

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: December 8, 2005
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. BLUE RIBBON COMMITTEE PRESENTATION

4. CONSENT AGENDA

- 4.1 Consideration of Minutes for the December 1, 2005 Metro Council Regular Meeting.
- 4.2 **Resolution No. 05-3614**, Authorizing the Chief Operating Officer to Renew a Non-System License Issued to Willamette Resources, Inc., for Delivery of Putrescible Solid Waste to the Coffin Butte Landfill.
- 4.3 **Resolution No. 05-3615**, Authorizing the Chief Operating Officer to Issue a New Non-System License to B & J Garbage Company for Delivery of Putrescible Solid Waste to the Canby Transfer and Recycling Facility for Transfer to the Riverbend Landfill.
- 4.4 **Resolution No. 05-3622**, Authorizing the Chief Operating Officer to Issue a New Non-System License to West Linn Refuse & Recycling, Inc. for Delivery of Putrescible Solid Waste to the Canby Transfer and Recycling Facility for Transfer to the Riverbend Landfill.
- 4.5 **Resolution No. 05-3635**, Authorizing the Chief Operating Officer to Renew a Non-System License Issued to Epson Portland, Inc., for Delivery of Putrescible Solid Waste to the Covanta Waste-to-Energy Facility.
- 4.6 **Resolution No. 05-3636**, Authorizing the Chief Operating Officer to Renew a Non-System License Issued to Pride Recycling Company for Delivery of Putrescible Solid Waste to the Riverbend Landfill.

- 4.7 **Resolution No. 05-3639**, Authorizing the Chief Operating Officer to Renew a Non-System License Issued to Crown Point Refuse & Recycling Services, Inc. for Delivery of Putrescible Solid Waste to the Wasco County Landfill.
- 4.8 **Resolution No. 05-3640**, Authorizing the Chief Operating Officer to Renew a Non-System License Issued to American Sanitary Service Inc. for Delivery of Putrescible Solid Waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center.
- 4.9 **Resolution No. 05-3641**, For the Purpose of Authorizing the Chief Operating Officer to Renew a Non-System License Issued to Arrow Sanitary Service, Inc. for Delivery of Putrescible Solid Waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center.
- 4.10 **Resolution No. 05-3642**, Authorizing the Chief Operating Officer to Renew a Non-System License Issued to the Forest Grove Transfer Station for Delivery of Putrescible Solid Waste to the Riverbend Landfill.

5. ORDINANCES - SECOND READING

- 5.1 **Ordinance No. 05-1097**, Amending the Metro Habitat Conservation Areas Map and Other Maps Related to Title 13 of the Urban Growth Management Functional Plan; and Declaring an Emergency. Liberty

6. RESOLUTIONS

- 6.1 **Resolution No. 05-3648**, Adopting the Hearings Officer's Proposed Order And Authorizing the Chief Operating Officer to Issue a Final Order Affirming the Conditions Set Forth in Paragraphs 3.8, 3.9 and 5.2 of Solid Waste Facility License No. L-109-05, Issued to Greenway Recycling, Inc. (*Hearing Time Certain:3:30pm*) Burkholder
- 6.2 **Resolution No. 05-3647**, For the Purpose of Approving a Consultant Contract for the Lake Oswego to Portland Transit Alternatives Analysis. Newman
- 6.3 **Resolution No. 05-3650**, For the Purpose of Appointing Christopher P. Smith as a Multnomah County Citizen Member to the Metro Policy Advisory Committee (MPAC). Burkholder

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for Dec. 8, 2005 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.yourtvvtv.org -- (503) 629-8534 2 p.m. Thursday, Dec. 8 (live)	Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, Dec. 10 11 p.m. Sunday, Dec. 11 6 a.m. Tuesday, Dec. 13 4 p.m. Wednesday, Dec. 14
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.
Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmtv.org -- (503) 288-1515 8:30 p.m. Sunday, Dec. 11 2 p.m. Monday, Dec. 12	

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 and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER	)	RESOLUTION NO. 05-3614
TO RENEW A NON-SYSTEM LICENSE ISSUED TO)	
WILLAMETTE RESOURCES, INC., FOR DELIVERY	)	Introduced by Michael Jordan,
OF PUTRESCIBLE SOLID WASTE TO THE COFFIN	)	Chief Operating Officer, with the
BUTTE LANDFILL	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Willamette Resources, Inc., (WRI) currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Coffin Butte Landfill, which license will expire on December 31, 2005; and,

WHEREAS, WRI has applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized and directed to issue a non-system license to WRI in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

Number N-005-005(3)

LICENSEE:
Willamette Resources, Inc. 10295 SW Ridder Rd. Wilsonville, OR 97070
CONTACT PERSON:
Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com
MAILING ADDRESS:
10295 SW Ridder Rd. Wilsonville, OR 97070

METRO

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

Signature

Michael Jordan, Solid Waste & Recycling
Director

Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Solid waste, including putrescible waste, generated within the boundaries of Metro.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 45,000 tons per calendar year of the waste described in section 1 of this license.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the solid waste specified to the following facility only, which is a non-system facility for the disposal of putrescible waste:</p> <p style="text-align: center;">Coffin Butte Landfill 28972 Coffin Butte Road Corvallis, OR 97330</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the Coffin Butte Landfill authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 be transferred to, and disposed of at, a facility other than the facility described in section 3, above.(d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:<ul style="list-style-type: none">(i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and(ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days

	<p>written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the Coffin Butte Landfill. Transfer of waste generated from within the Metro boundary to any non-system facility other than the Coffin Butte Landfill is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3614 AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO WILLAMETTE RESOURCES, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COFFIN BUTTE LANDFILL

November 4, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3614 will authorize the Chief Operating Officer to renew a two-year non-system license (NSL) to Willamette Resources, Inc. ("WRI"), to annually deliver up to a maximum of 45,000 tons of mixed solid waste, including putrescible waste, to the Coffin Butte Landfill located in Corvallis, Oregon. The WRI facility is located in Wilsonville, Oregon (Metro District 3). WRI's current two-year NSL to deliver mixed solid waste to the Coffin Butte Landfill expires on December 31, 2005. Metro first issued such a two-year NSL to WRI in 2000. The license was renewed in 2002 and renewed again in 2004.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

The issuance of NSLs for putrescible waste is subject to approval by the Council. Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Coffin Butte Landfill (CBLF) first came into use during the 1940s or 50s when it served as the landfill for the nearby Adair Village Military base. Later, the landfill accepted industrial wastes from the Wah Chang facility located in Albany, Oregon. When the CBLF became a Subtitle D landfill in 1992, the original unlined cells were capped. However, there remains a problem of leachate contamination of groundwater that is presently being monitored by the DEQ. Since 1992, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). (The Coffin Butte Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Coffin Butte Landfill is permitted by the DEQ to take unlimited amounts of authorized wastes (putrescible, non-putrescible, special and cleanup wastes). DEQ issued a NON to the facility in July

2001 when high levels of non-methane gases were detected in the landfill gas power generation system. The landfill promptly remedied the problem. This was considered to be a relatively minor violation; both DEQ and Benton County consider the landfill to be a well-run facility that is in compliance with federal, state and local requirements. Benton County and the landfill executed an agreement in December 2000 establishing the parameters to be monitored by the Benton County Environmental Health Division, and authorizing the landfill to accept quantities of waste consistent with the DEQ permit. The facility has a good compliance record with public health, safety and environmental rules and regulations. The Coffin Butte Landfill became a designated facility for acceptance of non-putrescible waste in November of 2002.

(3) *The adequacy of operational practices and management controls at the non-system facility;*

The Coffin Butte Landfill uses operational practices and management controls that are required by the DEQ for a Subtitle D landfill¹ and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

(4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste to be covered by the proposed license is putrescible waste and post-recovery residual. WRI already performs recovery on non-putrescible commercial and industrial waste at an average recovery rate higher than 25 percent. Approval of the license is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. WRI seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. WRI's current NSL is one of several that expire at the end of 2005

For the current calendar year, the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills is estimated to be less than ten percent of Metro waste delivered to general purpose landfills based on a projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills this year. The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract. WRI has applied for a renewal at its existing tonnage.

Metro has previously granted tonnage authorizations to NSL applicants on a first-come, first-served basis as a method for allocating the portion of the wastestream not obligated under Metro's disposal contract with Waste Management. So far, NSL tonnage requests have never exceeded the tonnage available. If it were to become necessary to reduce existing NSL tonnage allocations in order to remain in compliance with Metro's disposal contract, Metro would rescind such allocations in the reverse order with the last allocation granted being the first withdrawn.

Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

¹ RCRA (Resource Conservation and Recovery Act) is the federal law that regulates hazardous and solid waste in the U.S.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

WRI and United Disposal Service have a joint NSL authorizing delivery of a maximum of 5,500 tons of waste to the Covanta waste-to-energy facility located in Marion County, Oregon. In FY 2002-03 the tonnage cap on this NSL was exceeded by 3,531 tons. Metro did not issue a formal Notice of Violation. In FY 2003-04 the cap on this NSL was exceeded again, this time by 243 tons. For the second incident WRI was issued a formal notice of violation but no fine was imposed.

In addition, WRI has twice violated its solid waste facility franchise tonnage cap. The first time was in calendar year 1999 when WRI exceeded its 50,000-ton cap by 2,219 tons. For this violation, WRI was issued a formal notice of violation and fined \$2,219. WRI contested the penalty, which was upheld by a hearings officer and the Metro Council, and WRI paid the fine. The second violation occurred in fiscal year 2002-03 after the tonnage cap had been increased to 65,000 tons and changed from a calendar year to a fiscal year basis. In this incident WRI exceeded its cap by 1,246 tons. Metro responded by issuing a formal notice of violation and imposing a fine of \$6,000. WRI paid the second penalty without contesting Metro's decision.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

WRI has another NSL to deliver the same type of waste to the Riverbend Landfill. In 2002, WRI shifted its waste flow to the Riverbend Landfill toward the end of the year after reaching the cap on its Coffin Butte Landfill NSL. WRI has indicated to Metro staff that it intends to do so again this year.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 05-3614 will be to issue an NSL for delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill. This would be a replication of WRI's current NSL with no changes. However, by submitting its application so early, WRI has reduced the Council's window of opportunity to consider all applications together by more than seven weeks.

Based on NSL tonnage trends for the current year, staff presumes that the 90 percent obligation under Metro's disposal contract will be met. However, if trends were to change such that Metro's ability to meet this obligation comes into question, the COO would reduce the authorized tonnages of all NSLs in order to assure that the contract provisions are not violated.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all this NSL will result in a total tonnage authorization identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

Despite receiving the application 172 days prior to the current NSL's expiration date (52 days early), the Chief Operating Officer recommends approval of Resolution No. 05-3614, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER)	RESOLUTION NO. 05-3615
TO ISSUE A NEW NON-SYSTEM LICENSE TO B & J)	
GARBAGE COMPANY FOR DELIVERY OF	)	Introduced by Michael Jordan,
PUTRESCIBLE SOLID WASTE TO THE CANBY	)	Chief Operating Officer, with the
TRANSFER & RECYCLING FACILITY FOR	)	concurrence of David Bragdon,
TRANSFER TO THE RIVERBEND LANDFILL	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, B & J Garbage Company ("B&J") has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to B&J in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

Number N-118-05

LICENSEE:
B & J Garbage Company 1600 SE 4 th Ave. Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-Mail: andy@kbrecycling.com
MAILING ADDRESS:
PO Box 1110 Canby, OR 97013

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Non-recoverable loads of solid waste, including putrescible waste, generated within the boundaries of Metro and collected by West Linn Refuse & Recycling, Inc. The Licensee is prohibited from delivering uncompacted drop box loads of solid waste generated within the Metro boundary to any non-system facility.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 5,000 tons per calendar year of the waste described in section 1 of this license.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 4th Ave. Canby, OR 970130</p> <p>All solid waste delivered to the above listed non-system facility under authority of this license must be subsequently transferred to the Riverbend Landfill located in McMinnville, Oregon, for disposal.</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none"> (a) The permissive transfer of solid waste to the Canby Transfer & Recycling, Inc. facility authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility. (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice. (c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that: <ul style="list-style-type: none"> (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license, (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 be transferred to, and disposed of at, a facility other than the facility described in section 3, above. (d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code. (e) No later than the fifteenth (15th) day of each month, beginning with the

	<p>next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the Canby Transfer & Recycling, Inc. facility. Transfer of waste generated from within the Metro boundary to any non-system facility other than the Canby Transfer & Recycling, Inc. facility is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any</p>

	litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.
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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3615 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO B & J GARBAGE COMPANY FOR DELIVERY OF SOLID WASTE TO THE CANBY TRANSFER & RECYCLING FACILITY FOR TRANSFER TO THE RIVERBEND LANDFILL

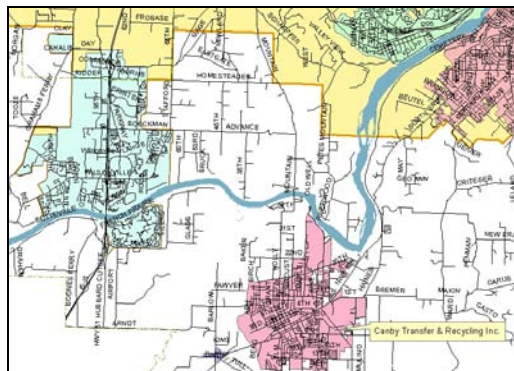
November 4, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

On July 19, 2005, Metro received from Fred Kahut two applications for new NSLs. The applications were filed on behalf of two in-region hauling companies operated by Mr. Kahut, B & J Garbage Company and West Linn Refuse & Recycling, Inc. Each application requests authority to deliver putrescible solid waste from within the Metro region to the Canby Transfer & Recycling facility ("CTR"), which is also owned and operated by Mr. Kahut, from which such waste will be consolidated for disposal at the Riverbend Landfill. The application that is the subject of this staff report requests authority to deliver 5,000 tons annually from B & J Garbage Company. The other application requests authority to deliver 9,000 tons annually from West Linn Refuse & Recycling, Inc. and is presented in a separate staff report.



ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to issuance of the proposed non-system license.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed non-system facility is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996

and services only affiliated hauling companies. Staff is not aware of any wastes accepted at CTR that could pose a risk of environmental contamination.



Entrance – Canby TS



Tipping Building – Canby TS



Stormwater Swale – Canby TS

Ultimate disposal will be at the Riverbend Landfill, a Waste Management-owned company. The Riverbend Landfill first came into use during the mid-eighties. When Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfiling wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

CTR is permitted by the Oregon Department of Environmental Quality (DEQ). As part of the process of evaluating this application, both the Duane Altig with the DEQ and John Williams, the City of Canby's Community Development & Planning Director were contacted. Mr. Altig confirmed that the facility has remained in compliance with federal and state requirements and has a good compliance record with public health, safety and environmental rules and regulations. Mr. Williams confirmed that the facility also has a good compliance record with local requirements.

The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations. Metro has previously issued several NSLs authorizing the delivery of solid waste to this facility.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

CTR uses operational practices and management controls that are typical of modern transfer stations. Metro staff inspected the facility and found it to be clean and well-organized.

CTR, in turn, delivers the waste it processes to the Riverbend Landfill. The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste that the applicant has applied to deliver under the proposed NSL is solid waste, including putrescible waste, from both residential and commercial hauling routes. Such waste has little recovery potential. Any non-putrescible commercial loads suitable for recovery will be delivered to the KB

Recycling facility in Clackamas. Thus, the granting of the proposed NSL is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. (WMO). The proposed license requires all solid waste delivered to CTR under authority of the license to be transferred to the Riverbend Landfill, which is a WMO facility, for disposal. Thus, approval of the requested license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

(6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant operates KB Recycling, a Metro-licensed material recovery facility, as well as CTR. Both facilities are regarded by their authorizing agencies (Metro, DEQ, and the City of Canby) as well-run and have had a good compliance record with all public health, safety, and environmental rules and regulations.

(7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The applicant listed no potential benefits or justifications for the NSL request other than the fact that CTR and B&J are affiliated companies. The B&J trucks that service this franchise area are parked at a location in Clackamas after completing their daily routes.

3. Anticipated Effects

The anticipated effects of Resolution No. 05-3615 will be for B&J Garbage Company to deliver up to 5,000 tons of solid waste per year to the Riverbend Landfill via CTR with an accompanying negative impact on Metro ratepayers as described below under Budget Impacts.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to CTR under authority of the proposed NSL. The combined budget impact of approving both the B&J Garbage (5,000 tons) and the West Linn Refuse & Recycling (9,000 tons) NSLs would be to increase the cost of the remaining Metro tonnage by approximately \$100,000 per year. If Metro passed this increase onto ratepayers this would amount to a tip fee increase of about 20 cents per ton, and if the other transfer stations were to match such a tip fee increase, then the cost to ratepayers would double to about \$200,000 per year.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3615, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER	)	RESOLUTION NO. 05-3622
TO ISSUE A NEW NON-SYSTEM LICENSE TO WEST)	
LINN REFUSE & RECYCLING, INC. FOR DELIVERY	)	Introduced by Michael Jordan,
OF PUTRESCIBLE SOLID WASTE TO THE CANBY	)	Chief Operating Officer, with the
TRANSFER & RECYCLING FACILITY FOR	)	concurrence of David Bragdon,
TRANSFER TO THE RIVERBEND LANDFILL	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, West Linn Refuse & Recycling, Inc., ("WLR") has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to WLR in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

Number N-119-05

LICENSEE:
West Linn Refuse & Recycling, Inc. 1600 SE 4 th Ave. Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-Mail: andy@kbrecycling.com
MAILING ADDRESS:
PO Box 1285 Canby, OR 97013

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Non-recoverable loads of solid waste, including putrescible waste, generated within the boundaries of Metro and collected by West Linn Refuse & Recycling, Inc. The Licensee is prohibited from delivering uncompacted drop box loads of solid waste generated within the Metro boundary to any non-system facility.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 9,000 tons per calendar year of the waste described in section 1 of this license.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 4th Ave. Canby, OR 970130</p> <p>All solid waste delivered to the above listed non-system facility under authority of this license must be subsequently transferred to the Riverbend Landfill located in McMinnville, Oregon, for disposal.</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the Canby Transfer & Recycling, Inc. facility authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 be transferred to, and disposed of at, a facility other than the facility described in section 3, above.(d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

	<p>(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the Canby Transfer & Recycling, Inc. facility. Transfer of waste generated from within the Metro boundary to any non-system facility other than the Canby Transfer & Recycling, Inc. facility is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all</p>

	attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.
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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3622 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO WEST LINN REFUSE & RECYCLING, INC. FOR DELIVERY OF SOLID WASTE TO THE CANBY TRANSFER & RECYCLING FACILITY FOR TRANSFER TO THE RIVERBEND LANDFILL

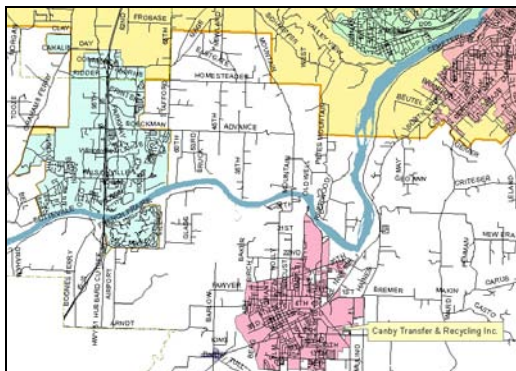
November 7, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

On July 19, 2005, Metro received from Fred Kahut two applications for new NSLs. The applications were filed on behalf of two in-region hauling companies operated by Mr. Kahut, West Linn Refuse & Recycling, Inc. and B & J Garbage Company. Each application requests authority to deliver putrescible solid waste from within the Metro region to the Canby Transfer & Recycling facility (“CTR”), which is also owned and operated by Mr. Kahut, from which such waste will be consolidated for disposal at the Riverbend Landfill. The application that is the subject of this staff report requests authority to deliver 9,000 tons annually from West Linn Refuse & Recycling, Inc. The other application requests authority to deliver 5,000 tons annually from B & J Garbage Company and is presented in a separate staff report.



ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to issuance of the proposed non-system license.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed non-system facility is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996

and services only affiliated hauling companies. Staff is not aware of any wastes accepted at CTR that could pose a risk of environmental contamination.



Entrance – Canby TS



Tipping Building – Canby TS



Stormwater Swale – Canby TS

Ultimate disposal will be at the Riverbend Landfill, a Waste Management-owned company. The Riverbend Landfill first came into use during the mid-eighties. When Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfiling wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

CTR is permitted by the Oregon Department of Environmental Quality (DEQ). As part of the process of evaluating this application, both the Duane Altig with the DEQ and John Williams, the City of Canby's Community Development & Planning Director were contacted. Mr. Altig confirmed that the facility has remained in compliance with federal and state requirements and has a good compliance record with public health, safety and environmental rules and regulations. Mr. Williams confirmed that the facility also has a good compliance record with local requirements.

The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations. Metro has previously issued several NSLs authorizing the delivery of solid waste to this facility.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

CTR uses operational practices and management controls that are typical of modern transfer stations. Metro staff inspected the facility and found it to be clean and well-organized.

CTR, in turn, delivers the waste it processes to the Riverbend Landfill. The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste that the applicant has applied to deliver under the proposed NSL is solid waste, including putrescible waste, from both residential and commercial hauling routes. Such waste has little recovery potential. Any non-putrescible commercial loads suitable for recovery will be delivered to the KB

Recycling facility in Clackamas. Thus, the granting of the proposed NSL is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. (WMO). The proposed license requires all solid waste delivered to CTR under authority of the license to be transferred to the Riverbend Landfill, which is a WMO facility, for disposal. Thus, approval of the requested license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

(6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant operates KB Recycling, a Metro-licensed material recovery facility, as well as CTR. Both facilities are regarded by their authorizing agencies (Metro, DEQ, and the City of Canby) as well-run and have had a good compliance record with all public health, safety, and environmental rules and regulations.

(7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The applicant listed no potential benefits or justifications for the NSL request other than the fact that CTR and WLR are affiliated companies. The WLR trucks that service this franchise area are parked at CTR after completing their daily routes.

3. Anticipated Effects

The anticipated effects of Resolution No. 05-3622 will be for West Linn Refuse & Recycling, Inc. to deliver up to 9,000 tons of solid waste per year to the Riverbend Landfill via CTR with an accompanying negative impact on Metro ratepayers as described below under Budget Impacts.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to CTR under authority of the proposed NSL. The combined budget impact of approving both the B&J Garbage (5,000 tons) and the West Linn Refuse & Recycling (9,000 tons) NSLs would be to increase the cost of the remaining Metro tonnage by approximately \$100,000 per year. If Metro passed this increase onto ratepayers this would amount to a tip fee increase of about 20 cents per ton, and if the other transfer stations were to match such a tip fee increase, then the cost to ratepayers would double to about \$200,000 per year.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3622, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER	)	RESOLUTION NO. 05-3635
TO RENEW A NON-SYSTEM LICENSE ISSUED TO)	
EPSON PORTLAND, INC., FOR DELIVERY OF	)	Introduced by Michael Jordan,
PUTRESCIBLE SOLID WASTE TO THE COVANTA	)	Chief Operating Officer, with the
WASTE-TO-ENERGY FACILITY	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Epson Portland, Inc., ("Epson") currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Covanta Waste-to-Energy Facility, which license will expire on December 31, 2005; and

WHEREAS, Epson has delivered solid waste to the Covanta Facility for disposal under a similar NSL since January 2000; and

WHEREAS, Epson has applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized and directed to issue a non-system license to Epson in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 05-3635

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 797 1795



METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-028-05

LICENSEE:
Epson Portland, Inc. 3950 NW Alclek Place Hillsboro, OR 97124
CONTACT PERSON:
Kimberley Sackman Phone: (503) 617-5462 Fax: (503) 617-6746 E-mail: kimberley.sackman@epi.epson.com
MAILING ADDRESS:
3950 NW Alclek Place Hillsboro, OR 97124

METRO

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

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer
Print name and title

Print name and title

Date

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Non-hazardous industrial solid waste generated at the Epson Portland site located at 3950 N.W. Alcolek Place, Hillsboro, OR, 97214. Such waste will consist of primarily non-recoverable mixed plastics. Up to 10 percent may consist of restroom and food waste.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 125 tons per calendar year of the waste described in section 1, above.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only:</p> <p style="text-align: center;">Covanta Waste-to-Energy Facility 4850 Brooklake Rd. NE Brooks, OR 97305</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to Covanta Waste-to-Energy Facility authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in section 3, above.(d) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.(e) No later than the fifteenth (15th) day of each month, beginning with the

	<p>next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the Covanta Waste-to-Energy Facility. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the Covanta Waste-to-Energy Facility is prohibited unless authorized in writing by Metro.</p> <p>(h) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3.</p> <p>(i) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3635 AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO EPSON PORTLAND, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY

November 2, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3635 will authorize the Chief Operating Officer to issue a two-year non-system license (NSL) to Epson Portland, Inc., (Epson) to annually deliver up to 125 tons of mixed solid waste, including putrescible waste, to the Covanta Waste-to-Energy facility located in Brooks, Oregon. This will be similar to NSLs that Epson has held since January 2000. Such waste was largely comprised of industrial mixed plastics with up to ten percent restroom and food waste. Although more costly, Epson has sought to send its non-recyclable solid waste to energy recovery rather than landfilling in keeping with its corporate policy to manage its waste in the most environmentally sound manner. Epson is a manufacturing facility located in Hillsboro, Oregon (Metro District 4). Its current two-year license to deliver mixed solid waste to the Covanta facility will expire on December 31, 2005.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

The Covanta facility is a non-system disposal facility. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize this facility.

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed disposal site is a waste-to-energy facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. A baghouse system minimizes emissions to the air and ash is disposed at a permitted monofill.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Covanta facility is permitted by the Oregon Department of Environmental Quality (DEQ). As part of the process of evaluating this application, both Gil Hargreaves, Solid Waste Manager with DEQ's Salem Office and Jeff Bickford with Marion County's Department of Public Works were contacted. Mr. Hargreaves confirmed that the facility has remained in compliance with federal and state requirements and has a good compliance record with public health, safety and environmental rules and regulations. Mr. Bickford confirmed that the facility also has a good compliance record with local requirements.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Covanta facility thoroughly screens incoming waste for hazardous, radioactive, and other unacceptable materials and has a state-of-the-art emissions control system to minimize the risk of future environmental contamination.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

Epson Portland, Inc., has an aggressive internal recycling program and tracks its recycling and disposal percentages by material. Epson is seeking to utilize the Covanta facility only for its non-recyclable wastes. Approval of the proposed license will not impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. However, the waste subject to the proposed license is proposed to be delivered to a waste-to-energy facility rather than disposed at a general purpose landfill. Thus, approval of the requested license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The requested license is a renewal of its previous two-year license. During the first term of its license, the applicant submitted its required Metro reports in a timely fashion and remained in compliance with its license. In response to an inquiry from Metro made as part of the process of evaluating this application, representatives of the DEQ and Marion County confirmed that the facility has been in compliance with federal, state, and local requirements and has a good compliance record with public health, safety and environmental rules and regulations.

(7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Epson is seeking to utilize the Covanta facility because energy recovery is higher on the state waste management hierarchy than landfilling.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 05-3635 will be to issue an NSL for delivery of up to 125 tons per calendar year of solid waste, including putrescible waste, to the Covanta Waste-to-Energy facility.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Since the proposed NSL is a renewal, the budget impact, exceedingly small for 125 tons annually, has already been factored into budget projections and approval of the license will maintain the status quo. The proposed NSL does not impact Metro's obligation under the disposal contract.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3635, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING)	RESOLUTION NO. 05-3636
OFFICER TO RENEW A NON-SYSTEM LICENSE)	
ISSUED TO PRIDE RECYCLING COMPANY FOR	)	Introduced by: Michael Jordan,
DELIVERY OF PUTRESCIBLE SOLID WASTE TO	)	Chief Operating Officer, with the
THE RIVERBEND LANDFILL	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Pride Recycling Company's ("Pride") currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Riverbend Landfill, a non-system facility, which license will expire on December 31, 2005; and,

WHEREAS, Pride has delivered solid waste to the Riverbend for disposal under a similar non-system license since 1999; and

WHEREAS, Pride has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to Pride Recycling Company in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney
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METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-002-05

LICENSEE:
Pride Recycling Company 3980 Tualatin Sherwood Rd. Sherwood, OR 97140
CONTACT PERSON:
Mike Leichner Phone: (503) 625-6177, ext. 103 Fax: (503) 625-6179 E-Mail : Mike@pridedisposal.com
MAILING ADDRESS:
PO Box 820 Sherwood, OR 97140

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	(a) Residual solid waste remaining following resource recovery from putrescible and non-putrescible solid waste. (b) Consolidated loads of solid waste, including putrescible solid waste not suitable for sorting and recovery.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 45,000 tons per calendar year of the waste described in section 1, above.

3	NON-SYSTEM FACILITY
	The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only: Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none"> (a) The permissive transfer of solid waste to the Riverbend Landfill authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility. (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice. (c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that: <ul style="list-style-type: none"> (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license, (ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in section 3, above. <p>(c) This license shall, in addition to subsections (c)(i) through (iii), above, be</p>

	<p>subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(g) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(i) This license authorizes delivery of solid waste to the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the Riverbend Landfill is prohibited unless authorized in writing by Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction</p>

	over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.
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8	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3636 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO PRIDE RECYCLING COMPANY FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE RIVERBEND LANDFILL

November 2, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3636 will authorize the Chief Operating Officer to renew a non-system license (NSL) issued to Pride Recycling Company ("Pride") to deliver up to a maximum of 45,000 tons annually of mixed residential and commercial solid waste, including putrescible waste, to the Riverbend Landfill located in McMinnville, Oregon. The existing license will expire on December 31, 2005. The proposed renewal requests 20,000 fewer tons than the current license. The amount of solid waste projected to be delivered for disposal under the authority of this license during calendar year 2005 is projected by Metro to be approximately 34,200 tons.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Riverbend Landfill first came into use during the mid-eighties. When the Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

Pride Recycling Company performs materials recovery, even from waste streams that have a substantial putrescible component such as multi-family residential. The waste that would be subject to the proposed license is putrescible waste that has no further recovery potential. Therefore, granting the requested license will not impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Riverbend Landfill is a Waste Management facility. Thus, under a disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. The requested license does not appear to conflict with Metro's disposal contract or any other of its existing contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

During fiscal year 2001–02, Pride Recycling Company exceeded the 68,250-ton cap stipulated in its Metro Solid Waste Facility Franchise by 4,343 tons and was issued a Notice of Violation and a \$20,000 fine by Metro. Pride contested enforcement action, which was upheld upon appeal. There have been no other incidents of non-compliance.

- (7) *Such other factors as the executive officer deems appropriate for purposes of making such determination.*

Solid waste delivered to the Riverbend Landfill counts toward the declining block fee schedule stipulated in Metro's disposal contract with Waste Management. Pride Recycling Company has

been disposing of solid waste at the Riverbend Landfill under the authority of a Metro-issued NSL since October 1999.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.03.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 05-3636 will be to issue an NSL for delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Riverbend Landfill.

4. Budget Impacts

Renewal of Pride Recycling Company's NSL would continue the status quo with no additional budget impact. The regional system fee will continue to be collected by the applicant on all solid waste received from within the Metro boundary. The excise tax is collected on all waste regardless of where it is generated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3636.

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BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 05-3639
TO RENEW A NON-SYSTEM LICENSE ISSUED TO)
CROWN POINT REFUSE & RECYCLING SERVICE,) Introduced by Michael Jordan,
INC., FOR DELIVERY OF PUTRESCIBLE SOLID) Chief Operating Officer, with the
WASTE TO THE WASCO COUNTY LANDFILL) concurrence of David Bragdon,
) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Crown Point Refuse & Recycling Service, Inc. ("Crown Point") currently has a non-system license ("NSL") to deliver solid waste, including putrescible waste, to the Wasco County Landfill, which license shall expire on December 31, 2005; and

WHEREAS, Crown Point has applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized and directed to issue a non-system license to Crown Point Refuse & Recycling Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 05-3639

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 797 1795



METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-108-05

LICENSEE:

Crown Point Refuse & Recycling, Inc.
1525 NE Crestview Lane
Corbett, OR 97019

CONTACT PERSON:

Randall S. Burbach
Phone: (503) 695-3239
Fax: (503) 661-7216
E-mail: crownpointrefuse@verizon.net

MAILING ADDRESS:

PO Box 360
Corbett, OR 97019

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Residential and commercial solid waste, including putrescible waste, generated within the boundaries of Metro and collected by Crown Point Refuse & Recycling, Inc.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 324 tons per calendar year of the waste described in section 1, above.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only, which is a non-system facility for the disposal of putrescible waste:</p> <p style="text-align: center;">Wasco County Landfill 2550 Steele Road The Dalles, OR 97058</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the Wasco County Landfill authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in section 3, above.(d) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

	<p>(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the Wasco County Landfill. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the Wasco County Landfill is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(i) At least once per calendar year, Licensee shall sample the weight of waste originating within the Metro District for at least two consecutive weeks. The samples will be used as a basis for reporting the tonnage on its Regional System Fee and Excise Tax Report.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3639 AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO CROWN POINT REFUSE & RECYCLING SERVICE FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WASCO COUNTY LANDFILL

November 7, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3639 will authorize the Chief Operating Officer to renew a two-year non-system license (NSL) to Crown Point Refuse & Recycling Service (Crown Point) to annually deliver up to 324 tons of mixed solid waste, including putrescible waste from its garbage collection routes located within the Metro boundary for delivery to the Wasco County Landfill located in The Dalles, Oregon. Crown Point Refuse & Recycling Service's hauling franchise is located in Metro District 1. Crown Point's current two-year NSL to deliver mixed solid waste to the Wasco County Landfill will expire on December 31, 2005.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

The Wasco County Landfill (WCLF) is listed in Code section 5.05 as a facility designated to accept non-putrescible waste generated from within the Metro boundary. However, for purposes of putrescible waste disposal, WCLF remains a non-system facility. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize this facility.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on the following factors:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Wasco County Landfill first came into use during the 1940s by area farmers. A tepee burner was added in the 1950s with the ash going into a canyon that was closed and capped in the early 1970s. The Oregon Department of Environmental Quality (DEQ) first permitted and began regulating the site in 1972. Presently, 213 acres are permitted of which 78 acres are dedicated to closed or active cells. The landfill is sited in a low rainfall area and has the environmental controls required by the DEQ for a RCRA

Subtitle D landfill.¹ DEQ and Metro staff are not aware of any waste types accepted at the landfill that would pose an unusual risk of future environmental contamination. (The Wasco County Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Wasco County Landfill has been owned and operated by Waste Connections, Inc. since 1999. The company also operates the Finley Buttes Landfill, two transfer stations located in Clark County, Washington, and several franchised hauling companies within the Metro region. The Wasco County Landfill received a Notice of Noncompliance (NON) from the DEQ in September 2000, for failure to notify the DEQ within the required time period of the results of a monitoring well sampled that showed exceedence of parameters on total dissolved solids, iron, and manganese. The operator challenged the appropriateness of the NON as the test results pertained only to background levels of these contaminants. Since then, the Wasco County Landfill has operated in compliance with the DEQ and has no other known compliance issues regarding public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Wasco County Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of the health, safety, and the environment. The landfill's DEQ permit, along with the details of its waste screening, operations, closure, and special waste handling procedures have been reviewed and are on file with Metro.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the 324 tons of waste per year to be covered by the proposed license is putrescible waste without significant potential for recovery. Thus, approval of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. American Sanitary seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that expire at the end of 2005.

Metro has previously granted tonnage authorizations to NSL applicants on a first-come, first-served basis as a method for allocating the portion of the wastestream not obligated under Metro's disposal contract with Waste Management. So far, NSL tonnage requests have never exceeded the tonnage available. If it were to become necessary to reduce existing NSL tonnage allocations in order to remain in compliance with Metro's disposal contract, Metro would rescind such allocations in the reverse order with the last allocation granted being the first withdrawn.

¹ RCRA (Resource Conservation and Recovery Act) is the federal law that regulates hazardous and solid waste in the U.S.

Staff tracks the tonnage “trajectory” of each licensee on an ongoing basis and believes there are sufficient “triggers” to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant is a solid waste hauling company that operates under local requirements within eastern Multnomah County and has a good record of compliance with public health, safety and environmental rules and regulations. In early 2003, it was discovered by Metro investigators that the applicant was delivering waste from inside the Metro boundary to the Wasco County Landfill without having acquired the necessary license and without paying regional system fees and excise taxes. The applicant asserted that the violation was inadvertent and had resulted from mistaking the urban growth boundary for the Metro jurisdictional boundary. The applicant freely cooperated with the investigation and made restitution to Metro.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The applicant’s hauling franchise straddles the eastern edge of the Metro boundary. The tonnage being requested is a very small amount and will enable the applicant to consolidate its in-Metro waste with its larger volume of waste collected from outside the boundary for more efficient routing.

3. Anticipated Effects

The effect of Resolution No. 05-3639 will be the issuance of a new NSL for delivery of up to 324 tons annually of solid waste, including putrescible, to the North Wasco County Landfill.

