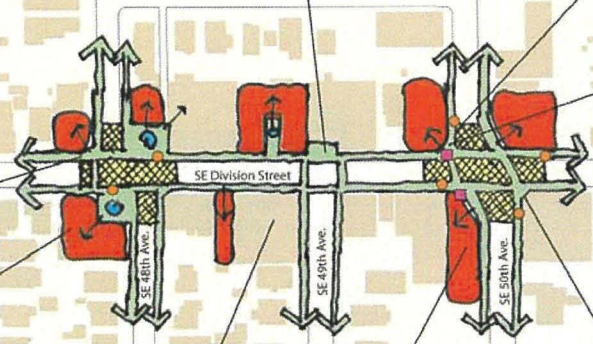
Opportunity to Create a Gateway and Shelter for Transit Riders at Intersection

"T" Intersection Treatments: Building Enhancements, Stormwater Curb Extensions & Outdoor Rooms

#### REDEVELOPMENT OPPORTUNITIES AT MAJOR INTERSECTION

SE 12th Ave / SE Elmwood

Redevelopment of Vacant and Underutilized Lots with Highly Visible Mixed-Use Buildings as Gateway Elements, with Off-Street Parking, Green Roofs and Corner Entries



4806 NE Fremont Street

Use Trellising to Create Green Walls

SE Marsh Luther King

NE 15th Ave / NE Brazos

Adaptive Reuse of Auto-Oriented Business

1532 NE Alberta Street

Orionstar Warehouse, San Francisco

Adaptive Reuse Where Practical

N Mississippi Parking Lot

1301 Center Surface Parking Lot

Enhance Surface Parking with Stormwater Infiltration and Street-Side Screening

New Curb Extensions at NW and SE Corners to Reduce Crossing Distances

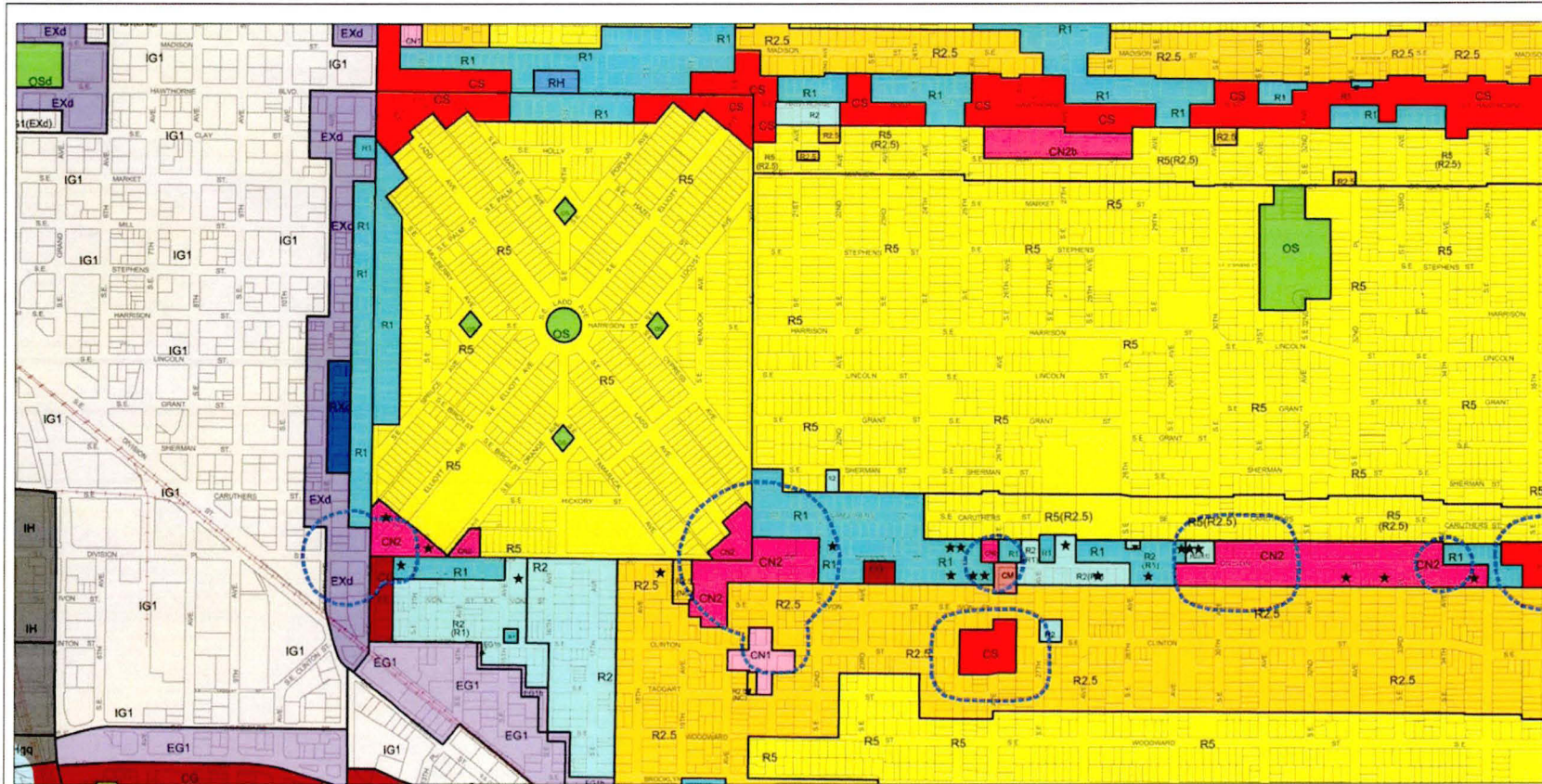
#### LEGEND

- Opportunity Site
- Pedestrian Realm
- Special Node Treatment
- Water/Stormwater Feature
- Bus Stop
- Public Art Opportunity



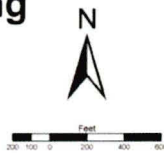
### Existing Zoning

Today, the street is predominantly zoned urban commercial and medium-density residential. These zones allow 4-story buildings built to the front lot line. Very few buildings along Division are built to the allowed densities or height and many buildings are single-family homes.



### Division Street Existing Zoning

**division**  
green street | main street project



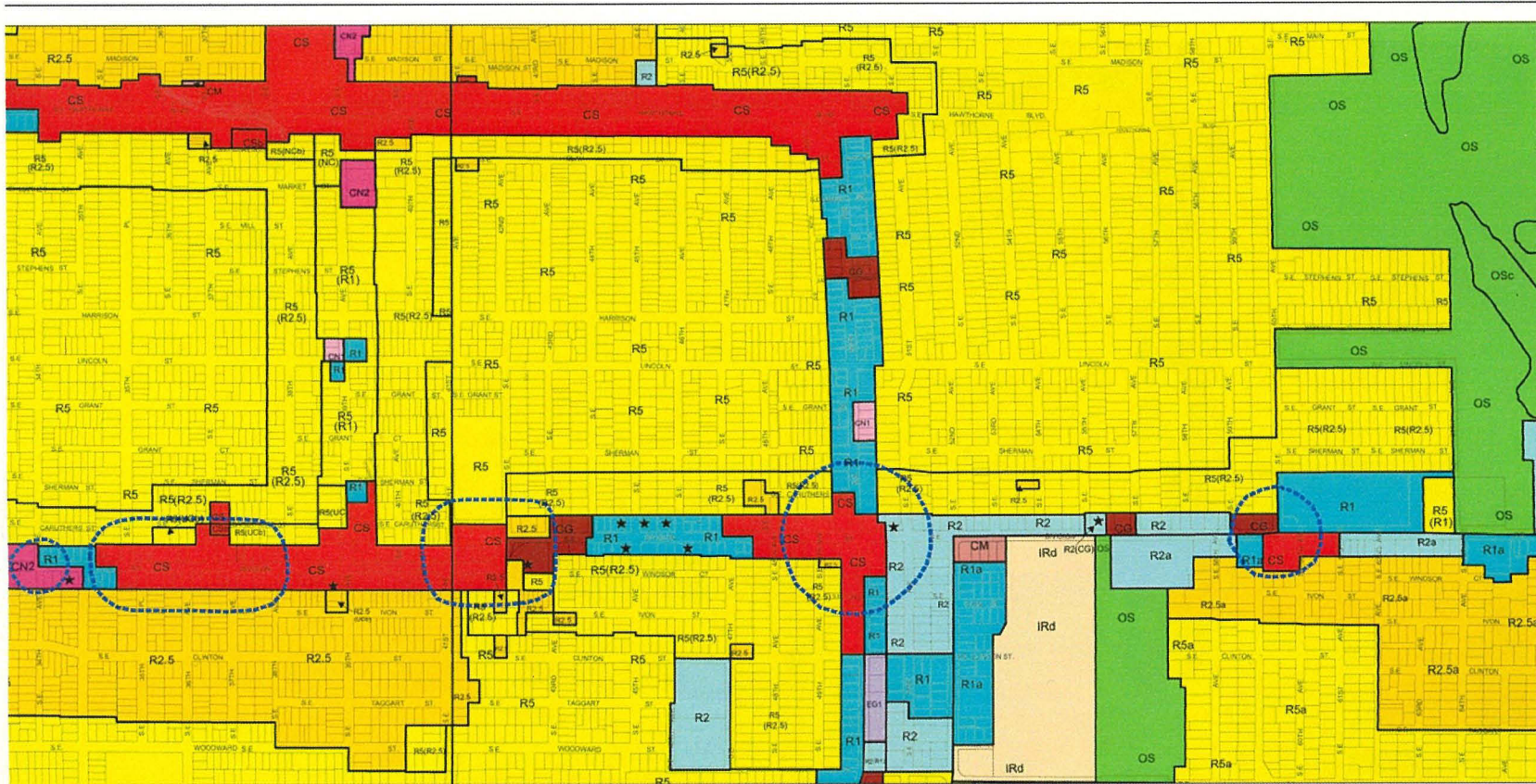
City of Portland / Bureau of Planning / Geographic Information System / August 18, 2005



**INFORMATION SOURCES:**  
 1. Maps, originally produced by Oregon Dept. of Revenue, Modified and updated by Multnomah County Assessment & Taxation and Portland Dept. of Transportation. Updated through Jan 2007 Assessor's - 1:1 scale.  
 2. Land Use  
 Portland State University, October 2004  
 All data compiled from source materials at different scales. For more detail, please refer to the source materials of City of Portland, Bureau of Planning.  
 The information on the map was derived from digital data bases on the City of Portland, Bureau of Planning GIS. Care was taken in the creation of the map but is provided "as is". The City of Portland cannot accept any responsibility for errors, omissions, or outdated data and/or omissions. There are no warranties which accompany this product. However, notification of any errors will be appreciated.



The stars on the map indicate the locations of nonconforming uses. The majority of these nonconforming situations are addressed by the rezoning proposal on the following page.