4. Budget Impacts

The regional system fee and excise tax will be collected on waste delivered under authority of the proposed NSL. Approval of the proposed NSL will result in a tonnage authorization identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3639, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 05-3640
OPERATING OFFICER TO RENEW A NON-SYSTEM)
LICENSE ISSUED TO AMERICAN SANITARY)
SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE) Introduced by Michael Jordan,
SOLID WASTE TO THE WEST VAN MATERIALS) Chief Operating Officer, with the
RECOVERY CENTER AND THE CENTRAL) concurrence of David Bragdon,
TRANSFER AND RECOVERY CENTER) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, American Sanitary Service, Inc., currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the West Van Materials Recovery Center and the Central Transfer and Recovery Center, both non-system facilities, which license will expire on December 31, 2005; and,

WHEREAS, American Sanitary Service, Inc. has delivered solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center under a similar NSL since June 2002; and

WHEREAS, American Sanitary Service, Inc., has applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05 but at a reduced tonnage level; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to American Sanitary Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

Approved as to Form:

David Bragdon, Council President

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 05-3640

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 797 1795



METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-029-05

LICENSEE:

American Sanitary Service, Inc.
12820 NE Marx
Portland, OR 97230

CONTACT PERSON:

Dean Large / Scott Weld
Phone: 360-695-4858
Fax: 360-695-5091
e-mail: deanl@wcnk.org / scottw@wcnk.org

MAILING ADDRESS:

PO Box 61726
Vancouver, WA 98666

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Residential and commercial solid waste, including putrescible waste, generated within the boundaries of Metro and collected by American Sanitary Service, Inc.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 6,613 tons per calendar year of the waste described in section 1, above.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facilities only:</p> <p style="text-align: center;">West Van Material Recovery Center (WVMRC) 6601 NW Old Lower River Road Vancouver, WA 98660</p> <p style="text-align: center;">Central Transfer & Recycling Center (CTRC) 11034 NE 117th Ave. Vancouver, WA 98661</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the WVMRC or CTRC authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facilities described in section 3, above.(d) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension

	<p>pursuant to the Metro Code.</p> <p>(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facilities named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the WVMRC or CTRC facilities. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the WVMRC or CTRC facilities is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(i) At least once during the first half of each year and once during the second half of each year, Licensee shall review its collection routes to determine which of its accounts are in the Metro District. Any adjustments are to be implemented in the next month's Regional System Fee and Excise Tax Report. Reports confirming the reviews and summarizing changes shall be submitted to Metro's Solid Waste & Recycling Department by May 31 and November 30 of each year.</p>
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7	COMPLIANCE WITH LAW
	Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not

	those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.
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8	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

SK:bjl

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3640 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO AMERICAN SANITARY SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

November 7, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3640 will authorize the Chief Operating Officer to renew a non-system license ("NSL") to American Sanitary Service, Inc., to deliver putrescible waste from its garbage collection routes located within the Metro boundary to the West Van Materials Recovery Center ("WVMRC") and the Central Transfer and Recovery Center ("CTRC"), both of which are located in Clark County, Washington. American Sanitary Service, Inc., WVMRC, and CTRC are all affiliated companies. This will be similar to NSLs that American Sanitary Service, Inc. has held since June 2002. American Sanitary Service, Inc.'s, hauling franchise is located in Metro Districts 6 and 1. The applicant has requested an annual authorization of 6,613 tons. This is a about a 400 ton increase from its present NSL authorization.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

WVMRC and CTRC are non-system disposal facilities (transfer stations) to which the applicant wishes to deliver putrescible solid waste generated from within Metro. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on the following factors:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed disposal sites are transfer stations that do not pose any known potential for environmental risk from wastes delivered from prior users. After processing at the transfer stations, the waste is transported via barge to the Finley Buttes Landfill for disposal. (The Finley Buttes Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Waste Connections has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations. Waste Connections also has a good record of cooperation with Metro staff.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

WVMRC and CTRC use operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. WVMRC and CTR perform recovery on non-putrescible commercial and industrial waste but at a recovery rate less than many Metro system facilities. Renewal of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. American Sanitary seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that expire at the end of 2005.

Metro has previously granted tonnage authorizations to NSL applicants on a first-come, first-served basis as a method for allocating the portion of the wastestream not obligated under Metro's disposal contract with Waste Management. So far, NSL tonnage requests have never exceeded the tonnage available. If it were to become necessary to reduce existing NSL tonnage allocations in order to remain in compliance with Metro's disposal contract, Metro would rescind such allocations in the reverse order with the last allocation granted being the first withdrawn.

Staff tracks the tonnage “trajectory” of each licensee on an ongoing basis and believes there are sufficient “triggers” to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant is a solid waste hauling company that operates under local requirements within the City of Portland and Gresham and has a good record of compliance with public health, safety and environmental rules and regulations.

- (7) *Such other factors as the executive officer deems appropriate for purposes of making such determination.*

Based on the tonnage delivered by the applicant over the term of its existing NSL, the tonnage being requested is the minimum amount needed to accommodate the waste collected from its in-Metro routes.

3. Anticipated Effects

The effect of Resolution No. 05-3640 will be to issue an NSL for delivery of solid waste, including putrescible, to the applicant’s two affiliated transfer stations located in Clark County, at a tonnage authorization slightly higher than the authorization in the applicant’s current NSL, based on the applicant’s history of actual utilization.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3640, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 05-3641
OPERATING OFFICER TO RENEW A NON-SYSTEM)	
LICENSE ISSUED TO ARROW SANITARY	)	Introduced by Michael Jordan,
SERVICE, INC. FOR DELIVERY OF PUTRESCIBLE	)	Chief Operating Officer, with the
SOLID WASTE TO THE WEST VAN MATERIALS	)	concurrence of David Bragdon,
RECOVERY CENTER AND THE CENTRAL	)	Council President
TRANSFER AND RECOVERY CENTER)	

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Arrow Sanitary Service, Inc., currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the West Van Materials Recovery Center and the Central Transfer and Recovery Center, both non-system facilities, which license will expire on December 31, 2005; and,

WHEREAS, Arrow Sanitary Service, Inc. has delivered solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center under a similar NSL since December 1999; and

WHEREAS, Arrow Sanitary Service, Inc., has applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to Arrow Sanitary Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

Approved as to Form:

David Bragdon, Council President

Daniel B. Cooper, Metro Attorney

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METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

Number N-029-05

LICENSEE:
Arrow Sanitary Service, Inc. 12820 NE Marx Portland, OR 97230
CONTACT PERSON:
Dean Large / Scott Weld Phone: 360-695-4858 Fax: 360-695-5091 e-mail: deanl@wcnk.org / scottw@wcnk.org
MAILING ADDRESS:
PO Box 61726 Vancouver, WA 98666

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Residential and commercial solid waste, including putrescible waste, generated within the boundaries of Metro and collected by Arrow Sanitary Service, Inc.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 35,367 tons per calendar year of the waste described in section 1, above.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facilities only:</p> <p style="text-align: center;">West Van Material Recovery Center (WVMRC) 6601 NW Old Lower River Road Vancouver, WA 98660</p> <p style="text-align: center;">Central Transfer & Recycling Center (CTRC) 11034 NE 117th Ave. Vancouver, WA 98661</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the WVMRC or CTRC authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facilities described in section 3, above.(d) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant

	<p>to the Metro Code.</p> <p>(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facilities named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the WVMRC or CTRC facilities. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the WVMRC or CTRC facilities is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3641 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO ARROW SANITARY SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

November 7, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3641 will authorize the Chief Operating Officer to renew a non-system license ("NSL") to Arrow Sanitary Service, Inc., to deliver putrescible waste from its garbage collection routes located within the Metro boundary to the West Van Materials Recovery Center ("WVMRC") and the Central Transfer and Recovery Center ("CTRC"), both of which are located in Clark County, Washington. American Sanitary Service, Inc., WVMRC, and CTRC are all affiliated companies. This will be similar to NSLs that Arrow Sanitary Service, Inc. has held since December 1999. Arrow Sanitary Service, Inc.'s hauling franchise is located in Metro District 6. The applicant has requested an annual authorization of 35,367 tons. This is approximately a 2,000 ton increase from its present NSL authorization.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

WVMRC and CTRC are non-system disposal facilities (transfer stations) to which the applicant wishes to deliver putrescible solid waste generated from within Metro. Metro Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining an NSL from Metro. On that basis, the applicant must have a Metro NSL in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for an NSL for putrescible waste should be approved. Such recommendation is based on the following factors:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed disposal sites are transfer stations that do not pose any known potential for environmental risk from wastes delivered from prior users. After processing at the transfer stations, the waste is transported via barge to the Finley Buttes Landfill for disposal. (The Finley Buttes Landfill is a Metro

designated facility authorized to receive non-putrescible waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Waste Connections has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations. Waste Connections also has a good record of cooperation with Metro staff.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

WVMRC and CTR use operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. WVMRC and CTR perform recovery on non-putrescible commercial and industrial waste but at a recovery rate less than many Metro system facilities. Approval of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. American Sanitary seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that expire at the end of 2005.

Metro has previously granted tonnage authorizations to NSL applicants on a first-come, first-served basis as a method for allocating the portion of the wastestream not obligated under Metro's disposal contract with Waste Management. So far, NSL tonnage requests have never exceeded the tonnage available. If it were to become necessary to reduce existing NSL tonnage allocations in order to remain in compliance with Metro's disposal contract, Metro would rescind such allocations in the reverse order with the last allocation granted being the first withdrawn.

Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant is a solid waste hauling company that operates under local requirements within the City of Portland and has a good record of compliance with public health, safety and environmental rules and regulations.

- (7) *Such other factors as the Council deems appropriate for purposes of making such determination.*

Based on the tonnage delivered by the applicant over the term of its existing NSL, the tonnage being requested is the minimum amount needed to accommodate the waste collected from its in-Metro routes.

3. Anticipated Effects

The effect of Resolution No. 05-3641 will be to issue an NSL for delivery of solid waste, including putrescible, to the applicant's two affiliated transfer stations located in Clark County, at a tonnage authorization based on the applicant's history of actual utilization.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization that is about six percent greater than the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3641, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING)	RESOLUTION NO. 05-3642
OFFICER TO RENEW A NON-SYSTEM LICENSE)	
ISSUED TO THE FOREST GROVE TRANSFER	)	Introduced by: Michael Jordan,
STATION FOR DELIVERY OF PUTRESCIBLE	)	Chief Operating Officer, with the
SOLID WASTE TO THE RIVERBEND LANDFILL	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, The Forest Grove Transfer Station ("FGTS") currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Riverbend Landfill, a non-system facility, which license will expire on December 31, 2005; and,

WHEREAS, FGTS has delivered solid waste to the Riverbend for disposal under a similar non-system license since 1990; and

WHEREAS, FGTS has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to the Forest Grove Transfer Station in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-010-05

LICENSEE:

Forest Grove Transfer Station
1525 "B" Street
Forest Grove, OR 97116

CONTACT PERSON:

Steve Wolfe
Phone: 503-992-3015
Fax: 503-357-4822
e-mail: Swolfe@wm.com

MAILING ADDRESS:

Waste Management of Oregon, Inc.
7227 NE 55th Ave.
Portland, OR 97218

METRO

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

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Mixed solid waste, including putrescible waste, received at the Forest Grove Transfer Station from commercial refuse haulers and public customers.
2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 160,000 tons per calendar year of the waste described in section 1, above.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only:</p> <p style="text-align: center;">Riverbend Landfill 13469 S.W. Highway 18 McMinnville, OR 97128</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the Riverbend Landfill authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in section 3, above.(c) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.(d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:<ul style="list-style-type: none">(i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and(ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.

	<p>(e) Licensee shall make all records from which (e) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.</p> <p>(f) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3.</p> <p>(g) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(h) This license authorizes delivery of solid waste to the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the Riverbend Landfill is prohibited unless authorized in writing by Metro.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

8	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any</p>

	litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.
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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3642 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO THE FOREST GROVE TRANSFER STATION FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE RIVERBEND LANDFILL

November 7, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3642 will authorize the Chief Operating Officer to renew a non-system license (NSL) to the Forest Grove Transfer Station to deliver up to a maximum of 160,000 tons annually of mixed solid waste, including putrescible waste, to the Riverbend Landfill located in McMinnville, Oregon. The Forest Grove Transfer Station is located in Metro District 4. An NSL has been in place since 1990 with an unrestricted tonnage. The existing license will expire on December 31, 2005. The renewal application was filed on November 7, 2005 with a requested authorization of 160,000 tons. The Forest Grove Transfer Station and the Riverbend Landfill are both subsidiaries of Waste Management of Oregon.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Riverbend Landfill first came into use during the mid-eighties. When the Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The Forest Grove Transfer Station toploads mixed solid waste, including putrescible waste, directly into transfer trailers for delivery to a general purpose landfill. The facility does not perform materials recovery. Granting the requested license will not impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Riverbend Landfill is a Waste Management facility. Thus, under a disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. The requested license does not appear to conflict with Metro's disposal contract or any other of its existing contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

In 1999, Waste Management of Oregon (at that time called USA Waste of Oregon, Inc.) acquired the Forest Grove Transfer Station. Since that time there have been no incidents of non-compliance with its NSLs or its facility franchise. The applicant is also in compliance with its Department of Environmental Quality solid waste facility permit and local land use authority.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Solid waste delivered to the Riverbend Landfill counts toward the declining block fee schedule stipulated in Metro's disposal contract with Waste Management. FGTS has been disposing of solid waste at the Riverbend Landfill under the authority of a Metro-issued NSL since 1990.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.03.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 05-3642 will be to authorize the Chief Operating Officer to issue an NSL to the Forest Grove Transfer Station to deliver putrescible waste to the Riverbend Landfill.

4. Budget Impacts

The Forest Grove Transfer Station's NSL will continue the status quo with no additional budget impact. The regional system fee will continue to be collected by the transfer station on all solid waste received from within the Metro boundary. The excise tax is collected on all waste regardless of where it is generated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3642.

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BEFORE THE METRO COUNCIL

AMENDING THE METRO HABITAT)	Ordinance No. 05-1097
CONSERVATION AREAS MAP AND)	
OTHER MAPS RELATED TO TITLE 13 OF)	
THE URBAN GROWTH MANAGEMENT	)	Introduced by Michael Jordan, Chief Operating
FUNCTIONAL PLAN; AND DECLARING	)	Officer, with the concurrence of David Bragdon,
AN EMERGENCY	)	Council President

WHEREAS, nature in neighborhoods is critical to maintaining and improving the high quality of life, livability, and standard of living enjoyed by the people of the Metro region; and

WHEREAS, the Metro region places a high priority on the protection of its streams, wetlands, and floodplains to maintain access to nature, sustain and enhance native fish and wildlife species and their habitats, mitigate high storm flows and maintain adequate summer flows, provide clean water, and create communities that fully integrate the built and natural environment; and

WHEREAS, on September 29, 2005, the Metro Council adopted Ordinance No. 05-1077C to establish a regional fish and wildlife habitat protection program; and

WHEREAS, Metro undertook the development of a fish and wildlife habitat protection program as one element of the Nature in Neighborhoods initiative consistent with Statewide Planning Goal 5, which is intended "to protect natural resources and conserve scenic and historic areas and open spaces," and with Oregon Administrative Rules chapter 660, Division 23, adopted by the Land Conservation and Development Commission to implement Goal 5 (the "Goal 5 Rule"); and

WHEREAS, Metro has completed a region-wide inventory of regionally significant fish and wildlife habitat comprising 80,000 acres that has been located and classified for its ecological value and mapped to provide an information base for the region; and

WHEREAS, Metro's inventory of regionally significant resources was based on the best available data identifying streams and other habitat areas; and

WHEREAS, after Metro completed its initial inventory of fish and wildlife habitat, the City of Portland completed a project to update the data and maps for streams located within the City of Portland and its urban services boundary adopted pursuant to ORS chapter 195; and

WHEREAS, the City's updated streams data identifies the locations of streams in the Fanno Creek and Rock Creek watersheds that had not been identified as part of Metro's original streams inventory; and

WHEREAS, the streams identified in the Fanno Creek and Rock Creek watersheds are comparable to other streams identified by Metro as regionally significant fish and wildlife habitat; and

WHEREAS, Metro has reviewed its analysis of the economic, social, environmental and energy consequences of protecting or not protecting the inventoried habitat and determined that adding the newly identified fish and wildlife habitat resources in the Fanno Creek and Rock Creek watersheds is consistent with this analysis; and

WHEREAS, Metro has concluded that, as a matter of regional equity and policy consistency in the administration of the Nature in Neighborhoods program and for the reasons stated in Ordinance No. 05-1077C for the adoption that program, Metro's allow-limit-prohibit decision and the program adopted by Metro to implement that decision should apply to such newly identified fish and wildlife habitat resources just as it applies to comparable resources throughout the region; and

WHEREAS, the Metro Council also approved certain map revisions in Section 10 of Ordinance No. 05-1077C, as reflected in Exhibit G to that ordinance, and directed Metro staff to prepare final copies of all maps adopted with that ordinance to reflect the map revisions in Exhibit G; and

WHEREAS, Metro staff have made the map revisions as directed in Exhibit G to Ordinance No. 05-1077C, and the map amendments adopted in this ordinance reflect those revisions; and

WHEREAS, Metro has received a request to correct Metro's Regionally Significant Educational or Medical Facilities Map, included in Attachment 7 to Exhibit C of Ordinance No. 05-1077C; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Ordinance No. 05-1077C, the Nature in Neighborhoods ordinance, shall be amended as described in Sections 2 through 7 of this ordinance to add Class I and Class II riparian habitat resources and associated Habitat Conservations Areas in the Fanno Creek and Rock Creek watersheds within the City of Portland, and to approve the final maps that result from the map revisions approved in Exhibit G to Ordinance No. 05-1077C. To the extent that the map revisions described in Exhibit G to Ordinance No. 05-1077C conflict with the map revisions approved in this ordinance, the revisions in this ordinance shall prevail.
2. The Regionally Significant Fish and Wildlife Habitat Inventory Map (the "Inventory Map"), adopted as Exhibit A to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit A to this ordinance.
3. The Habitat Conservation Areas Map, adopted as Attachment 1 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit B to this ordinance.
4. The Metro 2004 Wetland Inventory Map, adopted as Attachment 3 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit C to this ordinance.
5. The Metro Habitat Urban Development Value Map, adopted as Attachment 4 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit D to this ordinance.
6. The Metro Vegetative Cover Map, adopted as Attachment 5 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit E to this ordinance.
7. The Metro Habitats of Concern Map, adopted as Attachment 6 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit F to this ordinance.

8. The Metro Regionally Significant Educational or Medical Facilities Map, adopted as Attachment 7 to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit G to this ordinance.
9. The Findings of Fact and Conclusions of Law in Exhibit H to this ordinance (the "Findings") are hereby adopted and incorporated by reference into this ordinance. The Findings explain how this ordinance complies with state law, the Regional Framework Plan, and the Metro Code. All attachments to the Findings are part of the Findings and are also hereby incorporated by reference into this ordinance.
10. The provisions of this ordinance are separate and severable. In the event that any one or more clause, sentence, paragraph, section, subsection, or portion of this ordinance or the application thereof to any city, county, person, or circumstance is held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this ordinance or its application to other cities, counties, persons, or circumstances shall not be affected.
11. This ordinance is necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to ensure timely acknowledgement review of the Nature in Neighborhoods program by the Land Conservation and Development Commission. An emergency is therefore declared to exist and this ordinance shall take effect on December 28, 2005.

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. 05-1097

REGIONALLY SIGNIFICANT FISH AND WILDLIFE HABITAT INVENTORY MAP (the “Inventory Map”)

The Regionally Significant Fish and Wildlife Habitat Inventory Map (the “Inventory Map”) is available for review in the Metro Council’s files (see map labeled “Ordinance No. 05-1077B,” but note that additional revisions were approved as described in Section 10 of Ordinance 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is available via Metro’s website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097, may be viewed at the Data Resource Center or viewed via Metro’s website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT B—ORDINANCE NO. 05-1097

HABITAT CONSERVATION AREAS MAP

The Habitat Conservation Areas Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is also available via Metro's website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT C—ORDINANCE NO. 05-1097

METRO 2004 WETLAND INVENTORY MAP

The Metro 2004 Wetland Inventory Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is also available via Metro's website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT D—ORDINANCE NO. 05-1097

METRO HABITAT URBAN DEVELOPMENT VALUE MAP

The Metro Habitat Urban Development Value Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B") or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. Electronic and printed copies of maps may be purchased from the Data Resource Center.

Updated electronic and printed copies of this map to reflect the amendment described in Section 8 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT E—ORDINANCE NO. 05-1097

METRO VEGETATIVE COVER MAP

The Metro Vegetative Cover Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is also available via Metro's website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT F—ORDINANCE NO. 05-1097

METRO HABITATS OF CONCERN MAP

The Metro Habitats of Concern Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center beginning November 30, 2005.

EXHIBIT G—ORDINANCE NO. 05-1097

**REGIONALLY SIGNIFICANT EDUCATIONAL
OR MEDICAL FACILITIES MAP**

Revised Clackamas Community College facilities map for the Oregon City Campus (Tax Lot Number 32E09C800) to amend Attachment 7 to Exhibit C of Ordinance No. 05-1077C (the Regionally Significant Educational or Medical Facilities Map).

Regionally Significant
Educational
and Medical Facilities
Ordinance 05-1097
Exhibit G

Facility Taxlots

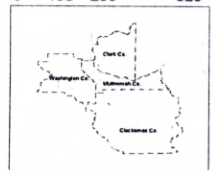
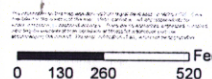
This should be included in the tax lot

- Sold
10/05

Sold as 11/05

19600 S Molalla Ave

32E09C800



Location Map



METRO DATA RESOURCE CENTER
888 NORTHEAST GRAND AVENUE | FORTLAND, OREGON 97232-1
TEL (503) 792-1742 | FAX (503) 797-9909

EXHIBIT H—ORDINANCE NO. 05-1097

FINDINGS OF FACT AND CONCLUSIONS OF LAW

[To be drafted prior to final adoption]

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1097 AMENDING THE METRO HABITAT CONSERVATION AREA MAP AND OTHER MAPS RELATED TO TITLE 13 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Date: November 1, 2005

Prepared by: Paul Ketcham

CONTEXT AND BACKGROUND

On September 29, 2005, Metro Council adopted the Nature in Neighborhoods Ordinance No. 05-1077C to establish a regional fish and wildlife habitat protection program. The intent of the ordinance is to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and with the surrounding urban landscape, and (2) to control and prevent water pollution for the protection of public health and safety, and to maintain and improve water quality throughout the region. The ordinance amends Metro's Regional Framework Plan and creates a new Title 13 "Nature in Neighborhoods" of the Urban Growth Management Functional Plan. The ordinance establishes flexible development standards that will protect valuable streamside, wetland, and flood area habitat (Class I and II Riparian Corridors) within the current urban growth boundary and within the current Metro jurisdictional boundary. The ordinance also establishes flexible development standards to protect upland habitat (Class A and B Upland Wildlife Habitat) in future urban growth boundary expansion areas.

The ordinance is designed to help local governments within the Metro boundary meet the requirements of Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces and Statewide Planning Goal 6: Water Quality. Once the Nature in Neighborhoods ordinance is acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.274, cities and counties will have two years to amend their plans and codes to comply with its requirements. Several options for city and county compliance are provided, including a ready-to-implement Model Code. Some cities and counties could rely or expand upon existing programs to meet regional standards.

Of the 80,542 acres in Metro's regionally significant fish and wildlife habitat inventory, 39,299 acres are identified as Class I and II Riparian Corridor habitats which are the highest value streamside areas. Almost all of the Class I and II Riparian Corridor habitats are designated as Habitat Conservation Areas (HCAs).¹ Title 13 development standards apply within HCAs where the Metro Council applied a "limit" decision as provided in the Goal 5

¹ Ordinance 05-1077C Exhibit F, Attachment 5 "September 2004 Habitat Inventory Update." The update data shows 39,274 acres of Class I and II Riparian Corridor habitat designated as HCAs. The difference, 25 acres, was not mapped as HCAs because Metro Council concluded that the economic importance of certain International Marine Terminals far outweighed the environmental importance of the properties as fish and wildlife habitat.

administrative rule (OAR 660-23-040). The standards are designed to first avoid habitat, then to minimize adverse impacts on habitat, and last to mitigate for lost habitat functions.²

CURRENT ACTION

Ordinance No. 05-1097 as recommended by staff would amend Title 13 Nature in Neighborhoods Ordinance No. 05-1077C to ensure its consistent application within the region by including all streams within the Fanno and Rock Creek watersheds inventoried by the City of Portland. When Metro updated its inventory of regionally significant habitat in September 2004, it used the City of Portland's most current stream inventory for all portions of the City except in the Fanno and Rock Creek watersheds. This amendment would rectify this situation and apply the City's updated (2004) stream data for the portions of Fanno and Rock Creek watersheds located within the City and its urban services boundary.³ The amendment is intended to achieve policy consistency and regional equity in the administration of the Nature in Neighborhoods program by applying Title 13 Habitat Conservation Areas and development standards to the newly identified Class I and II Riparian Corridors just as they apply to comparable resources throughout the region.

Ordinance No. 05-1097 also incorporates certain map revisions in Section 10 of Ordinance No. 05-1077C, as contained in Exhibit G to that ordinance. The map revisions approved by Metro Council reflect changes pertaining to the location or existence of streams and wetlands, flood areas, and vegetative cover. Ordinance No. 05-1077C directs Metro staff to prepare final copies of all maps adopted with that ordinance to reflect the map revisions defined in Exhibit G. If approved by Metro Council, these maps will also include the updated stream within the portion of the Fanno and Rock Creek watersheds located within the City of Portland and its urban services boundary.

Alternative courses of action include:

- Do not amend Metro's inventory of Class I and II Riparian Corridors or Habitat Conservation Areas within the Fanno and Rock Creek watersheds study area using City of Portland's updated streams data and instead retain current mapping for the study area; carry out map revisions defined in Exhibit G of Ordinance No. 05-1077C;
- Amend Metro's inventory of Class I and II Riparian Corridors and Habitat Conservation Areas within the Fanno and Rock Creek watersheds study area using City of Portland's updated stream data; carry out other map revisions defined in Exhibit G of Ordinance No. 05-1077C.

² See the Staff Report for Ordinance No. 05-1077 for additional background and explanation of ordinance contents.

³ City of Portland's urban services boundary includes portions of unincorporated Multnomah County. Much of the study area is also located within the service area of Clean Water Services.

ANALYSIS OF THE AMENDMENT

1. Inventory

The Fanno and Rock Creek watersheds located within the City of Portland and its urban services boundary comprise a 6,626 acre study area located on the western slopes of the Tualatin Hills. Most of the study area is located within the Fanno Creek watershed.⁴ These watersheds drain into the Tualatin basin and are generally characterized by steep and forested slopes, steep stream gradients, and soils that are slow to infiltrate rainfall. Some relatively wide, connected, and vegetated riparian corridors remain in portions of the upper watersheds. The predominant use in these watersheds is single family residential, comprising over 80 percent of the watershed area.⁵ Metro's Habitat Inventory Report and the Addendum and Update to that report provide additional information about watershed conditions.⁶

Metro staff applied the same inventory methodology to identify the Class I and II Riparian Corridors within the Fanno and Rock Creek watersheds study area (hereafter referred to as "the study area") as used in developing the regional fish and wildlife habitat inventory.⁷ Metro's September 2004 inventory update contains 30.7 miles of streams and 920 acres of Class I and II Riparian Corridors within the study area.⁸

Incorporating the more detailed City of Portland streams data results in 38.3 miles of streams and 1,096 acres of Class I and II Riparian Corridors in the study area, adding 7.6 miles of new stream miles compared to the Metro inventory update of September 2004.⁹ Applying Metro's inventory methodology using the more detailed stream data results in 816 acres of Class I and II Riparian Corridors that remain unchanged from Metro's 2004 inventory update and the addition of 280 acres of not previously mapped Class I and II Riparian Corridors within the study area (816 acres + 280 acres = 1,096 acres).¹⁰

A map displaying Riparian Class I and II Riparian Corridors using City of Portland's updated stream data is included as Attachment 1 to this Staff Report.

⁴ Approximately 1,200 acres of the 6,626 acre study area are located within the Rock Creek watershed.

⁵ City of Portland Bureau of Environmental Services. 2005. Fanno Tryon Watershed Plan.

⁶ The portion of Fanno Creek watershed within the City of Portland is contained in Metro's Subwatershed #12 (Fanno Creek); the portion of Rock Creek watershed within the City of Portland is contained in Metro's Subwatershed #8 (Beaverton Creek). See Ordinance No. 05-1077C, Exhibit F Attachment 1, Part 1 and 2.

⁷ See Ordinance No. 05-1077C, Exhibit F, Attachment 1 "Metro Habitat Inventory Report" and Attachment 2 "Technical Report."

⁸ Attachment 4 to this Staff Report.

⁹ Attachment 5 to this Staff Report. It should be noted that 7.15 of the 7.6 miles of streams are located outside Class I and II Riparian Corridors identified in Metro's September 2004 inventory update (Stream mile data from Metro Data Resources Center and City of Portland Bureau of Planning).

¹⁰ Attachment 6 to this Staff Report. Using the more detailed City of Portland streams data results in the deletion of some formerly mapped streams and the addition of streams not previously mapped in the 6,626 acre study area. Comparing Attachments 4 and 5 to this Staff Report, the net difference in Class I and II Riparian Corridor acreage using the more detailed City of Portland streams is 176 acres (280 acres of not previously mapped Class I and II Riparian Corridors added as a result of using the City's stream data minus 104 acres of former Class I and II Riparian Corridors deleted).

2. Economic, Social, Environmental, and Social (ESEE) Consequences and Program Decision

Conflicting Uses: Metro's ESEE consequences of allowing, limiting, or prohibiting conflicting uses within Class I and II Riparian Corridors are analyzed in Metro's Phase I and II ESEE Reports. Metro identified conflicting uses within regionally significant fish and wildlife habitat areas by using Metro's seven generalized regional zones as follows: single family residential, multifamily residential, mixed use centers, commercial, industrial, rural, and parks and open spaces. This analysis adequately describes the kinds of conflicting uses occurring within existing and newly added Class I and II Riparian Corridors in the study area.¹¹

Generalized Regional Zoning: Within the 280 acres of newly added Class I and II Riparian Corridors within the study area, single family residential comprises 84% of the generalized regional zoning, and multifamily accounts for another 5% of the total. Remaining generalized regional zoning applying within newly added Class I and II Riparian Corridors includes Parks and Open Space (7%), Commercial (3%) and Rural (1%).¹² On a regional basis, residentially zoned lands represent a smaller proportion of lands within Class I and II Riparian Corridors: 46% are zoned for single family residential use, and another 5% are zoned for multifamily residential use.¹³

Development Status: Within the 280 acres of newly added Class I and II Riparian Corridors within the study area, 47% are developed (with primarily residential uses), 14% are in parks, and 39 % are vacant.¹⁴ Compared to the study area as a whole, 38% of the Riparian Class I and II Corridors are developed, 25% are in parks, and 37% are vacant.¹⁵

Baseline Protection of Class I and II Riparian Corridors: Metro's Phase II ESEE Report defines a baseline from which to measure the ESEE tradeoffs of additional protection proposed for the various alternatives studied. The baseline chosen for the analysis is Metro's Title 3 (Water Quality and Flood Management Plan) because it serves as a proxy for measuring existing levels of protection in a consistent fashion across the region. On a regional basis, 40% of Class I and II Riparian Corridors are covered by Title 3 Water Quality Resource Areas, and another 22% are located within Title 3 Flood Management Areas.¹⁶ Within the newly added Class I and II Riparian Corridors within the study area, only 3% are covered by Title 3 Water Quality Resource Areas (WQRA), and no acres are located in Title 3 Flood Management Areas.¹⁷ This difference points to the fact that most of the newly added

¹¹ Conflicting uses by generalized regional zoning are identified in Ordinance No. 05-1077C, Exhibit F, Attachment 3: Phase I ESEE Analysis, pp. 40-48, and Exhibit F, Attachment 3: Appendix D.

¹² Attachment 7 to this Staff Report.

¹³ Ordinance No. 05-1077C, Exhibit F, Attachment 3: Phase I ESEE Analysis, Table 3-4.

¹⁴ Attachment 6 to this Staff Report. Twenty-nine percent (29%) of the 280 acres of new Class I and II Riparian Corridors within the study area are vacant unconstrained.

¹⁵ Attachment 5 to this Staff Report. Nineteen percent (19%) of the 1097 acres of the Class I and II Riparian Corridors in the study area are vacant unconstrained.

¹⁶ Ordinance No. 05-1077C, Exhibit F, Attachment 5: September 2004 Habitat Inventory Update Table.

¹⁷ Attachment 6 to this Staff Report.

Riparian Class I and II Riparian Corridors in the study area are located in the upper reaches of the Fanno and Rock Creek watersheds where there are no flood areas and where Title 3 WQRA requirements do not apply.

Many local jurisdictions provide protection of streamside areas beyond Metro's Title 3 requirements. Both the City of Portland and the Clean Water Services administer provisions to protect streams that exceed the minimum required by Metro's Title 3 WQRA and FMA performance standards. The City of Portland's existing environmental zoning program includes a protection zone and a conservation zone. Of the 280 acres of new Riparian Class I and II Riparian Corridors within the study area, 150 acres, or 53%, are located within the boundaries of the City's existing environmental zones.¹⁸

Urban Development Value: Metro's ESEE Phase I Report describes the methodology for ranking land based on the economic importance for development. After considerable review by various technical advisory committees and an independent economic advisory board, Metro classified lands as high, medium, low and other urban development value based on 2040 design types, land value and employment. High urban development value includes centers, regionally significant industrial areas, and regionally significant medical and educational facilities; Medium urban development value includes other industrial areas, employment centers, main streets, station communities; Low urban development value includes inner and outer neighborhoods and corridors; Other Areas include parks and open spaces and lands with no design types outside the urban growth boundary.¹⁹

Within the 280 acres of newly added Class I and II Riparian Corridors within the study area, 77% are classified as low urban development value, 4% as medium, 4% as high, and 15% as other areas.²⁰ This distribution reflects that most of the acreage is zoned for residential use or parks. High and medium urban development values are associated with the 10 acres zoned for commercial use.

Analysis of ESEE Consequences of Limiting Conflicting Uses and Program Decision:

Metro's Phase I and II ESEE Reports thoroughly analyze the consequences of a range of regulatory and non-regulatory options and support the Council's decision to designate Habitat Conservation Areas within the region's 39,274 acres of Class I and II Riparian Corridors. These analyses also support a Council decision to apply Habitat Conservation Areas to the 280 acres of newly added Class I and II Riparian Corridors within the study area (these 280 acres comprise less than 1% of all Habitat Conservation Areas within the region). Attachment 2 to the Staff Report is a map showing the location of Habitat Conservation Areas within the study area using City of Portland stream data. Attachment 3 to the Staff Report is a map showing where Habitat Conservation Areas have been removed or added since the September 2004 Metro inventory update using City of Portland's stream data.

¹⁸ City of Portland data, October 2005.

¹⁹ Ordinance No. 05-1077C, Exhibit C, Title 13: Nature in Neighborhoods, Table 3.07-13a: Method for Identifying Habitat Conservation Areas

²⁰ Attachment 8 to this Staff Report.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition to the specific elements in the proposed ordinance, however there has been a substantial public process throughout the course of adopting the Nature in Neighborhoods Ordinance No. 05-1077C. It is likely that there will be some parties who oppose the designation of additional Habitat Conservation Areas within the Fanno and Rock Creek watersheds. There may be some opposition to the final inventory and Habitat Conservation Areas maps based on the specific map revisions included in Exhibit G of Ordinance No. 05-1077C.
2. **Legal Antecedents:** Statewide Planning Goal 5, OAR 660-015-0000(5), and the Goal 5 Rule, OAR 660-023, and specifically OAR 660-023-0080. ORS chapter 197, and specifically ORS 197.274. ORS chapter 268, and specifically ORS 268.380, ORS 268.390, and ORS 268.393. The Metro Charter, Regional Framework Plan, and Metro Code sections 3.07.310 to 3.07.370. Metro Resolutions Nos. 02-3176, 02-3177A, 02-3195, 02-3218A, 03-3332, 03-3376B, 04-3440A, 04-3488, 04-3489A, 04-3506A, 05-3574, 05-3577, and 05-1077C.
3. **Anticipated Effects:** Approval of this ordinance will allow Metro to complete the three-step process for complying with Statewide Land Use Planning Goal 5 and allows Metro to submit a complete package to the Department of Land Conservation and Development for acknowledgement review pursuant to ORS 197.274. Cities and counties would then be required to bring comprehensive plans and implementing ordinances in compliance with Metro's Functional Plan within two years.
4. **Budget Impacts:** There are no known budget impacts beyond those anticipated with the passage of the Nature in Neighborhoods Ordinance No. 05-1077C.

RECOMMENDED ACTION

Staff recommends that Metro Council approve amendments to Ordinance No. 05-1077C, the Nature in Neighborhoods ordinance, to add Class I and II Riparian Corridors and associated Habitat Conservation Areas in the Fanno Creek and Rock Creek watersheds within the City of Portland and its urban services boundary, and to approve the final maps that result from the map revisions approved in Exhibit G to Ordinance No. 05-1077C.

ATTACHMENTS TO THE STAFF REPORT

Attachment 1: Class I and II Riparian Corridor Inventory Map for Rock and Fanno Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Printed and electronic copies of this map may be viewed and/or obtained at the Data Resources Center. Class I and II Riparian Corridors within the Study Area may be viewed via Metro's website at: www.metro-region.org/nature

Attachment 2: Habitat Conservation Areas Map for Rock and Fanno Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Printed and electronic copies of this map may be viewed and/or obtained at the Data Resources Center. Habitat Conservation Areas within the Study Area may be viewed via Metro's website at: www.metro-region.org/nature

Attachment 3: Habitat Conservation Areas Map for the Fanno and Rock Creek Watersheds Study Area Showing HCAs Removed and Added Since Metro's September 2004 Inventory Update (Using City of Portland's 2004 Stream Data)

Printed and electronic copies of this map may be viewed and/or obtained at the Data Resources Center.