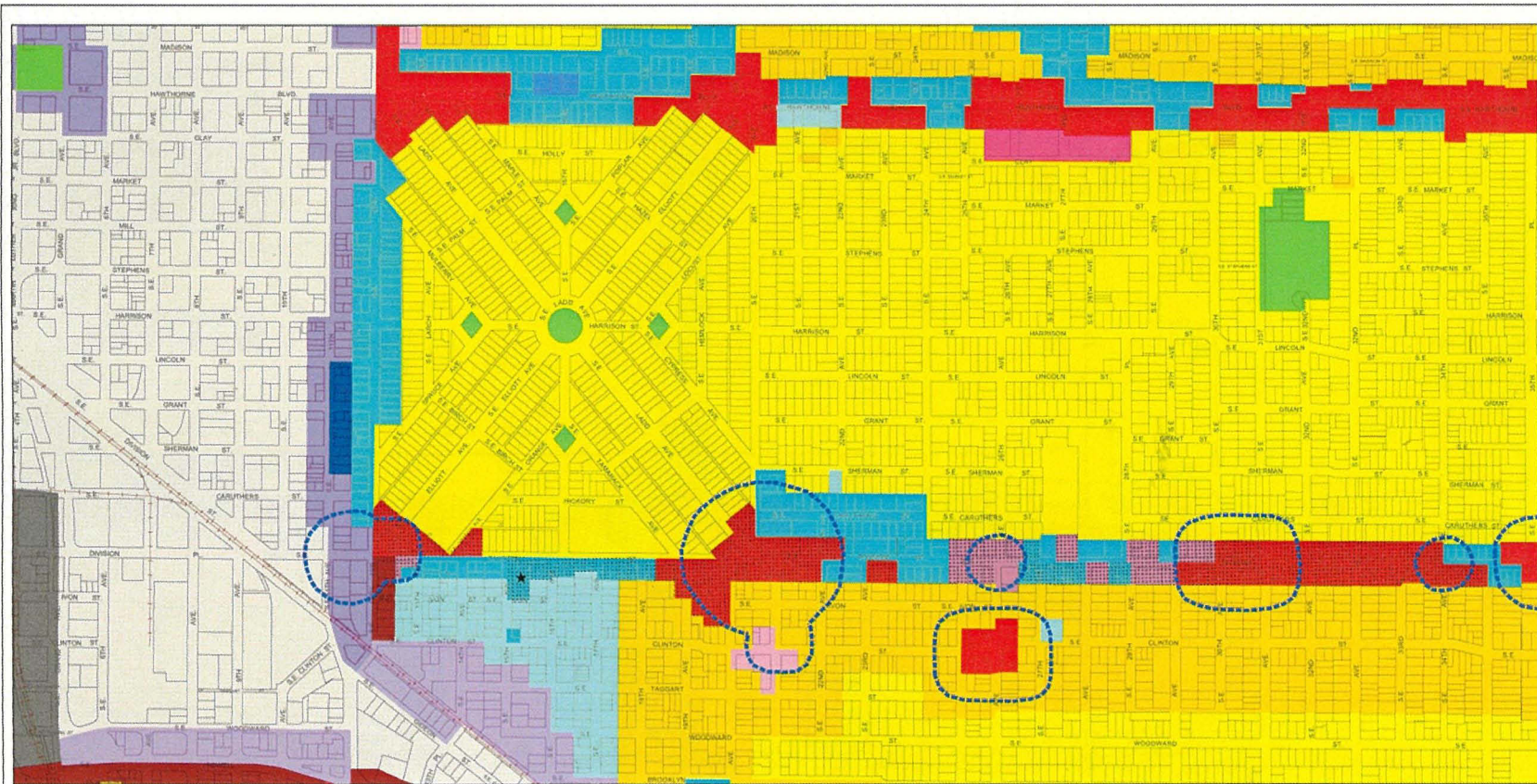
**Legend**

- ★ Non Conforming Use
- ◆ Conceptual Commercial Nodes
- [R5] Existing Zoning w/overlays
- (R2.5) Comprehensive Plan where different from zoning
- Open Space
- Residential 5,000
- Residential 2,500
- Low Density MD 2,000
- Medium Density MD 1,000
- High Density Residential
- Central Residential
- Institutional Residential
- Neighborhood Commercial 1
- Neighborhood Commercial 2
- Storefront Commercial
- Mixed Commercial
- General Commercial
- General Employment 1
- Central Employment
- General Industrial 1
- Heavy Industrial



**Rezoning**

The rezoning proposal has received support from the community, property owners, and business owners along Division. The relatively minor changes provide greater flexibility for designing mixed-use commercial projects on the typical 5,000-square-foot lots along Division. Community members repeatedly expressed concern regarding the building height that is currently allowed for new development on Division.



**Division Street Proposed Zoning**

**Draft**

**division**

green street | main street project



City of Portland / Bureau of Planning / Geographic Information System / August 18, 2005



Area of Interest

**INFORMATION SOURCES**

Tables: Originally produced by Oregon Dept. of Revenue. Modified and updated by Multnomah County Assessment & Finance and Portland Dept. of Transportation Update through Jan. 2003. Assessor - 11-19-04.

Landuse: Portland State University October, 2004.

All data compiled from source materials at different scales. For more detail, please refer to the source materials or City of Portland, Bureau of Planning.

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There is also support for the recent mixed-use development proposals at SE 26<sup>th</sup> and SE 43<sup>rd</sup>, although many would like to see the single-family residences and the older structures preserved. Community members are expressing concerns that the height and architectural style of these new mixed-use projects are inconsistent with the existing neighborhood character.



**Legend**

- |   |                         |                           |                       |                      |
|---|-------------------------|---------------------------|-----------------------|----------------------|
| ★ Non Conforming Use                                  | Open Space              | High Density Residential  | Storefront Commercial | General Industrial 1 |
| Conceptual Commercial Nodes                           | Residential 5,000       | Central Residential       | Mixed Commercial      | Heavy Industrial     |
| R5 Existing Zoning w/overlays                         | Residential 2,500       | Institutional Residential | General Commercial    |                      |
| (R2.5) Comprehensive Plan where different from zoning | Low Density MD 2,000    | Neighborhood Commercial 1 | General Employment 1  |                      |
|   | Medium Density MD 1,000 | Neighborhood Commercial 2 | Central Employment    |                      |



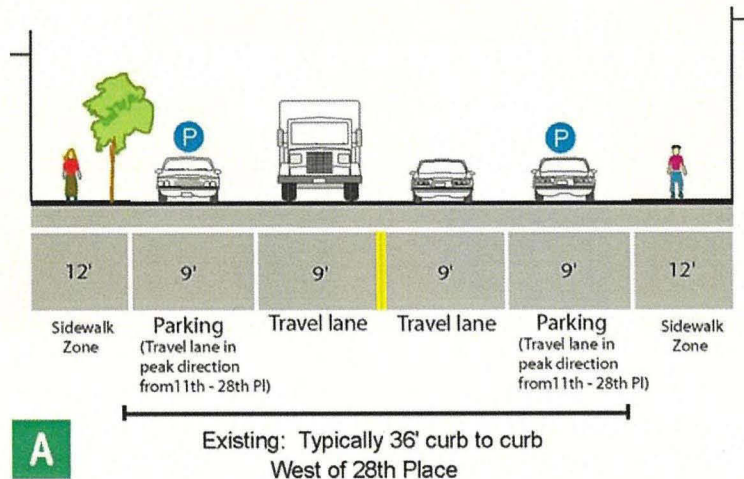
## Transportation

The Division Green Street/Main Street transportation objectives include revitalizing the street from SE 11th to 60th to make it a more transit-oriented, economically vibrant and environmentally sustainable main street. The transportation concept is intended to balance the competing travel demands on Division Street, including traffic, transit, trucks, pedestrians, and bicyclists. In addition, community members want the street to reflect their desire for a sustainable neighborhood and main street by incorporating green infrastructure into Division’s design.

The community identified a number of characteristics of the street that interfere with these desires – traffic volumes and speeds, the presence of pro-time (part time) lanes between SE 11th and 28th Place, inadequate opportunities for pedestrian crossings, and the lack of cohesiveness and pedestrian amenities along the street. Above all, the desire to create a community “place” that would function as the heart and soul of the community is not being realized.

### Existing Conditions

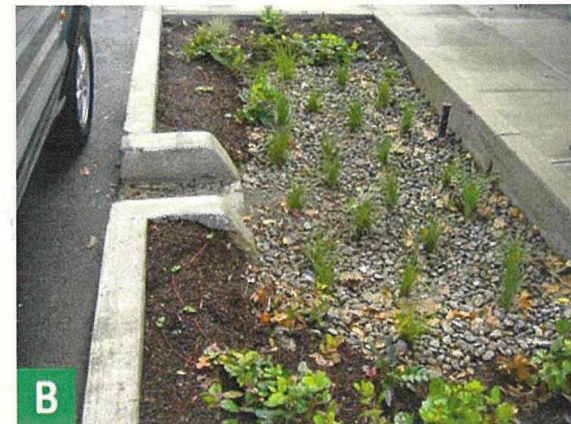
Southeast Division is a 60-foot right-of-way with 36 feet of pavement between curbs. Each weekday, approximately 15,000 vehicles travel on the lower part of Division (west of 30th) and more than 13,500 vehicles travel on the eastern part of the corridor. Congestion occurs at all the major intersections – the 11th/12th couplet, 7 Corners (Division/Ladd/20th/21st), 39th, 50th, and 52nd.



A – Division’s narrow right-of-way includes four 9-foot travel lanes and 12-foot sidewalk zones.  
 B – Incorporating innovative stormwater management techniques was an important consideration.