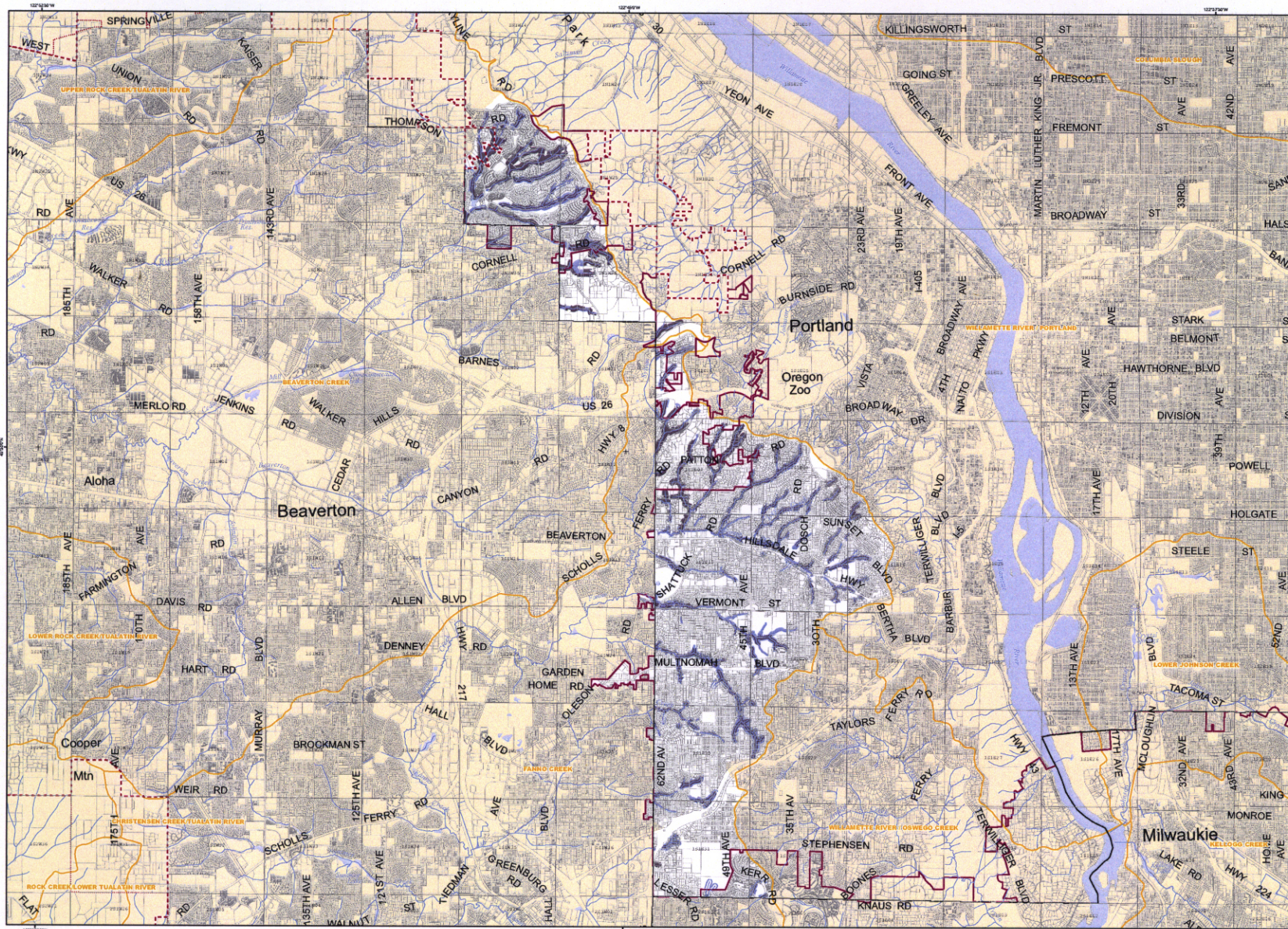
Attachment 4: Acres of Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using Metro September 2004 Data)

Attachment 5: Acres of Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Attachment 6: Acres of New Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Attachment 7: Generalized Regional Zoning for New Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Attachment 8: ESEE Development Values for New Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)



Attachment 1 to Staff Report
Ordinance No. 05-1097



**Metro Fish and Wildlife
Habitat Protection Program**

Regionally Significant Fish and Wildlife Habitat Inventory Map

Rock & Fanno Creek Watersheds
Within The City of Portland and it's
Urban Services Boundary

Based upon City of Portland 2004 Stream Data

- Portland City Limit
- Urban Growth Boundary
- Metro Boundary
- County Boundaries
- Section Lines
- River & Lake Areas
- Stream Centerlines
- Watersheds

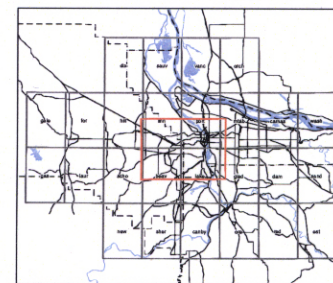
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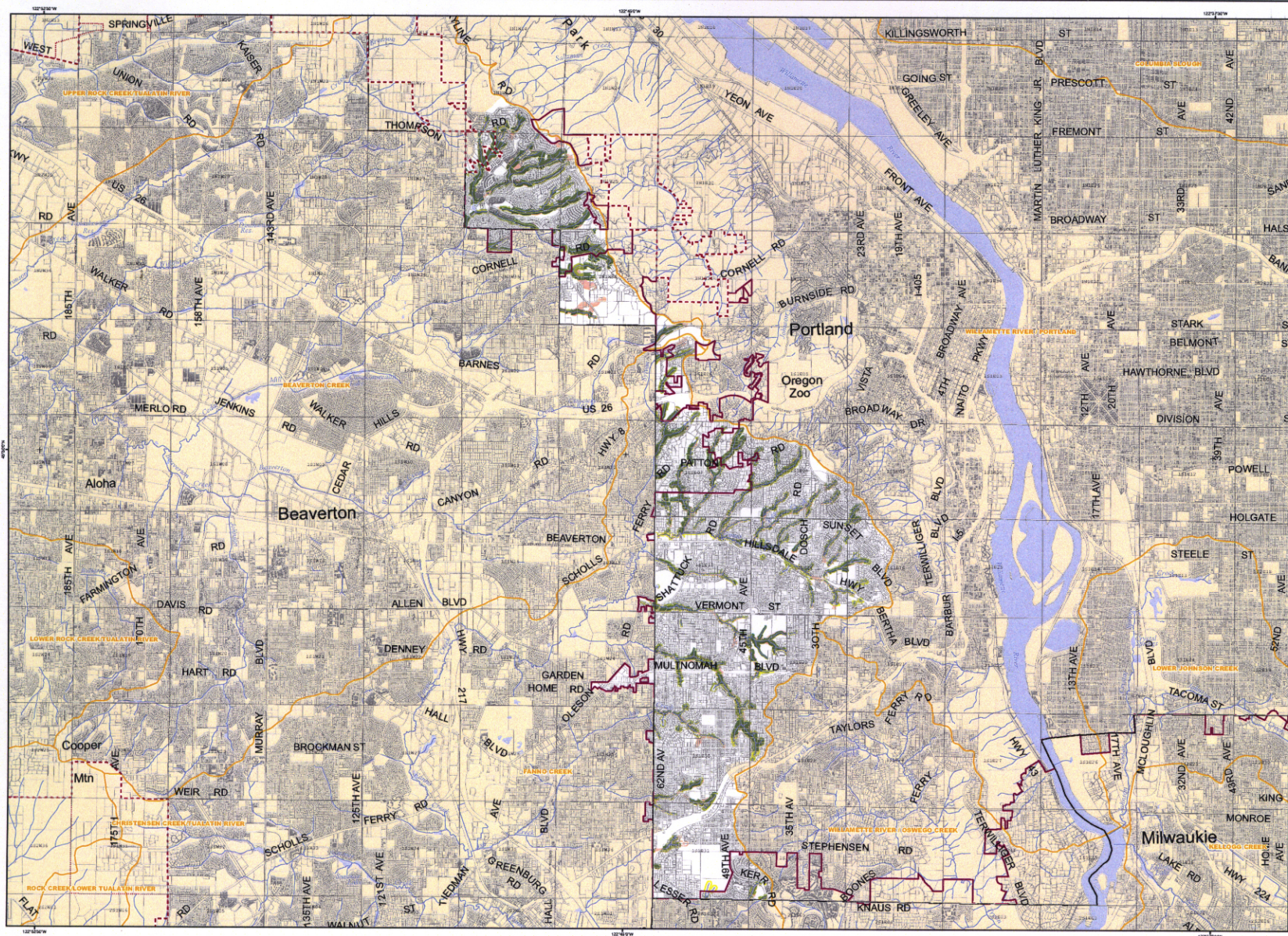


Fish and Wildlife Habitat

- Riparian Corridors/
Wildlife Habitat Class I
- Riparian Corridors/
Wildlife Habitat Class II

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.





Metro Fish and Wildlife Habitat Protection Program

Habitat Conservation Areas Map

Rock & Fanno Creek Watersheds
Within The City of Portland and it's
Urban Services Boundary

Based upon City of Portland
2004 Streams Data

- Portland City Limit
- Urban Growth Boundary
- Metro Boundary
- County Boundaries
- Section Lines
- River & Lake Areas
- Stream Centerlines
- Watersheds

1 inch equals 0.38 miles
0 0.5 1 Miles

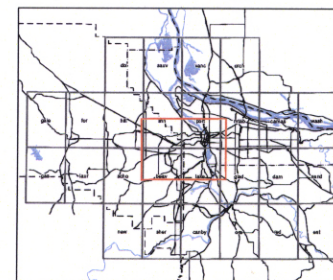


Attachment 2 to Staff Report Ordinance No. 05-1097

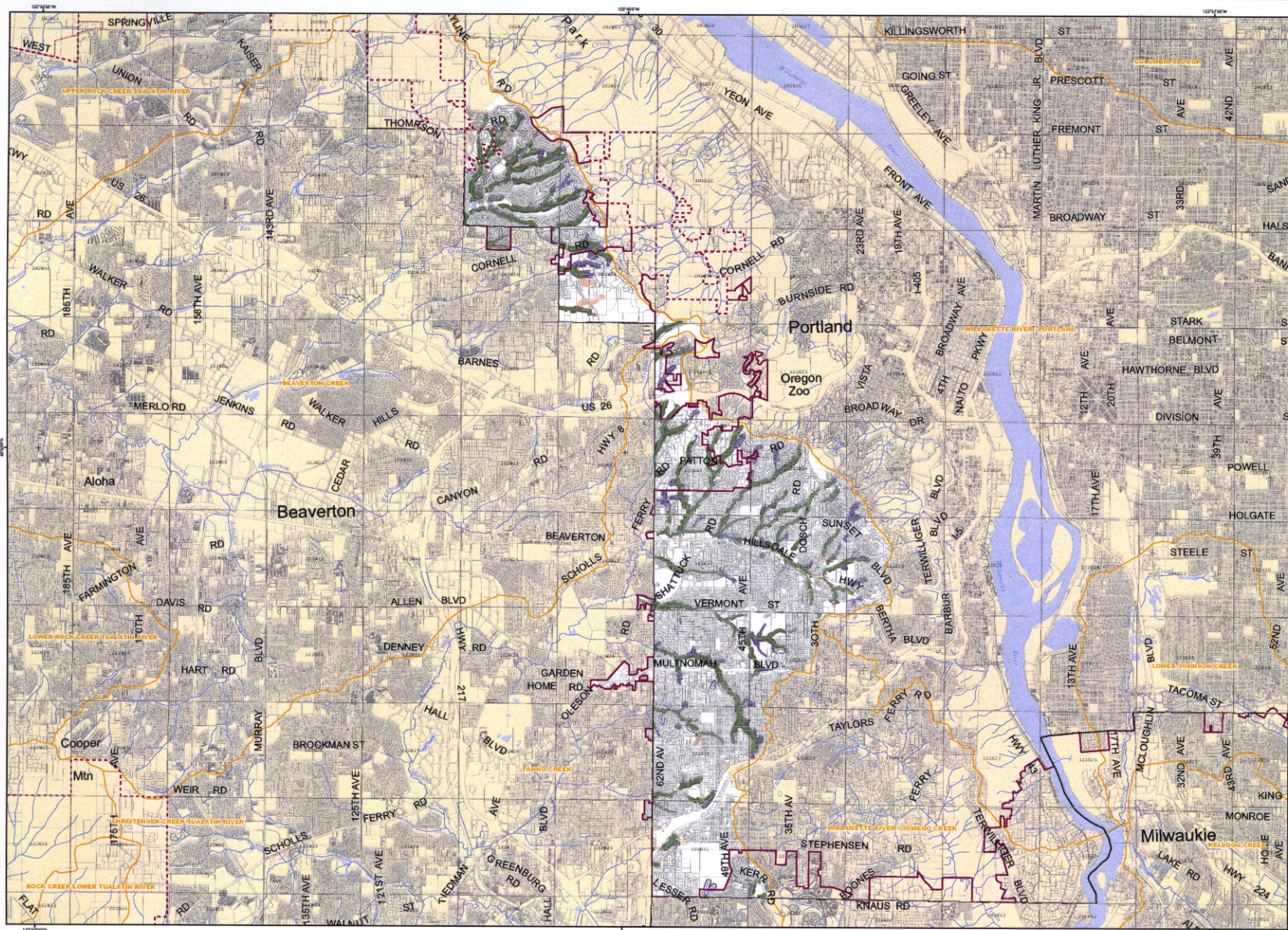
Conservation Area

- HIGH
- MODERATE
- LOW

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Location Map



Metro Fish and Wildlife Habitat Protection Program

Habitat Conservation Areas Map

Rock & Fanno Creek Watersheds
Within The City of Portland and it's
Urban Services Boundary

Based upon City of Portland
2004 Streams Data

- Portland City Limit
- Urban Growth Boundary
- Metro Boundary
- County Boundaries
- Section Lines
- River & Lake Areas
- Stream Centerlines
- Watersheds

1 inch equals 0.38 miles
0 0.5 1 Miles

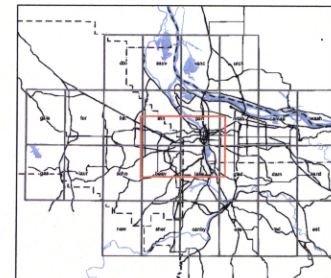


Attachment 3 to Staff Report Ordinance No. 05-1097

Conservation Area Update Since September 2004

- Area Added
- Area Removed
- Area Unchanged

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Location Map

**Attachment 4: - Acres of Habitat Conservation Areas
within Fanno and Rock Creek Watersheds Study Area
(Metro Sept 04 Data)**

Habitat Class & Habitat Conservation Area (HCA)	Developed			Parks			Total Devel. & Park Habitat	Vacant				Total Vacant Habitat	Total Devel.,, Parks & Vacant Habitat
	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3		Constrained			Unconstrained Outside Title 3		
								Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3			
Class I Riparian Corridors													
HIGH HCA	3	61	149	1	75	114	403	5	63	77	131	275	678
MODERATE HCA	1	3	1	0	0	0	4	0	1	1	0	1	5
LOW HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Acres	4	64	149	1	75	114	407	5	64	77	131	276	683
Class II Riparian Corridors													
HIGH HCA	0	0	0	0	0	0	1	0	0	0	0	0	1
MODERATE HCA	1	29	88	1	16	41	175	0	8	20	27	54	229
LOW HCA	1	3	2	0	0	0	6	0	0	0	0	1	7
Total Acres	2	32	90	1	16	41	182	0	9	20	27	55	237
Total Habitat	5	96	240	1	91	155	589	5	72	97	157	331	920

Attachment 5: Acres of Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area (Using City of Portland Streams)

Habitat Class & Habitat Conservation Area (HCA)	Developed			Parks			Total Devel. & Park Habitat	Vacant				Total Vacant Habitat	Total Devel., Parks & Vacant Habitat
								Constrained			Unconstrained Outside Title 3		
	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3		Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3			
Class I Riparian Corridors													
HIGH HCA	4	59	209	1	75	131	479	5	63	89	176	333	812
MODERATE HCA	1	4	4	0	0	0	9	0	1	2	0	4	13
LOW HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Acres	4	63	213	1	75	131	487	5	65	92	176	337	824
Class II Riparian Corridors													
HIGH HCA	0	1	2	1	16	46	66	0	1	1	2	3	69
MODERATE HCA	1	23	105	0	0	1	130	0	7	20	31	58	188
LOW HCA	1	3	6	0	0	0	10	0	1	1	3	4	14
Total Acres	2	27	112	1	16	48	206	0	9	21	35	66	271
Total Habitat	6	90	325	1	91	179	693	5	73	113	211	403	1096

**Attachment 6: Acres of New Habitat
Conservation Areas within Fanno and Rock
Creek Watersheds Study Area**

Habitat Class & Habitat Conservation Area (HCA)	Developed			Parks			Total Devel. & Park Habitat	Vacant				Total Vacant Habitat	Total Devel, Parks & Vacant Habitat
	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3		Constrained			Unconstrained Outside Title 3		
								Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3			
Class I Riparian Corridors													
HIGH HCA	0	0	66	0	0	18	86	0	1	17	63	81	167
MODERATE HCA	0	1	4	0	0	0	4	0	0	2	0	3	7
LOW HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Acres	0	1	70	0	0	18	90	0	2	19	63	83	174
Class II Riparian Corridors													
HIGH HCA	0	0	1	0	1	17	19	0	0	0	1	1	21
MODERATE HCA	0	2	53	0	0	1	57	0	1	6	14	20	77
LOW HCA	0	0	4	0	0	0	5	0	0	1	3	4	9
Total Acres	0	3	58	0	1	19	81	0	1	7	17	25	106
Total Habitat	0	4	128	0	2	37	171	0	2	26	80	108	280

Attachment 7: - Generalized Regional Zoning for New Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area

Generalized Zoning & Habitat Conservation Area (HCA)	Developed			Parks			Total Devel. & Park Habitat	Vacant				Total Vacant Habitat	Total Devel., Parks & Vacant Habitat
								Constrained			Unconstrained Outside Title 3		
	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3							
Single Family Residential													
HIGH HCA	0	0	63	0	0	18	82	0	1	15	57	73	155
MODERATE HCA	0	3	52	0	0	1	56	0	1	7	13	21	77
LOW HCA	0	0	2	0	0	0	2	0	0	0	0	0	3
Total Acres	0	3	117	0	0	20	140	0	2	22	70	95	234
Multi Family Residential													
HIGH HCA	0	0	2	0	0	0	3	0	0	1	1	2	5
MODERATE HCA	0	1	4	0	0	0	4	0	0	1	0	1	6
LOW HCA	0	0	1	0	0	0	1	0	0	0	0	0	2
Total Acres	0	1	6	0	0	0	8	0	0	2	2	4	13
Mixed use													
HIGH HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
MODERATE HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
LOW HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Acres	0	0	0	0	0	0	0	0	0	0	0	0	0
Commecial													
HIGH HCA	0	0	1	0	0	0	1	0	0	0	4	4	6
MODERATE HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
LOW HCA	0	0	1	0	0	0	1	0	0	0	2	2	4
Total Acres	0	0	2	0	0	0	3	0	0	0	7	7	10
Parks & Open Space													
HIGH HCA	0	0	1	0	1	17	19	0	0	0	0	0	19

Attachment 7: - Generalized Regional Zoning for New Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area

Generalized Zoning & Habitat Conservation Area (HCA)	Developed			Parks			Total Devel. & Park Habitat	Vacant				Total Vacant Habitat	Total Devel., Parks & Vacant Habitat
								Constrained			Unconstrained Outside Title 3		
	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3	Inside Title 3 FMA	Inside Title 3 WQRA	Outside Title 3							
MODERATE HCA	0	0	1	0	0	0	1	0	0	0	0	0	1
LOW HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Acres	0	0	1	0	1	17	19	0	0	0	0	0	20
Rural													
HIGH HCA	0	0	1	0	0	0	1	0	0	1	1	2	3
MODERATE HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
LOW HCA	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Acres	0	0	1	0	0	0	1	0	0	1	1	2	3
Total Habitat	0	4	128	0	2	37	171	0	2	26	80	108	279

Attachment 8: - ESEE Development Values for new Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area

ESEE Development Value	Development Status					
	Developed		Vacant		Total Acres	
	<i>Urban</i>	<i>Parks</i>	<i>Constrained</i>	<i>Unconstrained</i>	<i>Dev. & Vac.</i>	<i>% of Total</i>
High Development Value	8	0	3	0	11	4%
Medium Development Value	3	0	0	7	10	4%
Low Development Value	120	4	19	72	215	77%
Other Areas (No Value)	2	34	5	2	43	15%
Total Acres	133	39	28	80	280	100%

BEFORE THE METRO COUNCIL

ADOPTING THE HEARINGS OFFICER'S PROPOSED) RESOLUTION NO. 05-3648
ORDER AND AUTHORIZING THE CHIEF OPERATING)
OFFICER TO ISSUE A FINAL ORDER AFFIRMING) Introduced by Michael Jordan,
THE CONDITIONS SET FORTH IN PARAGRAPHS 3.8,) Chief Operating Officer, with the
3.9, AND 5.2 OF SOLID WASTE FACILITY LICENSE) concurrence of David Bragdon,
NO. L-109-05, ISSUED TO GREENWAY RECYCLING,) Council President
INC.