**During discussions on the transportation concept, a number of objectives were developed in order to evaluate the alternatives:**

- Creating Community Places
- Pedestrian Safety and Comfort
- Bicycle Movement and Safety
- Bus Stops and Travel Times
- On-Street Parking to Support Businesses
- Neighborhood Livability
- Manage Congestion
- Innovative Stormwater Management







One of the most defining characteristics of the corridor is the pro-time lanes. Between SE 11th and SE 28th Place, the parking lane becomes a travel lane for the two-hour peak, in the peak direction – 7 to 9 AM on the north side and 4 to 6 PM on the south side. While these outside lanes are underutilized, they do provide extra capacity and are particularly useful for bus and bicycle movements. Unfortunately, the on-street parking is also underutilized because people do not want to chance leaving a car in the parking lane during the peak period.

The posted speed along Division is generally 25 mph, but there are several school zones along the corridor with varying requirements that reduce speeds to 20 mph. Vehicles are typically going between 28 and 29 mph east of SE 31st and between 29 and 30 mph west of 47th.



Transit service along Division consists of one “frequent service” line, No. 4, and several other lines that cross Division at 11th/12th, 7 Corners, 39th, 50th, and 52nd Avenues. The No. 4 line serves downtown Portland to Gresham with buses every 15 minutes or better during the day. The most heavily used bus stops are at SE 12th and 39th where transfers occur.

Division has a 12-foot wide sidewalk corridor between the curbs and property lines. Typically, this consists of a 12-foot paved sidewalk in commercial areas and a six-foot sidewalk and six-foot planting strip between the curb and the sidewalk in residential areas. All the signalized intersections provide marked pedestrian crossings, and there are additional unsignalized pedestrian crossings at SE 30th, 31st, 41st and 47th Avenues.

- A – The pro-time lanes allow travel in the peak period and on-street parking the rest of the day.
- B – Division has frequent transit service and many transfer opportunities.



The Division corridor is very accessible by bicycle.

SE Division is classified by the City as a City Bikeway from SE 52nd east to the city limits, although no bike lanes exist. Parallel bike boulevards are located to the north on SE Lincoln/Harrison and to the south on SE Clinton/Woodward. An important bicycle connection is located on SE Ladd/SE 21st through the 7 Corners intersection.

### Alternatives Analysis

A number of alternatives for the corridor were analyzed and discussed by the Community Working Group (CWG) and the public. The goal of the alternatives analysis was to see to what extent the pro-time lanes could be removed or modified to allow for improved pedestrian amenities and to slow traffic. The community also identified a number of specific changes at five nodes.

#### Corridor Alternatives

At the April 2 Open House the community weighed in on the following corridor alternatives.

- **Alternative 1:** Improve signal timing and add pedestrian improvements between SE 28th and 60th.
- **Alternative 2:** Improve signal timing, remove pro-time lanes between 20th and 28th Place, add pedestrian improvements between 20th and 60th.
- **Alternative 3:** Improve signal timing, change cross-section between 11th and 28th Place to two travel lanes and a center turn lane, add pedestrian improvements between 11th and 52nd, add bicycle lanes between 52nd and 60th.

The community response was divided. Approximately 35 percent supported Alternatives 1 and 2, and about 21 percent supported Alternative 3. The remainder didn't favor any of the alternatives.





**Node Improvements**

At the April 2 Open House, the following improvements were proposed for five nodes.

**11th and 12th**

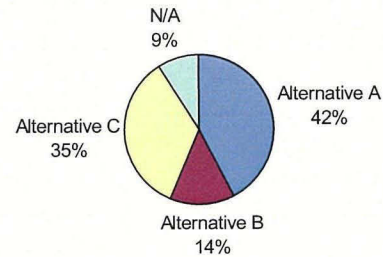
11th and 12th and Division: Remove three on-street parking spaces between 7 AM and 6 PM weekdays (currently the spaces are posted no-parking between 7 and 9 AM and 4 to 6 PM). About 75 percent respondents supported the proposal.

**7 Corners**

(Division/Ladd/20th/21st): 3 options

- A: Improve signal timing and add pedestrian improvements
- B: Pedestrian improvements and remove 21st from the signalized intersection (stop sign control only)
- C: Replace signals with either a single or double roundabout

7 Corners Alternative Liked Best



The community response did not indicate majority support for any of the alternatives: 42 percent supported A, 14 percent supported B, and 35 percent supported C.

**39th Avenue**

39th and Division: Add protected/permissive left turns from Division to 39th. Over 90 percent of respondents supported the proposal.

**42nd Avenue**

The Curve at 42nd and Division: Add a landscaped median, redesign the curve to reduce speeds, add two pedestrian crosswalks through the median, widen sidewalk on south side of Division. Almost 90 percent of respondents supported the proposal.

**50th Avenue**

50th and Division: Add curb extensions on the southeast and northwest corners of the intersection to reduce crossing distances. Approximately 84 percent of respondents supported the proposal.

A – Removing three parking spots in front of Genie’s would help traffic flow at SE 11th.

B – The community was split over the proposed changes for Seven Corners.

C, D – The Curve at 42nd as it is now, and the Curve as it *could be*, with landscaped median and new pedestrian crossings.



### New Corridor Alternatives

Based on the results of the previous workshop and input from the Community Working Group (CWG), two new corridor alternatives were generated. The two new alternatives were modeled and evaluated based on a number of key considerations. The CWG evaluated all of the alternatives on the table and heavily favored the new alternative 2a and voted to carry it forward with two options for 7 Corners – the single roundabout and the pedestrian enhancements. The Technical Advisory Group (TAG) was supportive of these options, but there was also support for the new alternative 4.

- **Alternative 2a:** Eliminate the pro-time lanes completely; include signal timing and pedestrian improvements throughout the corridor.
- **Alternative 4:** Eliminate the pro-time lanes from 13th (north side) and 14th (south side) through 18th; add pedestrian improvements in this section and between 52nd and 60th.

### Alternative 2a:

**Eliminate the pro-time lanes completely, restore full-time parking between 12th and 28th and include signal timing and pedestrian improvements throughout the corridor.**

**Community Places:** This alternative will ‘normalize’ the street, slowing traffic, making the street safer, maximizing on-street parking, and creating a more pedestrian-oriented main street. On the other hand, diversion of traffic, during peak hours, to other streets is likely to occur, primarily to parallel streets between 12th and 30th. While the exact magnitude of the diversion would depend on how the parallel streets operate, the worst case scenario could be 700-1000 vehicles in the 2-hour PM peak period diverting from Division.

**Pedestrians:** Alternative 2a improves access to transit and creates shorter crossing distances at curb extensions. The curb extensions increase sight distance between pedestrians and drivers. Because of the increase in congestion, there will be fewer gaps in traffic for pedestrians to cross but traffic will move very slowly.

**Bicycles:** Bicyclists currently use the pro-time lanes as de facto bike lanes during the peak hours. Removal of the lanes will slow peak hour traffic, which could make it more comfortable, but also more congested. If traffic volumes increase on Clinton to more than 3,000 vehicles per day due to diversion, the existing bike boulevard may need to be converted to bike lanes.

**Transit:** Transit travel times will increase along with increases in congestion. Additional bus zones may be needed to get buses out of traffic at bus stops to allow other vehicles to get through. To maintain frequent service, additional buses may be needed.