WHEREAS, the Chief Operating Officer issued Solid Waste Facility License No. L-109-05 to GreenWay Recycling, Inc. (the "Licensee"), in March of 2005; and,

WHEREAS, the Licensee requested a contested case hearing to contest the license conditions set forth in Paragraphs 3.8 and 3.9 of the license, which require solid waste and recyclable materials to be covered within 12 hours of receipt and removed from the site within 48 hours of receipt, and Paragraph 5.2 of the license, which requires a qualified operator to be on site during all hours of operation; and,

WHEREAS, a hearing on the matter was held on July 6, 2005, before Metro Hearings Officer Robert J. Harris; and,

WHEREAS, on October 17, 2005, the Hearings Officer issued a proposed order that the contested conditions set forth in the license were validly issued and reasonable and not in violation of Oregon law, the Oregon or U.S. constitution or a violation of Metro code and procedures; and,

WHEREAS, Metro Code 2.05.045(b) provides that the Council shall adopt the Hearings Officer's proposed order or revise or replace the findings or conclusions in the order, or remand the order to the Hearings Officer; and,

WHEREAS, the Council has considered the proposed order as required by the Metro Code; now therefore,

BE IT RESOLVED that the Council adopts the Proposed Order From Hearing issued by Hearings Officer Robert J. Harris in Metro Contest Case: In The Matter of Metro Solid Waste Facility License Number L-109-05 issued to GreenWay Recycling, Inc., and directs the Chief Operating Officer to issue a final order substantially similar to the Proposed Order.

ADOPTED by the Metro Council this ____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

METRO CONTESTED CASE: SOLID WASTE FACILITY LICENSE NUMBER L-109-05

BEFORE ROBERT J. HARRIS HEARINGS OFFICER

In The Matter of Metro Solid Waste Facility) PROPOSED ORDER
License Number L-109-05) FROM HEARING

Issued to:)

GREENWAY RECYCLING, LLC,)

Respondent.)

BACKGROUND AND PROCEDURAL POSTURE

On February 25, 2004, GreenWay Recycling LLC (hereinafter licensee) was issued Metro License Number YD-109-04 as a reload facility for yard debris and landscape waste. On March 11, 2005, the license was amended, at licensee's request, and reissued as L-109-05 authorizing licensee to accept additional types of solid waste at the facility. On March 11, 2005, Licensee was sent a copy of the staff report (Exhibit HO-1) a copy of the proposed amended license (Exhibit HO-2), a letter from Michael Hoglund, Metro Solid Waste & Recycling Department Director (Exhibit HO-3), and a Contested Case Notice (Exhibit HO-4).

On April 20, 2005, Licensee requested a contested Case Hearing regarding certain provisions of its license (Exhibit HO-5). Metro asked that the Hearings Officer notify licensee that its request for a hearing be set out in more specificity.

/////

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1 Pursuant to previous Metro Code 5.05.090, and 7.01.100, on May 5, 2005, the Hearings
2 Officer sent to licensee a notice of hearing for June 1, 2005, and enclosing copies of Metro
3 Documents that were to be presented at the hearing. A notice of procedure and rights was also
4 enclosed.

5 Included with that standard notice letter of May 5, 2005, was a letter to licensee from
6 the Hearings Officer asking licensee to state with some specificity, the basis for the objection
7 to conditions of the amended license (Exhibit HO-6). That letter gave licensee until May 20,
8 2005, to send a more specific hearing request in. That date was chosen because the hearing had
9 been initially scheduled for June 1, 2005.

10 By letter dated May 16, 2005, licensee specified five separate objections to the Amended
11 License (Exhibit HO-7).

12 On May 26, 2005, the Hearings Officer was informed that Mr. Terrell Garrett, the Agent
13 of licensee was sick and in the hospital with pneumonia. The June 1, 2005, hearing was reset to
14 July 6, 2005 (Exhibit HO-8).

15 In late June licensee retained Mr. Lawrence Derr, attorney at law, to represent it in the
16 hearing.

17 On July 1, 2005, Mr. Derr emailed the hearings officer stating that licensee was
18 contesting certain specific conditions of the amended license (Exhibit HO-9).

19 On July 6, 2005, at the Metro Offices in Portland, Oregon the hearing was held. Present
20 were: For Metro: Paul Garrahan, Metro Assistant Counsel, Bill Metzler, Metro Planner, Roy
21 Brower, Metro Regulatory Affairs Division Manager. Present for Licensee were: Lawrence Derr,
22 Counsel, Terrell Garrett, President of licensee.

23 The Hearings Officer, Robert Harris, stated on the record that there had been no ex-parte
24 communications. The parties acknowledged on the record that they understood the rights and
25 procedures, and waived their reading.

Prior to taking testimony, all witnesses were put under oath.

EVIDENTIARY RULINGS

The Hearings Officer accepted documents and photos during the Hearing and gave left the record open after the hearing for the parties to supplement the record, including submitting briefings on the legal issues. Based on the evidence offered at the hearing and the records and evidence admitted prior to the close of record, The Hearings Officer made the following a part of the Record:

<u>Exhibit Number</u>	<u>Exhibit</u>
HO-1	Metro Staff Report
HO-2	Copy of Proposed Amended License number L-109-05
HO-3	Letter from Michael Hoglund , Metro Solid Waste & Recycling Department Director
HO-4	Contested Case Notice
HO-5	Licensee Request for Contested Case Hearing
HO-6	Hearings Officer Letter, Notice of Hearing and Notice of Rights and Procedures
HO-7	Licensee Letter specifying objections to Amended License
HO-8	Letter from Hearings Officer resetting Hearing
HO-9	Email from Mr. Derr withdrawing some specific objections
HO-10	License 4D-109-04 issued to Greenway Recycling LLC

METRO offered the following Exhibits into evidence, which were accepted without objection and marked accordingly:

<u>Exhibit Number</u>	<u>Exhibit</u>
Metro -1(a) through 1(l)	12 color photos (8 x 10) of the subject site

1	Metro - 2	Metro Solid Waste Facility License L-003-03
2	Metro - 3	Metro Solid Waste Facility License L-009-04
3	Metro - 4	Copy of Metro File for Greenway Recycling LLC -
4		Complaints
5	Metro - 5	Copy of Metro File for Greenway Recycling LLC
6		Application file for YD-109-04
7	Metro - 6	Copy of Metro File for Greenway Recycling LLC -
8		YD-109-04; Enforcement Actions
9	Metro - 7	Copy of Metro File for Greenway Recycling LLC -
10		YD-109-04; Site Visits
11	Metro - 8	Copy of Metro File for Greenway Recycling LLC -
12		YD-109-04 Correspondence
13	Metro - 9	Site Map of subject property
14	Metro - 10	Cover letter dated July 27, 2005, from Paul Garrahan
15		along with one page (double sided) supplemental
16		statement of Roy Brower in response to Mr. Garrett's
17		July 20, 2005 supplemental statement.
18	Metro - 11	Copy of Metro file for Greenway Recycling LLC
19		YD-109-04 DEQ.
20	Metro - 12	Copy of Metro file for Greenway Recycling LLC
21		YD-109-04 operation plan.
22	Metro - 13	Greenway Recycling Public Notice file.

Licensee offered the following Exhibits into evidence, which were accepted without objection and marked accordingly:

Exhibit Number

Exhibit

Licensee - 1

Cover letter of Lawrence Derr dated July 20, 2005, along with copies of Change of Authorization form an attachment and supplemental statement of Mr. Terrell Garrett dated July 20, 2005 (5 pages including cover letter).

ISSUES

1. Does Metro have the authority to regulate licensee's activities on licensee's site?
2. If Metro has the authority to exercise authority over licensee's activities on its site, was Metro required to pass rules and regulations pursuant to the Oregon Administrative Procedures Act prior to exercising its authority; or to otherwise engage in administrative rule making?
3. If Metro had regulatory authority over licensee's site, and it was not required to promulgate rules under the Oregon Administrative Procedures Act, did Metro exercise its authority properly in setting certain conditions on the issuance of a license to licensee?

PRELIMINARY LEGAL QUESTION

Licensee contests as a preliminary issue whether Metro has the authority to impose operational conditions on the issuance of the type of license issued in this instance. Licensee makes two arguments. Whether Metro has the authority to even include operational conditions as part of a valid license and if so, whether Metro was required to make rules in advance setting forth the particularities of license requirements and parameters.

A. Grant of Authority to impose operational Conditions on Licensee

Metro is a home rule government authorized by the Oregon Constitution (article XI section 14) and Metro Charter. The Oregon Constitution provides that Metro shall exercise all powers and perform all duties as granted to, imposed upon or distributed among district officers by the constitution or laws of this state, by the District charter or by its authority. Metro Charter provides that "(m)atters of metropolitan concern include the powers granted to and duties imposed on Metro by current and future state laws and those matters the Council by ordinance determines to be of metropolitan concern. (Metro Charter Section 4). This provision gives Metro wide authority to act in matters of metropolitan concern (*City of Sandy v. Metro*, 2005 Or. App. (2005))

1 Licensee argues that ORS 268.318(2) is the effective grant of licensing authority to
 2 Metro by the state and establishes the only items that Metro may consider when issuing
 3 licenses. Licensee argues that none of the conditions at issue fall within the categories listed in
 4 ORS 268.318(2).

5 Metro argues that the grant of authority to Metro to impose operational conditions on
 6 licensees is not bounded by ORS 268.318. It points to ORS 268.317 which grants Metro broad
 7 authority to issue licenses (sub. 5) and the authority to prescribe a procedure to do so (sub. 6)
 8 In addition, Subsection 7 of that statute allows Metro to regulate the services provided by
 9 license and order modifications, additions or extensions to the... facilities, plan or services as
 10 shall be in the public interest. (ORS 268.317(7)) Metro also points to the broad grant of
 11 authority in the Oregon Constitution and the Metro Charter.

12 I find as a matter of law that Metro does have the authority, under Applicable
 13 Constitutional provisions, Metro Charter and Oregon law, to not only issue and regulate licenses
 14 regarding solid waste handling and disposal, but to include operational conditions on the
 15 issuance of such licenses.

16 **B. Is Metro required to issue Rules or Procedures regarding issuance of**
 17 **Licenses for Solid Waste Facilities?**

18 Metro is not a State Agency. It is a home rule government directly elected by the people
 19 of the Metro district. Therefore I find that the Oregon APA does not apply to Metro.

20 ORS 268.317(6) states that Metro *may* "Prescribe a procedure for the issuance,
 21 administration, renewal or denial of contracts, licenses, or franchises granted under subsection
 22 (5) of this section. Nowhere is Metro required to undertake rulemaking as contemplated by
 23 licensee in its brief.

24 /////

25 /////

1 Licensee argues that without formal rulemaking Metro is left with a case by case standard
2 less, ad hoc review in cases involving conditions of licenses. And that such a legal construct is
3 contrary to law.

4 Metro points out that it has established a procedure for review. Licensee has the ability to
5 contest a license condition through the contested case process, which process is fully set forth in
6 Metro Code and Oregon Statutes regarding review of contested cases (ORS 34.010 *et seq*).

7 I find that Metro has the authority to review and issue licenses regarding solid waste
8 facilities without having first formally promulgated administrative rules under the Oregon APA.
9 The procedure as set forth in the Metro Code, providing for contested case hearings, and Judicial
10 review pursuant to the procedures and requirements under ORS 34.010 *et seq*, Writ of Review, is
11 legally sufficient to meet Statutory and constitutional requirements.

12 FINDINGS OF FACT

13 I. Background

14 GreenWay Recycling LLC (licensee), is an Oregon Limited Liability Company in the
15 business of waste handling and recycling. It operates at a facility located at 4135 NW St. Helens
16 Road, Portland, Oregon (facility) a location within the jurisdiction of Metro. Terrell Garrett is a
17 member of licensee.

18 In February 2004, licensee received license No. YD-109-04 for its facility. That license
19 authorized licensee to accept, process and reload source separated yard debris and landscape
20 waste and accept, process and reload clean treated painted wood waste at its facility.

21 In October 2004, licensee applied for a Change of Authorization for its license to add the
22 ability to accept and reload non-putrescible solid waste and source separated recyclable
23 materials. Licensee proposed to accept the dry solid waste from commercial sources only, and
24 proposed procedures whereby select haulers could deposit the materials at the facility after
25

regular business hours. Licensee's application stated that it would reload all categories of waste to their respective destinations on a first in, first out basis within 72 hours.

In March 2005, Metro granted the Change of Authorization through issuance of license No. L-109-05. That license added conditions applicable to both the existing operations and the newly allowed activities.

Licensee objected to the following added conditions of license L-109-05.

1. That portion of Paragraph 3.8 (regarding non-putrescible solid waste for reloading) stating:

All mixed non-putrescible waste must be reloaded into containers or vehicles and securely covered or tarped within 12 hours of receipt, or by the end of each business day, whichever is soonest. All mixed non-putrescible waste must be removed from the site within 48 hours after it has been received.

2. That portion of Paragraph 3.9 (regarding source-separated recyclables) stating:

All non-putrescible source separated recyclable materials must be securely covered or tarped within 12 hours of receipt All non-putrescible source separated materials must be removed from the site within 48 hours after it has been received.

3. That portion of paragraph 5.2 stating:

The licensee shall during all hours of operation provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01

II. Conditions Contained in License L-109-05, paragraphs 3.8 and 3.9

The proposed use by licensee is as a dry waste and source separated recyclables *reload* facility. A reload facility is an adjunct facility that transfers waste between collection and another solid waste facility (Metro Code Section 5.01.010(nn). In that way it is more akin to a transfer station than a material recovery facility. A standard Metro contract and franchise provision for a Metro transfer station is that all wastes received at such a facility must, within

1 24 hours of receipt, be processed, appropriately stored or properly disposed of (Exhibit Metro-
2 10). Metro has imposed this 24 hour requirement on other reload facilities, such as Aloha
3 Garbage Company (Exhibit Metro-10).

4 Mr. Garrett testified that his facility as constructed was limited in how much material
5 he could accept. Based on Mr. Garrets own testimony it appears that the facility could accept
6 approximately two days worth of materials.

7 The facility site is relatively small, and has an environmental overlay which reduces the
8 usable area of the site. The activities proposed by licensee are relatively intense for the size of
9 the facility. While licensee did a good job of configuring the site for maximum use, if
10 substantial amounts of solid waste are brought to the site, it does create the possibility of a
11 nuisance. Metro stated that it imposed condition 3.8 at least partially in order to prevent
12 nuisances from occurring on the site. A neighbor has complained numerous times about the
13 odors and dust coming from the facility. The complaint regarding odors was not substantially
14 confirmed. The complaint regarding dust was confirmed as an intermittent, minimal problem.
15 The city of Portland also contacted licensee regarding placing solid waste in an environmental
16 conservation zone resource. That problem was remedied. Nevertheless, it appears from the
17 record that the facility, by operation or because of its size, poses certain challenges to the
18 operator and its neighbors.

19 The evidence from Metro's solid waste experts shows that recoverable solid waste may
20 be damaged, contaminated, or its recyclable value may be reduced when it is left uncovered
21 and exposed to the elements. Metro requirements that the materials be covered within 12 hours
22 or by the end of each work day is a reasonable response to this legitimate area of Metro
23 concern.

24 Given the type of use proposed (a reload facility), conditions imposed on other reload
25 facilities, the site characteristics and possible nuisance conditions caused therefrom, the

1 legitimate goal or maximization of recyclable materials and the history of operations of the
2 licensee's facility, there is substantial evidence on the record to support the conditions
3 contained in paragraphs 3.8 and 3.9 of the license.

4 **III. Conditions Contained in License L-109-05, paragraph 5.2**

5 Metro allows other facilities to offload solid waste after hours, but only if the haulers
6 are "affiliated" with the owner of the facility. There is no evidence that any of the haulers to
7 the licensee's facility are affiliated haulers. Affiliated haulers are defined by Metro as those
8 who work for the same company as the waste disposal site, or who work for haulers who are
9 owned or controlled by the same legal entity as the waste disposal site.

10 Metro's reasoning for only allowing affiliated haulers to offload after hours is because
11 the waste disposal site operators have the ability to set standards, and enforce those standards
12 on drivers who are hauling and offloading at the site. On the other hand, non-affiliated haulers
13 may have more incentive to avoid the rules. Metro also reasons that if a violation is discovered
14 to have been committed by a non-affiliated hauler, the waste disposal site owner may not have
15 a great incentive to take action against the hauler since the hauler is a "customer" rather than an
16 employee.

17 Metro's has a legitimate and compelling concern regarding contaminated loads being
18 sent to the facility. Unaffiliated Haulers are not as likely as facility employees to ensure that
19 only appropriate materials are deposited at the facility.

20 **IV. Equal Protection**

21 Licensee argues that it is not being treated similarly to other entities whom are licensed by
22 Metro.

23 Licensee points to Wastech and East County Recycling (ECR licenses) in arguing that
24 conditions 3.8 and 3.9 unfairly and unreasonably discriminate against it.

25 /////

1 Licensee is not similarly situated to the Wastech and ECR Facilities. Wastech and ECR are
2 material recovery facilities, not reloading facilities. The significant differences are: Wastech
3 and ECR must actually recover at least 25% of the dry solid waste that they accept. Licensee
4 has no such requirement or incentive to protect the materials from damage or diminution. The
5 evidence presented by Metro shows that at both Wastech and ECR the bulk of the days
6 incoming waste is processed and either sorted into marketable components, stored under cover
7 when appropriate, or delivered to a landfill for disposal, or stored in trucks for delivery to a
8 landfill by the end of the day.

9 Licensee argues that it is being treated differently than Wastech as to condition 5.2 because
10 Wastech was not required to have a qualified operator on site at all times. Neither Wastech nor
11 Metro allows such after hours unregulated access any longer. Therefore there is no unequal
12 treatment regarding condition 5.2

13 CONCLUSIONS OF LAW

14 Based on the Findings of Fact, I make the following Conclusions of Law:

- 15 1. Metro has the legal authority to set conditions when issuing solid waste,
16 recycling reload facility licenses.
- 17 2. Metro's enforcement authority and rulemaking authority is not governed by the
18 Oregon Administrative Procedures Act.
- 19 3. There is substantial evidence on the record for Metro make the requirement set forth
20 in Paragraph 3.8 a condition of license No. L-109-05.
- 21 4. Licensee has failed to show that other similarly situated licensees are being treated
22 differently than it is being treated in regards to condition 3.8.
- 23 5. There is substantial evidence on the record for Metro to make the requirement set
24 forth in Paragraph 3.9 a condition of license No. L-109-05.
- 25 6. Licensee has failed to show that other similarly situated licensees are being treated

1 differently than it is being treated in regards to conditions 3.9.

2 7. There is substantial evidence on the record for Metro to make the requirement set
3 forth in Paragraph 5.2 a condition of license No. L-109-05.

4 8. Licensee has failed to show that other similarly situated licensees are being treated
5 differently than it is being treated in regards to conditions 5.2.

6 **ORDER**

7 Based upon the above findings of fact, ultimate findings of fact, reasoning and
8 conclusions of law, it is hereby ORDERED THAT:

9 The Conditions as set forth in License L-109-05 are hereby found to be validly issued
10 and reasonable and not in violation of Oregon law, the Oregon or US constitution or a violation
11 of Metro code and procedures.

12
13
14

Robert J. Harris
Hearing Officer

15 Dated: October 17, 2005.

16 **PROPOSED ORDER AS FINAL ORDER:**

17 ANY MOTION TO RECONSIDER THIS ORDER MUST BE FILED WITHIN TEN (10)
18 DAYS OF THE ORIGINAL ORDER. IF YOU FAIL TO OBJECT OR FILE A MOTION FOR
19 RECONSIDERATION AFTER THE TENTH DAY, THEN THIS ORDER BECOMES THE
20 FINAL ORDER. THE HEARINGS OFFICER MAY RECONSIDER THE FINAL ORDER
21 WITH OR WITHOUT FURTHER BRIEFING OR HEARINGS. IF ALLOWED,
RECONSIDERATION SHALL RESULT IN REAFFIRMANCE, MODIFICATION OR
REVERSAL. FILING A MOTION FOR RECONSIDERATION DOES NOT TOLL THE
PERIOD FOR FILING AN APPEAL IN COURT.

22 **RIGHT OF APPEAL:**

23 A PERSON MAY APPEAL A FINAL ADVERSE RULING BY WRIT OF REVIEW AS
24 PROVIDED FOR IN ORS 34.010 THROUGH 34.100

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BEFORE THE METRO REGIONAL GOVERNMENT

IN THE MATTER OF THE METRO SOLID)	
WASTE AND RECYCLING DEPARTMENT)	
DIRECTOR'S APPROVAL WITH CONDITIONS	)	GREENWAY RECYCLING, LLC'S
OF THE CHANGE OF AUTHORIZATION	)	EXCEPTIONS TO PROPOSED
REQUEST OF METRO SOLID WASTE	)	ORDER FROM THE HEARING
FACILITY LICENSEE GREENWAY)	
RECYCLING, LLC,)	
LICENSE NUMBER L-109-05)	

Metro Hearing Officer Robert Harris issued a proposed Order on October 17, 2005. On October 25, 2005 the Metro Chief Operating Officer issued a Notice of Opportunity to File Written Exceptions and New Evidence by November 15, 2005. Greenway Recycling, LLC takes exception to the sections of the Proposed Order beginning at page 5 titled Preliminary Legal Question, Findings Of Fact, and Conclusions of Law.

I. REASON FOR APPEAL

Metro issued the initial and modified licenses that Greenway sought to conduct its business. However, it did so only after extensive delays and subject to conditions that negatively impact Greenway's ability to conduct its business in compliance with all applicable codes and regulations, both those of Metro and other agencies with jurisdiction. Neither the delays nor the conditions are sanctioned by provisions of Metro Code or regulations.

Greenway brought this appeal not just to remove unnecessary and burdensome conditions. It brought the appeal to require Metro to comply with its own Code, Section 5.01.132, by issuing administrative procedures and performance standards in advance of licensing review and imposition of operating conditions. Only in that way can prospective licensees and franchisees know what standards they will be required to meet and assess whether their business plan can fit within a rational regulatory scheme of solid waste management.

But the requirement of administrative standards and procedures does not benefit just prospective and current licensees and franchisees. It forces Metro to reflect on the need for and efficacy of proposed standards and restrictions, open those proposals to comment from the industry, the public and other regulatory agencies, and learn from the dialogue. When that process is complete and procedures and performance standards are adopted, the agency staff is empowered by their existence to assist or require licensees to comply. In the absence of procedures and standards, staff is subjected to the current situation requiring ad hoc decision making. Ad hoc decision making practically assures unequal treatment of licensees and franchisees and interferes with the efficient operation of the market place.

The Regional Solid Waste Management Plan states:

"The overall goal of the RSWMP is:

"Continue to develop and implement a solid waste Management Plan that achieves a solid waste system that is regionally balanced, environmentally sound, cost-effective, technologically feasible and acceptable to the public."

This goal cannot be achieved by the current, ad hoc process of issuing, conditioning and overseeing licenses and licensees. The discussion below explains why the advance adoption of procedures and performance standards to inform staff and prospective licensees is not just good policy but a legal requirement.

II. THE SOURCE OF METRO'S REGULATORY AUTHORITY

The Hearing Officer found that Metro's authority to impose the conditions that are contested in this appeal derives at least in part from the State Constitution and Metro Charter as a matter of "metropolitan concern". While it may not affect the resolution of the issues in this case, that is not a correct statement of the law. State statutes clearly provide that recycling and solid waste disposal are matters of statewide, not metropolitan, concern.¹

Metro's authority is based on a delegation from the State Legislature through ORS 268.317 and 268.318 and certain other provisions not relevant here found in ORS Chapters 459 and 459A. The Hearing Officer described briefly the competing contentions of Greenway and Metro regarding the application of these statutes and case law as they control Metro's regulatory authority. Without explanation the Hearing Officer reached the general conclusion that Metro has authority to impose operational conditions in the course of issuing licenses.

Greenway does not dispute that Metro has authority to license and regulate certain aspects of its business activities. The dispute is over the methods by which Metro purports to regulate those activities.

III. LIMITATIONS ON METRO'S REGULATORY AUTHORITY

Greenway explained to the Hearing Officer that before Metro can impose operational restrictions on Greenway in the form of license conditions, it must first announce the standards and procedures to which a licensee must conform under the applicable circumstances. Metro argued, and the Hearing Officer apparently agreed, that the appellate cases so holding apply only to court review of state agencies operating under the State Administrative Procedures Act. In fact the principal applies in any situation where an administrative agency purports to apply a decision making criterion to an applicant for a permit.

¹ "ORS 459.015(1) The Legislative Assembly finds and declares that:

"(a) The planning, development and operation of recycling programs is a matter of statewide concern."

"ORS 459.065(1) The Legislative Assembly finds that solid waste disposal is a matter of statewide concern. * * *"

Metro counsel cited *Anderson v. Peden*, 284 Or 313 (1978) for the proposition that establishing policy on a case-by-case basis in a permit proceeding is permissible. That case was a State Supreme Court review of a county decision denying a conditional use permit for a mobile home. The disappointed applicant alleged that certain general statements of purpose in the county's zoning code were too vague and could not be clarified on a case-by case basis in the subject proceeding. The Court disagreed, noting that there is no constitutional requirement to clarify a vague standard by advance rulemaking, provided that the individual decisions applying the standard do not violate other constitutional protections against such things as unequal grant of privileges or immunities.

But the Court also observed that where a standard is announced as applicable for the first time in the permit proceeding, that does violate the law. The Court stated, "Respondents do not deny that under the ordinance an applicant should be able to learn in advance of making application by what criteria his proposal will be judged." *supra* at 323. The Court's comment did not determine the outcome of the case because the applicant had not properly raised this argument to the county or the lower court. This is the part of *Anderson* that is relevant to this case, because here there are no standards governing the operational conditions imposed on Greenway. There are only the conditions themselves, imposed as a part of the license.

In *Commonwealth v. Washington County*, 35 Or App 387 (1977) the Court of Appeals expressly applied the holdings of such state Administrative Procedures Act cases as *Sun Ray Dairy v. OLCC*, 16 Or App 63 (1973) to county land use permit decision making. The principal is not limited to state APA cases. *Commonwealth* involved an application for preliminary subdivision plat approval in which the county attempted to apply general policy statements from its comprehensive plan in a manner that did not give the applicant guidance as to what would be required to submit an acceptable plat. The Court said:

"An applicant, be he seeking a liquor license or a subdivision, should not be put in a position of having his success or failure determined by guessing under which shell lies the pea." *Commonwealth, supra* at 399.

The Court's admonition applies with particular force where there are no announced standards other than the conditions themselves imposed in the license.

IV. WRIT OF REVIEW REMEDY

Among the reasons courts require announced standards in the decision making process is to facilitate judicial review.² Metro counsel argued and the Hearing Officer apparently agreed that the statutory reasons that a court may allow writ of review relief provide the missing standards for review. That position misses the point. The standards the court decisions found lacking are the laws being applied by the agency in its decision making and its construction of those laws. One of the bases for writ of review relief is that the agency improperly construed the

² "Were we to decide this case in the absence of administratively adopted standards, we would necessarily either be imposing court-made standards on the agency or we would ourselves be guilty of subjective decision making. Either role would be deleterious to the ability of the agency to fulfill its proper administrative role." *Sun Ray Dairy, supra* at 399.

applicable law. Until the local entity announces the law (standards) it is applying, the court has nothing against which to evaluate whether it properly construed the law.

V. METRO CODE SECTION 5.01.132

The Metro Council has wisely adopted Code provisions that should have avoided the dilemma faced by Greenway and others. Chapter 5.01 "Governs the Regulation of Solid Waste Disposal Sites and Solid Waste Facilities Within Metro." MC 5.01.020. The Chapter includes Section 5.01.132 titled "Adoption & Amendment of Administrative Procedures and Performance Standards." The Section provides in full as follows:

"(a) The Chief Operating Officer shall issue administrative procedures and performance standards governing the obligations of Licensees and Franchisees under this chapter, including but not limited to procedures and performance standards for *nuisance control*, public notification of facility operations, *management of unacceptable wastes*, facility record keeping and reporting, yard debris composting operations, transportation of Putrescible Waste, and designation and review of Service Areas and demand pursuant to Section 5.01.131 of this chapter. *emphasis supplied*

(b) The Chief Operating Officer may issue administrative procedures and performance standards to implement all provisions of this chapter.

(c) The Chief Operating Officer shall substantially amend the administrative procedures and performance standards issued under subsections (a) and (b) of this section only after providing public notice and the opportunity to comment and a public hearing on the proposed amendment."

The conditions at issue on this appeal according to Metro staff relate to nuisance control and management of unacceptable waste. Whatever administrative procedures and standards the Chief Operating Officer may have issued pursuant MC 5.01.132(a), none known to Greenway relate to nuisance control or management of unacceptable waste applicable to Greenway's facility. The obligations under subsection (a) are mandatory, as contrasted with the discretionary authority under subsection (b).

Greenway raised this issue before the Hearing Officer, stating "Finally and perhaps most important, the Metro code requires that the standards lacking in this case be in place." Greenway Recycling LLC's Hearing Memorandum, page 9. The Hearing Officer did not address the Code Section at all. Metro Counsel argued that conditions in each license constitute the performance standards required by 5.01.132(a).

This circular argument does nothing to either satisfy the Court described mandates to announce the rules of the game or the underlying policy advantages explained at the beginning of this document. The argument fails on a logical basis as well. If, as Metro staff and counsel argue, the conditions and therefore the standards required by 5.01.132(a) are created and amended with each license issuance, then the process violates 5.01.132(c). That subsection provides that amendments to the administrative procedures and performance standards may

occur only after public notice, public hearing and opportunity to comment. In other words, precisely the process that Greenway asserts should have been but was not followed.

VI. THE HEARING OFFICER'S FINDINGS OF FACT

Under the heading "Findings of Fact" the Hearing Officer assumes and attempts to respond to arguments Greenway did not make. The Hearing Officer assumes that Greenway objected to the three contested conditions because they are not supported by substantial evidence and violate constitutional equal protection guarantees against unequal treatment. Greenway did describe examples of faulty facts and reasoning asserted by Metro staff related to the conditions and circumstances where other licensees were treated differently. That information was provided as background to place Greenway's appeal in context. Greenway did not argue that these circumstances were independent reasons to strike the conditions. They may well be such, but as Greenway explained at the beginning of its Hearing Memorandum the focus of this appeal is on the regulatory framework and its lack of support for the conditions imposed. Greenway disagrees with the conclusions of the Hearing Officer recited as Findings of Fact. But those findings do not answer the objections raised by Greenway.

VII. CONCLUSION

The law announced by the courts and the Code adopted by the Metro Council require that an applicant for a license know in advance of preparing an application what administrative procedures and performance standards will govern the activity proposed under a license. If there are aspects of the proposed activity that will be controlled or restricted by conditions the standards controlling those conditions must be known.

The process of establishing the administrative procedures and performance standards is the appropriate opportunity for staff, the industry and other members of the public to fully debate and air the merits and demerits of the proposed provisions. There is nothing so complicated or unique about reload or recovery facilities that the general rules applicable to them can only be decided on a permit by permit basis. If unique circumstances do apply to a particular facility, the existence of general standards will serve to guide individual decision making for that facility. Applicable law and good public policy dictate this approach to licensing.

Dated November 15, 2005



Lawrence R. Derr
Attorney for Greenway Recycling, LLC

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING	)	RESOLUTION NO. 05- 3647
CONSULTANT SERVICES FOR THE LAKE)	
OSWEGO TO PORTLAND TRANSIT	)	Introduced by Councilor Newman
ALTERNATIVES ANALYSIS)	

WHEREAS, the metropolitan area is forecast to continue to experience increases in population and housing; and

WHEREAS, the Metro Council approved the Regional Framework Plan as a means of accommodating future growth in the region and the Plan calls for "Creating higher density centers of employment and housing..." (that) "...provides many advantages to communities"; and,

WHEREAS, the Framework Plan further states that "Downtown Portland serves as our major regional center and functions quite well as an employment and cultural hub for the metropolitan area." and "Improvements to the transit system network, development of a multi-modal street system and maintenance of region through routes (the highway system) would provide additional mobility to and from the city center."; and,

WHEREAS, Downtown Lake Oswego is designated as a town center by the Regional Framework Plan and the Regional Framework Plan states that "In ...town centers,..., the Regional Transportation Plan will emphasize a high quality bicycle and pedestrian environment and improved access to transit, but will also allow for auto access.", and;

WHEREAS, the Metro Council approved the Regional Transportation Plan (RTP) to implement the Regional Framework Plan and the RTP, Policy 3.0, Urban Form, objective b, states: "Provide street, bicycle and pedestrian connections to transit routes with and between new and existing residential, commercial and employment areas and other activity centers.", and;

WHEREAS, the Regional Transportation Plan states: "Though heavy travel demand exists along Macadam/Highway 43, between Lake Oswego and the central city, physical and environmental constraints preclude major roadway expansion. Instead, a long-term strategy for high-capacity transit that links the central city to southwest neighborhoods and Lake Oswego town center is needed. As this service is implemented, the following options should be considered in local and special district plans:... implement frequent bus service from Lake Oswego town center to Portland central city in the Macadam corridor; phasing of future streetcar commuter service or commuter rail in this corridor to provide a high-capacity travel option during congested commute periods, using either the Willamette Shore Line right-of-way, the Macadam Corridor Design Guidelines (1985) rail alignment or other right-of-way as appropriate....", and;

WHEREAS, the Metro Council approved the FY 04-07 Metropolitan Transportation Improvement Program, which included \$340,000 for the study of transit and bicycle and pedestrian trail alternatives in the Corridor; and,

WHEREAS, the Metro Council approved the FY 06-09 Metropolitan Transportation Improvement Program, which added \$688,000 in funding to complete the Alternatives Analysis and begin environmental impact studies in the Corridor; and,

WHEREAS, much of the funding for the proposed analysis is from federal sources and federal funding of any transit analysis leading to improvements in the Lake Oswego to Portland corridor must meet Federal Transit Administration, National Environmental Policy Act and other federal requirements; and,

WHEREAS, current Metro staff will complete most of the federally required analysis including project management, coordination with the Federal Transit Administration, travel forecasting, facilitation and support of the Lake Oswego to Portland Transit Alternatives Analysis Project Technical Advisory Committee, Project Management Group, Project Advisory Committee and Steering Committee, evaluation of most aspects of the alternatives, preparation of environmental impact studies and coordination with the Metro Council; and,

WHEREAS, four work elements are not able to be completed by Metro staff and require consultant services, including traffic analysis, additional public involvement support, transportation design assistance and financial and funding strategies and analyses in order to completely address technical issues and federal requirements likely to arise with this project; and,

WHEREAS, the contracts list of the Fiscal Year 2005- 2006 Metro Budget identifies the consultant contract related to the Lake Oswego to Portland transit alternatives analysis as one of "significant impact" and for which Metro Council approval of the release of a request for proposal and Metro Council authorization to execute a contract must be secured; now therefore,

BE IT RESOLVED that the Metro Council

1. Authorizes the Chief Operating Officer to release a Request for Proposals substantially similar to that attached as Exhibit A for proposal soliciting consultant services for traffic analysis, transportation design, public involvement assistance and a financial and funding strategy and analysis for the Lake Oswego to Portland transit alternatives analysis project.
2. Authorizes the Chief Operating Officer, after a consultant or consultants have been selected consistent with Metro contracting policies and rules, to execute a contract with the most responsive proposer, to perform the services cited in resolve 1.

ADOPTED by the Metro Council this 8th day of December, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Request for Proposals

**DRAFT Request for Proposals
FOR
Consulting Services to include Traffic Engineering Analysis, Conceptual Design and Capital
Costing, Public Involvement Assistance and a Financial and Feasibility Analysis
for
the Lake Oswego to Portland Transit Alternatives Analysis**

I. INTRODUCTION

The Planning Department of Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, is requesting proposals for a traffic engineering analysis, conceptual design and capital costing services, public involvement assistance and a financial and feasibility analysis for the Lake Oswego to Portland Transit Alternatives Analysis. Proposals will be due no later than _____ p.m., _____, 2005 in Metro's business offices at 600 NE Grand Avenue, Portland, OR 97232-2736. Details concerning the project and proposal are contained in this document.