### Vehicular Traffic:

- *AM Peak* – Significant queuing and congestion would be caused by the elimination of the second westbound travel lane between 12th and 28th. Queuing is forecast to extend to near 60th by the end of the AM peak hour. Back ups would occur at key north-south streets such as 20th/21st and 26th because vehicles have difficulty turning onto Division due to lack of gaps. The green time for side street traffic will be used by Division Street traffic for most of the cycle, leading to excessive queuing along most key north-south streets under this alternative.
- *PM Peak* – Significant queuing and congestion would be caused by the elimination of the second eastbound travel lane between 12th and 28th. Queuing is forecast to extend along Division to the west of 11th as well as along 11th north of Division. This congestion would affect intersecting streets similar to AM conditions. The 50th and 52nd intersections would continue to operate near capacity under optimized signal timing.

**Parking:** The elimination of pro-time lanes will result in approximately 225 on-street parking spaces being available full-time. The actual number could be less if more bus zones are



## Division Green Street/Main Street Plan

needed to allow buses to get out of the travel lane or where curb extensions are added. There could be a gain in on-street parking east of 28th where curb extensions replace bus zones, and a loss of on-street parking where curb extensions replace parking.

**Alternative 4:**

**Eliminate the pro-time lanes from 13th (north side) and 14th (south side) through 18th and add pedestrian improvements in this section and between 28th and 52nd; add bike lanes between 52nd and 60th.**

**Community Places:** This alternative will provide permanent on-street parking for a 5-block segment but not allow the full range of parking and pedestrian improvements that Alternative 2a provides. The 7 Corners area could not use curb extensions to reduce crossing distances on Division. Traffic would be slowed, but not as much as under Alternative 2a and diversion during the peak hours is not likely.

**Pedestrians:** Alternative 4 improves access to transit and creates shorter crossing distances at curb extensions for a 5-block segment. The curb extensions increase sight distance between pedestrians and drivers. No curb extensions would be added between 18th and 28th.

**Bicycles:** Bicyclists currently use the pro-time lanes as de facto bike lanes during the peak hours. Removal of the lanes will slow peak hour traffic, which could make it more comfortable but also more congested between 13th and 18th. Conditions would remain relatively unchanged between 18th and 28th. If bike lanes are added between 52nd and 60th, existing on-street parking would need to be removed along at least one side of the street.

**Transit:** Transit travel times will increase slightly. There will be improved access to transit at new curb extensions between 14th and 18th.

**Vehicular Traffic:**

- *AM Peak* – With signal timing and modifications at 39th, the westbound congestion and queuing would be limited to within the 42nd curve section, resulting in overall improved corridor operations for the eastern end of the corridor. This alternative is forecast to operate with moderate congestion between 12th and 28th.
- *PM Peak* – This alternative will operate with moderate congestion. Minor signal timing modifications would result in improved operations at all study area intersections except 20th and 52nd, which would be expected to operate with moderate operations and queuing.

**Parking:** There would be a gain of approximately 77 full-time on-street parking spaces between 13th and 18th, although some may need to be removed for new curb extensions. There would be a gain of on-street parking where curb extensions replace bus pullouts, but a loss of on-street parking where curb extensions replace parking.

## Workshop Results

These two new alternatives were combined with the two most popular options for 7 Corners—the single roundabout and signal timing and pedestrian improvements (the CWG eliminated the double roundabout option).

## Remaining 7 Corners Options

### *Roundabout Option*

Replace signals with a single roundabout. The CWG was very interested in a roundabout as a way to create a special place at 7 Corners and incorporate a green area. A single roundabout would have many of same disadvantages as removing 21st from the signal, because 21st would be right-turn only into the intersection. Both buses and bicyclists would be inconvenienced. A double roundabout would address the needs of all modes to traverse the intersection, but significant costs are associated with acquiring additional land to accommodate the design. As a result, it was dropped from further consideration.

### *Enhanced Pedestrian Improvements Option*

Improve signal timing and add pedestrian improvements. This alternative would allow the intersection to operate the same way it does today, but with more emphasis on pedestrian movements. The alternative would “tweak” signal timing to assure that pedestrians had adequate time to cross the street by adding “count down” signals, reconfiguring the Ladd/20th crossing, reducing the curve radius at the west side of 21st, and adding a crossing of Division in the middle of the intersection.

At the June 18 Workshop, the community voted on these four remaining options –

- 2a with a roundabout
- 2a with signal timing and enhanced pedestrian improvements including curb extensions
- 4 with a roundabout
- 4 with signal timing and enhanced pedestrian improvements

The results indicate the majority of workshop participants preferred the package of pedestrian enhancements for 7 Corners over the roundabout. Concerns were raised that the roundabout would not be friendly to pedestrians because there would be no signals to stop traffic. In addition, neither the buses nor the bicyclists would be allowed to follow their current northbound routes from SE 21st to Ladd.

The vote was split on the corridor alternatives, although slightly more people voted for Alternative 4. Many people were concerned about potential congestion resulting from removing the part-time travel lanes entirely and the corresponding diversion onto nearby parallel neighborhood streets. Those who use Clinton as a bicycle boulevard felt strongly that any increased traffic on Clinton should be avoided. However, other community members felt that full-time parking along the full length of Division is better for businesses, makes the street more pleasant for pedestrians, and creates a more successful main street environment. Many participants feel that the part-time travel lanes are unsafe and confusing and should be removed to allow pedestrians to feel comfortable walking on Division.



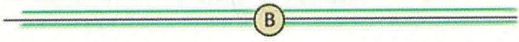
A handout was distributed at the June 18 Workshop to illustrate the two corridor alternatives—2a and 4. The drawing also shows some of the node improvements, the location of new curb extensions, and marked pedestrian crossings.

# Division Street Green Street / Main Street

## Corridor Transportation Alternatives

Open House June 18, 2005

Alternative 2a: Two lanes with full-time parking, 12th-28th Place

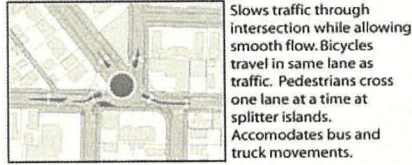
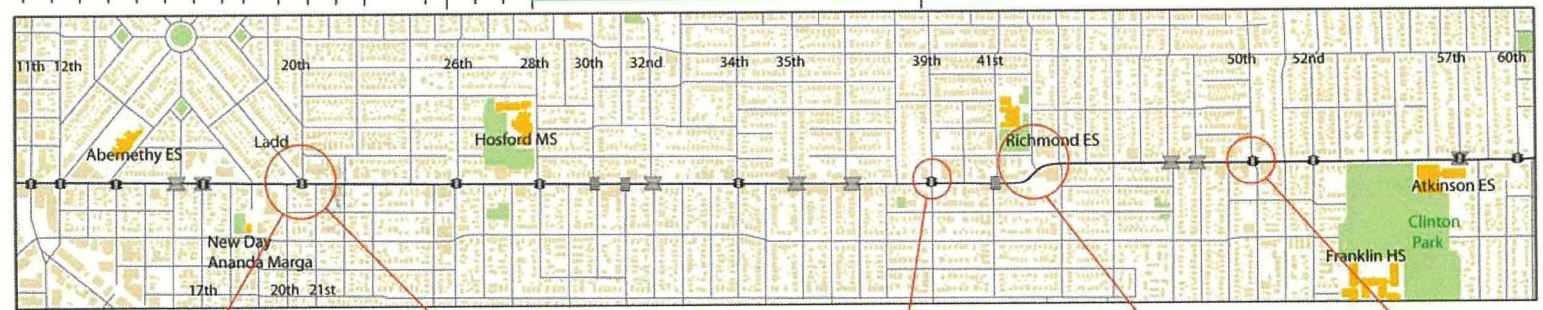


Alternative 4: Full-time parking 13th-18th, part-time parking 18th-28th Place

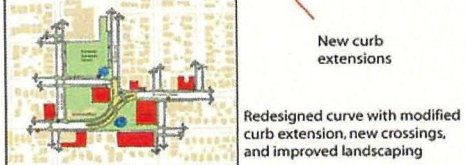


The project has studied a range of transportation alternatives for Division Street. Community input from the April 2 open house, written comments, and subsequent review by the Community Working Group and the Technical Advisory Group has narrowed the proposed alternatives. Two alternatives remain for community discussion and input.

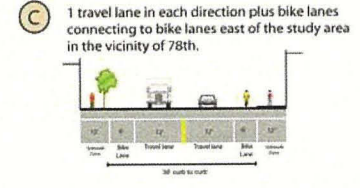
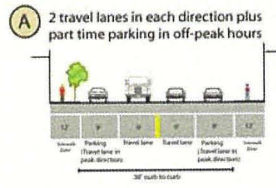
**B** from 28th Place to 52nd except near the Division St/39th intersection  
**B** and **C** are viable options for 52nd to 60th



Protected/permissive left-turn signal phase



**Roadway Cross-Sections**

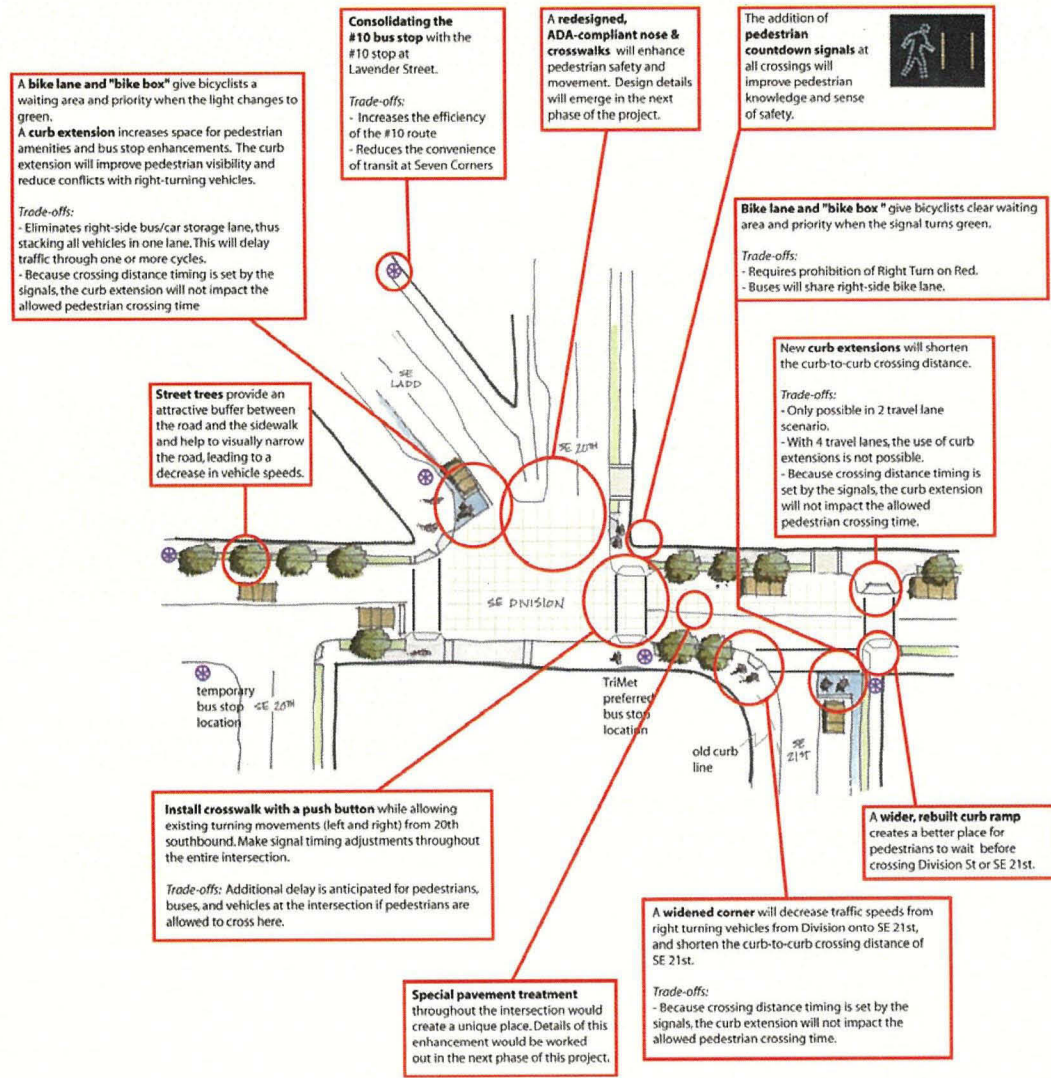


LEGEND	
	Traffic Signal
	Marked Crosswalks
	Potential Curb Extensions
	Part-time Parking
	Full-time Parking



A menu of potential pedestrian and bicycle enhancements show how 7 Corners could change. With Alternative 2a, curb extensions could be added to the pedestrian crossings on Division. If Alternative 4 is the preferred alternative, curb extensions are precluded because of the additional travel lanes.

*Division Street 7 Corners Enhancement Package*



**Preferred Alternatives**

Based on the voting at the workshop, two alternatives will be retained and will be the subject of additional analysis and discussion during the next phase of planning for Division street improvements. These alternatives are:

- **2a with signal timing and pedestrian improvements.**  
Two travel lanes along the entire length of the corridor with full-time parking and curb extensions at locations between 11th and 60th, including at pedestrian crossings at 7 Corners. Add package of enhancements at 7 Corners for pedestrians and bicycles.
- **4 with signal timing and pedestrian improvements**  
Eliminate pro-time (part-time) travel lanes from 13th (north side) and 14th (south side) through 18th and reinstate full-time parking; retain pro-time configuration through 7 Corners and out to 28th Place. Add curb extensions between 28th and 60th. Add package of enhancements at 7 Corners for pedestrians and bicycles except curb extensions.

The next phase of planning will also include further analysis on the feasibility of bicycle lanes between 52nd and 60th. This analysis will include evaluating whether bicycle lanes can be accommodated between 52nd and the existing lanes on Division that begin at 78th/ 80th. The analysis was deferred to the next phase because it was outside the scope of this project.



## Implementation Strategies

This plan does not address every issue or solve every community concern. New challenges constantly arise and old challenges resurface. This plan is an attempt to guide future decisions and identify important opportunities for future work.

The following pages contain specific actions that implement the vision for Division. These flow directly from the project goals and objectives and are meant to inspire the community to make the vision a reality. Some actions will be accomplished by the City, but the most important actions are those that the community embraces and organizes energy towards accomplishing.

The City of Portland will continue to work with the community on plan implementation. Most significantly, the Office of Transportation will begin the Division Streetscape and Reconstruction Project in the fall of 2005. This planning process will identify and prioritize transportation, paving, green street and streetscape improvements between SE 6th and SE 60th. Public involvement for the streetscape and reconstruction project will continue and the Community Working Group will provide input and make recommendations for implementation.

Phase 1 construction of the Division Streetscape and Reconstruction Project will begin in 2007/08. Funds for the initial phase are available for work between SE 6th and SE 39th. Later phases of design and construction along Division Street will occur as funds become available.



## Shared Economy

### FOCUS COMMERCIAL ACTIVITY IN A SERIES OF VILLAGES.

- Orient redevelopment to block corners to help create meeting places.
- Create minor and major gateways using art, small plazas, or buildings to create the sense of entering a place.
- Revitalize existing commercial nodes with storefront enhancements: awnings, lighting, street furnishings, signage, and façade renovations.
- Survey local businesses to understand their shared needs and potential for growth.
- Address nonconforming uses through rezoning to either commercial or mixed use commercial.
- Explore the development of a storefront improvement program for business owners.
- Reinstate full-time parking between 13th and 28th where feasible.

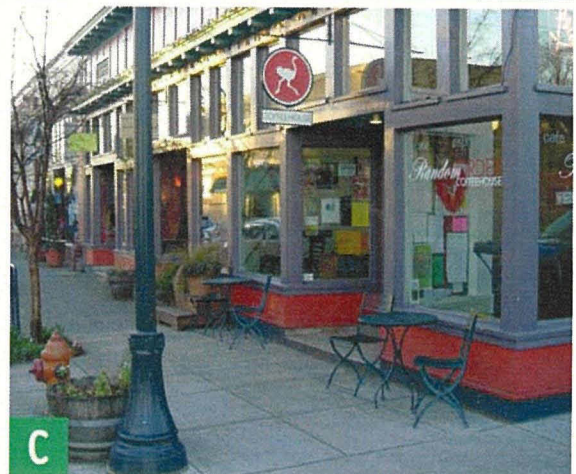
### INTEGRATE A VARIETY OF HOUSING FOR ALL LIFE STAGES.

- Rezone portions of the corridor to mixed-use commercial to encourage housing above commercial.
- Retain a mixture of residential and commercial zoning along corridor to encourage the retention and construction of a variety of housing types for all life stages.

### SUPPORT A HEALTHY LOCAL ECONOMY.

- Develop an outreach program to local firms to encourage increased purchases from local suppliers.
- Develop a long-term investment strategy to carry this vision forward, possibly with Oregon Solutions.
- Work with the school district, Multnomah County and others to identify economic opportunities associated with education and training, family health care, early childhood development programs, and after school care.

A – Building entrance oriented to the corner  
 B – Art as a gateway element  
 C – Improved storefront





## Clean and Green Environment

### RESTORE AND MAINTAIN ENVIRONMENTAL HEALTH.

- Encourage the planting of street trees along Division where appropriate.
- Encourage additional landscaping on all properties along Division, particularly existing parking lots.
- Incorporate innovative stormwater treatments into the street's design and reconstruction.
- Assist property owners (nonprofits, private, and public) with early assessment of potential environmental contamination on sites and also with applying for state or federal grants for detailed assessments and remediation activities.
- Transform the 42nd Avenue curve with a landscaped median to reduce paved areas.

### INTEGRATE GREEN INFRASTRUCTURE/BUILDING INTO THE URBAN LANDSCAPE.

- Build an educational stormwater garden on a school site.
- Develop Division Street as a focus area for pioneering green building and sustainable infrastructure innovations.
- Consider pervious surfaces on private property and in the right-of-way.
- Create a "sidewalk zone" stormwater friendly flyer for permit applicants illustrating low cost approaches to make sidewalk areas more stormwater friendly.
- Develop guidelines for future street improvements, incorporating green infrastructure where practical.

### PROMOTE CLEANER ALTERNATIVES TO DRIVING.

- Install bike parking along the corridor, especially at commercial nodes.
- Evaluate the feasibility of bike lanes between 52nd and 60th as part of the next phase of planning for the corridor.
- Participate in PDOT's Eastside Hub activities, including walks and bike rides.
- Encourage businesses to offer TriMet trip tickets with purchases.
- Encourage neighborhood residents to telecommute.
- Encourage neighborhood residents and employees to shift one trip a week to a mode other than the single-occupant vehicle.
- Recruit neighborhood residents and employees to sign up for carpooling at [www.carpoolmatchnw.com](http://www.carpoolmatchnw.com).

A – Pervious paving material test site on SE Rex Street

B – Recent landscaping and street trees on Division

C – Glencoe School rain garden





## Healthy Community

### COLLABORATE TO ACHIEVE A CONNECTED COMMUNITY.

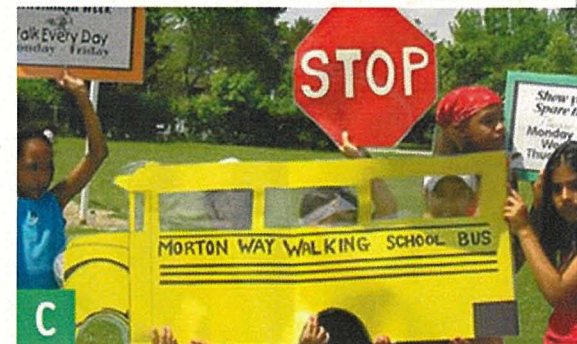
- Promote participation in neighborhood associations, the Division-Clinton Business Association and the DivisionVision Coalition as opportunities for neighbors to come together and support efforts along and near Division Street.
- Provide pedestrian directional signage for neighborhood amenities (OMSI, river, parks, etc.).
- Enhance the connection to Clinton Street along SE 26th Ave with streetscape improvements.
- Promote the Annual Division/Clinton Street Fair.

### ENCOURAGE WALKING AND BICYCLING FOR INDIVIDUAL AND COMMUNITY HEALTH.

- Add curb extensions at the Division and 50th intersection to reduce crossing distances.
- Add curb extensions and marked crossings at key bus stops and crossing locations.
- Distribute biking and walking maps to neighborhood residents.
- Lead neighborhood walks and bike rides, and encourage people to lead healthy lifestyles.
- Encourage walking and biking to school – Safe Routes to School, biking and walking buses.
- Advocate for pedestrian, bicycle, transit and traffic calming improvements along Division Street and throughout the neighborhood.

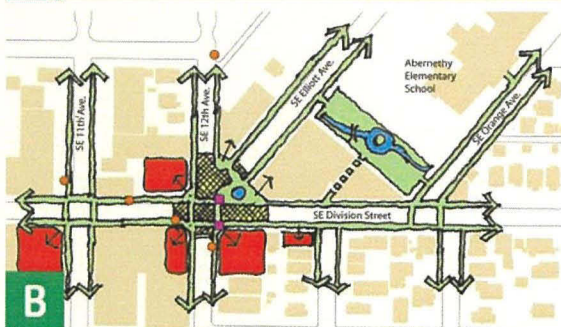
### CREATE A COMMUNITY THAT IS SAFE FOR ALL.

- Construct the proposed street improvements to enhance safety and access along Division for all modes – walking, cycling, transit, driving, and freight delivery.
- Encourage businesses to add lighting to facades and window displays to enhance the street at night.
- Work with PDOT to assess street lighting levels for traffic safety and pedestrian comfort, and add lighting where appropriate.
- Advocate for stronger police enforcement of “stop and stay stopped” laws.
- Work with the BTA to offer bicycle and pedestrian safety training for children at neighborhood schools.
- Create walking and bicycling “buses” to help children get to school safely.



A – Bike box on SE Clinton at 39th  
 B – Pedestrian curb extension at Wild Oats to shorten crossing distances  
 C – Walking school bus





## Making a Place

### EMBRACE AND FOSTER THE EDUCATIONAL LANDSCAPE.

- Increase the visibility of the schools near Division with signs and murals.
- Transform schools into community resources that can house social activities during off-hours.
- Incorporate kids into the community through arts and community events.
- Involve parents, nonparents, and the elderly in the school activities.
- Work with the school district to find ways to increase student achievement in all the schools in the corridor.
- Create an entrance to Abernethy School by enhancing the existing alley at 13th and Division.

### FORGE A UNIQUE IDENTITY THAT UNITES THE DIVISION CORRIDOR.

- Establish an arts program that unites Division Street with music, performance, temporary installations, and public art.
- Incorporate functional art into the street's design and redevelopment.
- Find resources to develop and install artist-designed glass panels in TriMet shelters along Division Street.
- Consider installing street sign caps to establish an identity that links the entire corridor.
- Amend the City Transportation System Plan street design designation for Division to Main Street from 20th to 50th.
- Pursue innovative approaches to addressing building design concerns such as scale, context, quality of materials, and sustainable building techniques.

### TAKE ADVANTAGE OF CULTURAL AND HISTORIC ASSETS – BUILDINGS, PLACES, AND PEOPLE.

- Encourage the renovation and reuse of buildings from the street's historic era to maintain the main street character of Division Street and develop a quality environment.
- Maintain and support the residential character of the neighborhoods surrounding Division.
- Use the realignment of Division at 42nd to create better pedestrian connections to Richmond School.
- Incorporate historical markers or other features that commemorate past events of importance such as the demise of the Mt. Hood freeway proposal.
- Explore opportunities to remove the large commercial billboards.
- Explore a Japanese-influenced rain garden at Richmond School to reflect its educational focus.

- A – Division residents promote art along the street
- B – Create new connection to Abernethy using existing right-of-way
- C – Ford building at 11th



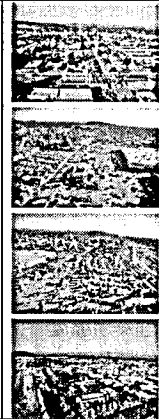
# Gateway Regional Center Update

Metro Council  
September 2005



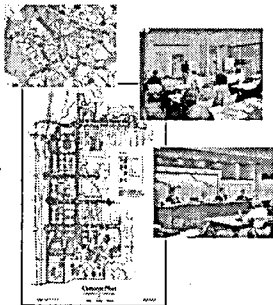
## Overview

- Background
- Recent/Current Projects
- Issue: Demographics
- Issue: Upland Habitat
- How Can Metro Help?

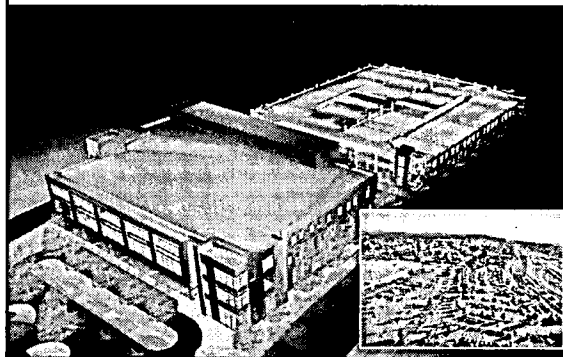


## Background

- Metro 2040 Plan (1995)
- Outer Southeast Community Plan (1996)
- Opportunity Gateway (1997)
- Program Advisory Committee (1998)
- Urban Renewal District (2001)



## Gateway Transit Center



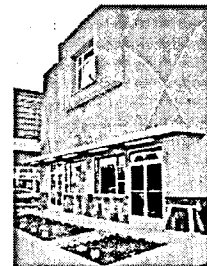
## Physician's Hospital

- Formerly Woodland Park Hospital
- PDC provided loan funds to re-open as Physician's Hospital
- 205 permanent jobs



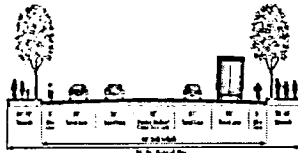
## Storefront Improvements

- 12 grants given to small businesses for exterior upgrades
- Geographic boundary includes Halsey/Weidler and Stark/Washington couplets



## 102<sup>nd</sup> Avenue Improvements

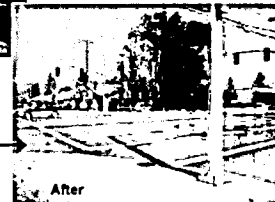
- Pedestrian and bicycle improvements
- MTIP grant and other federal funds earmarked
- Construction in early 2007



## 99<sup>th</sup> and Glisan Re-Alignment



Formerly dangerous "dogleg" intersection



Straightened intersection with trees and bike lanes

## New Housing

New, quality rental and ownership units being built in Gateway



## Changing Demographics

- Gateway's proportion of children (25% of population) and seniors (15%) is greater than the City's and growing faster
- Increased ethnic diversity creates new challenges for public involvement



## Loss of Upland Habitat

- Gateway at the top of a watershed
- Loss of trees = loss of benefits: erosion control, stormwater capture, habitat value, quality of life
- Need efforts and incentives to preserve upland habitat



## How Can Metro Help?

- Continue TOD and MTIP program funding in Gateway
- Increase staff participation in urban renewal activities
- Develop incentives to retain upland habitat
- Support urban green/open spaces in Centers



### **Other Interests: 122<sup>nd</sup> Avenue**

- **Main St. designation with challenges:**

- Integrating new transit-oriented development with existing fabric



- Balancing ped safety and amenities with traffic needs



- Maintaining/enhancing "green" as the area develops