II. BACKGROUND/HISTORY OF PROJECT

Metro is a regional government providing a variety of services for the 25 cities and for the urban portion and some rural areas of Clackamas, Multnomah and Washington counties, Oregon. These regional services include transportation planning at the regional scale, such as planning the transit system in coordination with Metro's local partners, that is in turn, implemented by TriMet.

Substantial growth in population and jobs is expected to occur within the region. Consistent with the Metro Council approved Regional Framework Plan, a portion of that growth is expected to occur within downtown Portland and within downtown Lake Oswego. The Regional Framework Plan also call for centers such as downtown Portland and downtown Lake Oswego to be closely linked by transportation. These two centers are connected in a north/south corridor by Highway 43 and by a railroad right-of-way acquired by a consortium of public agencies upon which seasonal trolley service is currently provided. This corridor is also located along the Willamette River, for which the State of Oregon has designated as a segment of the Willamette River Greenway and for which State Planning Goal 15 calls: "To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway."

The existing traffic volumes on Highway 43 within the corridor create substantial congestion in the peak hours of travel. Forecasts of future volumes in the corridor suggest greater congestion on Highway 43. Substantial roadway improvement and tolling for Highway 43 have been ruled out in earlier studies completed in 1996 and 1999. Given the public ownership of a railroad right-of-way within the corridor, transit alternatives, including, but not limited to streetcar service, are being studied to assess how current and future transportation needs might be met in the Lake Oswego to Portland corridor. In addition, the

Request for Proposals

feasibility of a continuous bicycle and pedestrian trail along the corridor is being simultaneously analyzed.

The Lake Oswego to Portland Transit and Trail Alternatives Analysis (LOAA) is substantially funded by federal sources and is therefore subject to the planning guidance and requirements of the Federal Transit Administration (FTA). Metro is the lead agency for the project and is evaluating transit capital and operating improvements and trail improvements on the west side of the Willamette River between the Lake Oswego Town Center north to SW Bancroft Street in the Portland Central City. The LOAA will develop and evaluate transit and trail alternatives in the corridor with the end result being selection of a preferred alternative or several promising alternatives to be advanced into the federal environmental process under the provisions of the National Environmental Policy Act (NEPA). Information from stakeholder interviews is included in the appendix to provide further background on the various challenges and opportunities that diverse interests have in this corridor.

III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking proposals from qualified firms to perform the following services and to deliver the products described:

- **Conceptual Design and Capital Cost Analysis.** Working with TriMet, the consultant would provide transit alternative designs. The sketch level should be in enough detail so that right-of-way and other environmental impacts can be identified. Capital costs would also be estimated. A detailed scope of work for this element is attached as Attachment 1.
- **Traffic Engineering Analysis.** There are questions about what the consequences of transit alternatives would be on auto, bus and truck traffic on arterial streets in the corridor as well as to existing residential neighborhoods. This work element would ensure that key intersections are analyzed using Metro travel forecast results of the various transit alternatives. A detailed scope of work for this element is attached as Attachment 2.
- **Public Involvement.** This work element would implement the Metro public involvement plan for the LOAA. Major tasks would include facilitating community small group discussions and providing visual simulations in order that the public and technical and policy committees better understand how transit alternatives could be accommodated. A detailed scope of work for this element is attached as Attachment 3.
- **Financial and Feasibility Analysis and Strategy.** This work would assess the likely capital funding sources and timing and examine ways to match the possible revenues with year of expenditure forecasts of capital costs. The consultant would work with TriMet and local governments to help gain agreement on an overall finance plan. A detailed scope of work for this element is attached as Attachment 4.

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IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

Traffic Engineering

(1) Task leadership by an engineer professionally licensed to practice in the State of Oregon, with at least five years of experience in traffic analysis including: intersection analysis, level of service analysis, congestion management techniques and traffic impacts of park and ride facilities.

Conceptual Design and Capital Costing

(1) At least five years experience in designing transportation facilities including roads, including bridges and fixed rail transit.

(2) At least five years experience with using computer aided design software and the ability to be consistent with Metro's geographic information system geographic projection format.

(3) At least five years experience with estimating capital costs of roads and fixed rail transit.

Public Involvement

(1) At least five years experience with designing, organizing, facilitating and summarizing small group discussions.

(2) At least five years experience creating visual simulations of transportation projects, including animated video presentations.

Financial and Feasibility Analysis

(1) At least five years experience completing financial analyses of proposed transportation facilities including road and transit facilities.

(2) Demonstrated understanding of federal and state of Oregon capital funding sources and eligibility requirements.

(3) Demonstrated ability to design and describe feasible transportation funding packages, integrating, if needed, multiple funding sources.

V. PROJECT ADMINISTRATION

The primary Metro contact for this project shall be Ross Roberts, Corridor Planning Manager, 600 NE Grand Avenue, Portland, OR, 97232-2736, 503-797-1752, Roberts@metro.dst.or.us. Questions concerning this RFP should be directed to him. It is expected that multiple Metro staff will be involved with the completion of this project. Procedures for establishing contacts with the consultant and other Metro staff will be concluded as part of final contract negotiations.

VI. PROPOSAL INSTRUCTIONS

A. Submission of Proposals

Eight copies of the proposal shall be furnished to Metro, addressed to:

Request for Proposals

Ross Roberts, Corridor Planning Manager
Metro
Planning Department
600 NE Grand Avenue
Portland, OR 97232 - 2736

- B. **Deadline**
Proposals will not be considered if received after ____p.m., _____
_____, 2005
- C. **RFP as Basis for Proposals:**
This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to _____ at (503) _____. Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Metro will not respond to questions received after _____.
- D. **Information Release**
All Proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all Proposers agree to such activity and release Metro from all claims arising from such activity.
- E. **Minority and Women-Owned Business Program**
In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer's attention is directed to Metro Code provisions 2.04.100.

Copies of that document are available from Purchasing/Contract Office of Metro, Metro Regional Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1816.

VII. PROPOSAL CONTENTS

The proposal should contain not more than 34 pages of written material (excluding biographies and brochures, which may be included in an appendix), describing the ability of the consultant to perform the work requested, as outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

- A. **Transmittal Letter:** Indicate who will be assigned to the project, who will be project manager, and that the proposal will be valid for ninety (90) days.

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-- Up to 2 pages

- B. Approach/Project Work Plan: Describe how the work will be done within the given timeframe and budget. Include a proposed work plan and schedule.

-- Up to 10 pages

- C. Staffing/Project Manager Designation: Identify specific personnel assigned to major project tasks, their roles in relation to the work required, percent of their time on the project, and special qualifications they may bring to the project. Include resumes of individuals proposed for this contract.

Metro intends to award this contract to a single firm to provide the services required. Proposals must identify a single person as project manager to work with Metro. The consultant must assure responsibility for any subconsultant work and shall be responsible for the day-today direction and internal management of the consultant effort.

-- Up to 8 pages

- D. Experience: Indicate how your firm meets the experience requirements listed in section IV. of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of these other projects, include the name of the customer contact person, his/her title, role on the project, and telephone number. Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles.

-- Up to 8 pages

- E. Cost/Budget: Present the proposed cost of the project and the proposed method of compensation. List hourly rates for personnel assigned to the project, total personnel expenditures, support services, and subconsultant fees (if any). Requested expenses should also be listed. Metro has established budget not to exceed \$367,140 for this project. However, this budget is based upon analysis of all listed alternatives and it expected that some of these alternatives will not be advanced for alternatives analysis and therefore the total consultant budget will be less than this maximum amount.

-- Up to 4 pages

- F. Exceptions and Comments: To facilitate evaluation of proposals, all responding firms will adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any specified criteria within this RFP are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

-- Up to 2 pages

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VIII. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. Limitation and Award: This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Billing Procedures: Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Metro shall pay Contractor within 30 days of receipt of an approved invoice.
- C. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- E. Intergovernmental Cooperative Agreement (Requires competitive solicitation) – Pursuant to ORS 279A and Metro procurement rules, other public agencies shall have the ability to purchase the awarded goods and services from the awarded Contractor(s) under the terms and conditions of the resultant contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to Metro. Any estimated purchase volumes listed herein do not include other public agencies and Metro makes no guarantee as to their participation. Any bidder, by written notification included with their solicitation response may decline to extend the prices and terms of this solicitation to any and/or all other public agencies.

IX. EVALUATION OF PROPOSALS

- A. Evaluation Procedure: Proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of one firm.

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- B. Evaluation Criteria: This section provides a description of the criteria that will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

Percentage of Total Score

40%	Project Work Plan/Approach	
	1. Demonstration of understanding of the project objectives	20%
	2. Performance methodology	20%
40%	Project Staffing Experience	
	1. Project consultant	20%
	2. Commitment to project	20%
10%	Budget/Cost Proposal	
	1. Projected cost/benefit of proposed work plan/approach	5%
	2. Commitment to budget and schedule parameters	<u>5%</u>
	Total	100%

X. NOTICE TO ALL PROPOSERS -- STANDARD AGREEMENT

The attached personal services agreement is a standard agreement approved for use by the Office of Metro Attorney. This is the contract the successful Proposer will enter into with Metro; it is included for your review prior to submitting a proposal.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 3647, FOR THE PURPOSE OF APPROVING CONSULTANT SERVICES FOR THE LAKE OSWEGO TO PORTLAND TRANSIT ALTERNATIVES ANALYSIS

Date: November 23, 2005

Prepared by: Ross Roberts
Mark Turpel

BACKGROUND

The Lake Oswego to Portland Transit and Trail Alternatives Analysis (LOAA) is a federal transportation alternatives analysis and is subject to the planning guidance and requirements of the Federal Transit Administration (FTA). Metro is the lead agency for the project, which is evaluating transit capital and operating improvements and trail improvements on the west side of the Willamette River between the Lake Oswego Town Center north to SW Bancroft Street in the Portland Central City. The study will develop and evaluate transit and trail alternatives in the corridor with the end result being selection of a preferred alternative or several promising alternatives to be advanced into the federal environmental process under the provisions of the National Environmental Policy Act (NEPA).

Metro staff will have responsibility for completing all the major tasks and will require consultant assistance to complete some of the tasks as follows:

- **Background Report.** Metro will compile the information and prepare a draft *Background Report* for review and comment by the study partner agencies and jurisdictions. Partner agencies and jurisdictions will review and comment. Metro will make revisions based on comments received.
- **Purpose and Need Statement.** Metro will prepare a draft Purpose and Need Statement for review and comment by the study partner agencies and jurisdictions and LOAA project committees. Metro will make revisions based on comments received.
- **Conceptual design and costing.** Metro and TriMet will work together on the Conceptual Design of the alternatives. Metro will secure and utilize design and costing consultant assistance. Cost estimates will comply with the FTA cost reporting methodology.
- **FTA coordination.** Metro will serve as the FTA liaison for the LOAA study. Metro will communicate and coordinate FTA's issues and concerns with local partners. Metro will work with FTA to ensure that the LOAA complies with the most recent federal regulation and policies.
- **Technical work products.** Metro will be responsible for the preparation of the technical work products. Metro will rely on assistance from the agency and jurisdictional partners and Portland Streetcar, Inc. (PSI) on preparation of these products.
- **Travel Demand Forecasts.** Metro develops and maintains the regional travel demand forecasting models. Metro will prepare the transit and highway networks for the 2025 No-Build as well as the alternatives under study. Consultants will use the travel demand forecasts as input to a variety of analyses.
- **Public Involvement.** Metro will be responsible for the execution of public involvement plan. Metro will work closely with Portland, Lake Oswego, TriMet and PSI staff to implement this part of the work plan. In addition, public involvement support to
- **Committee Support.** Metro will provide committee support. Extensive coordination with all the study participants will be required.

Consultant work will consist of the following products:

- **Traffic Analysis.** There are questions about what the consequences of transit alternatives would be on auto, bus and truck traffic on arterial streets in the corridor as well as to existing residential neighborhoods. This work element would ensure that key intersections are analyzed using Metro travel forecast results of the various transit alternatives.
- **Design and Cost Analysis.** Working with TriMet, the consultant would provide transit alternative designs. The sketch level should be in enough detail so that right-of-way and other environmental impacts can be identified. Capital costs would also be estimated.
- **Public Involvement.** This work element would implement the Metro public involvement plan for the LOAA.
- **Financial and Funding Strategy and Funding.** This work would assess the likely capital funding sources and timing and examine ways to match the possible revenues with year of expenditure forecasts of capital costs. The consultant would work with TriMet and local governments to help gain agreement on an overall finance plan.

ANALYSIS/INFORMATION

1. **Known Opposition** There is no known opposition to the completion of these analyses in order to understand the likely outcomes of any proposed transit or trail improvements in the corridor.

2. Legal Antecedents

Federal

42 U.S.C 4321-4335 (P.L. 91-190 and 94--83)	National Environmental Policy Act
23 U.S.C. 138 and 49 U.S.C. 303 (P.L. 100-17, 97-499 & 86-670)	Public park preservation [4(f)]
42 U.S.C. 4601 (P.L. 91-646)	Uniform Relocation Act
42 U.S.C 2000d, 23 U.S.C. 324	Civil Rights Act and Americans with Disabilities Act
Executive Order 12898	Environmental Justice
23 U.S.C. 144(o) (P.L. 100-17)	Historic Bridge Program
23 U.S.C. (P.L. 102-240)	National Recreational Trails Program
33 U.S.C. 1251-1376 (P.L. 92-500, 95-217 & 100-4)	Clean Air Act
42 U.S.C. 300F-300J-6 (P.L. 93-523 & 99-339)	Safe Drinking Water Act
16 U.S.C. 3921-3931 (P.L. 99-645)	Emergent Wetlands Resources Act

Metro

Resolution No. 94-1868, For the Purpose of Adopting an Intergovernmental Agreement For Management of the Willamette Shore Line Right-of-Way, adopted on January 13, 1994.

Resolution No. 97-2546B, For the Purpose of Endorsing the Traffic Relief Options Task Force Recommendation to Further Evaluate Peak Period Pricing Options, adopted on October 23, 1997. (this resolution endorsed the conclusion that Highway 43 was not suitable location for tolling.)

Resolution No. 98-2615, For the Purpose of Approving the Commitment of Funds For Repair of Trestles on the Willamette Shore Line Right-of-Way, adopted on December 27, 1998.

Resolution No. 04-3433, For the Purpose of Authorizing the Chief Operating Officer to Execute an Intergovernmental Agreement Regarding Maintenance and Funding For the Willamette Shore Line Right-of-Way, adopted on March 11, 2004.

3. **Anticipated Effects** The approval of this resolution will provide critical information to decisions about future potential transit and trail improvements in the Lake Oswego to Portland corridor.
4. **Budget Impacts** These federal funds and local match have been secured for purposes of advancing knowledge about this transit alternatives analysis and trail assessment consistent with federal, state and Metro policies and requirements. Metro staff have completed a cost analysis and have established a cost estimate not to exceed \$367,140. However, as several alternatives are not expected to be advanced for further analysis, it is expected that the actual cost of this contract should be significantly less than the maximum amount estimated.

Several budget related issues remain to be addressed including final securing of the MTIP funds, final arrangements for local match and intergovernmental agreements with TriMet, Lake Oswego and the City of Portland. Accordingly, execution of a contract would not be completed until these items are addressed.

RECOMMENDED ACTION

Approve Resolution No. 05-3647, which authorizes release of a request for proposals in a form substantially similar to the draft request for proposal labeled as Attachment "A" to Resolution 05-3647 and authorizes the Chief Operating Officer to, once contracting requirements have been met, to execute a contract to the most responsive proposer.

Attachment 1
Resolution 05-3647
Conceptual Design and Capital Costing
Consultant Scope of Work

1.0 Purpose

The purpose of the *Conceptual Design and Capital Costing* component of the Consultant Scope of Work for the Lake Oswego to Portland Transit and Trail Alternatives Analysis is to develop conceptual designs and capital costs for each of the project alternatives being studied to identify potential alternatives to move forward to the Environmental Impact Statement (EIS) phase of the project. Designs will be developed in order to ensure that planning level cost and environmental impacts can be determined.

The Alternatives Analysis began in August 2005. To date, the Project Advisory Committee, made up of citizens representing South Waterfront, John's Landing, Unincorporated Multnomah County, Unincorporated Clackamas County, First Addition, Downtown Lake Oswego have adopted a purpose and need and evaluation criteria for the project. The Technical Advisory Committee and the Project Advisory Committee are currently narrowing down the wide range of potential alternatives. Currently, the potential alternatives in addition to the 2025 No-Build could include:

- Bus Rapid Transit (BRT)
- River Transit
- Streetcar
- Light Rail
- DMU Rail Service
- Bicycle/Pedestrian Trail

2.0 General Task Descriptions

Following are descriptions of the tasks involved in the Conceptual Design and Capital Costing Consultant Work Scope.

3.0 Develop Conceptual Alignment Designs

The consultant will develop conceptual alignment designs for a variety of transit and trail alternatives. Conceptual design will include station and facility design, conceptual alignments, and civil design.

The consultant will support TriMet in the development and conceptual design of the potential alternatives. The Consultant will provide draft plan drawings for each of the alternatives. Each of the alternatives should be developed with enough detail to apply the evaluation criteria and narrow the wide range of alternatives. The consultant will develop final plan drawings for each alternative that moves forward to the DEIS phase. These drawings will include the alternative in

relation to existing roadways, buildings, railroad tracks and natural resources. Plans will include the location and size of park and rides lots (structured or surface), new structures (ramps, bridges, docks etc) and potential ROW impacts. Plans will also include cross sections to help describe the alternative. Drawings should be at a scale of 1"=400' with some detailed areas shown at 1"=200'. These detailed areas will include merge or transition points.

All drawings (both draft and final) will be available to Metro and Tri-Met in digital format (GIS, pdf, and AutoCAD) in order to share, analyze and display the information. In order to facilitate the transfer of the data-both to and from Metro-certain protocols need to be established. A preliminary meeting will take place in order to discuss data needs and transfer protocols that should include specialists, planners and project managers. The discussion will resolve the fundamental difference between CAD and GIS data formats and the technical issues with the data transfer. The fundamental issue is *"CAD files are usually organized in multiple layers or levels. The term "layer" differs in meaning between CAD files and ArcMap. In CAD files, a layer is a set of similar features. In ArcMap, a layer is a reference to geographic data and an associated drawing method."* (ArcGIS 9.x Help File) Metro will work with the Consultant and provide:

- Data in GIS format. Metro has available subscriptions to the Regional Land Information System (RLIS) database, the consultant will be expected to be a subscriber. (we should check on this requirement)
- Existing digital maps and data developed prior to final consultant selection will be provided in limited fashion. GIS projects will be available, but their completeness and linking to data will not be a priority. Graphic design maps and charts will be available in PDF, AI, PSD formats (Adobe Illustrator and Photoshop.)
- Geographic projection will be based on Metro's HARN State Plane and all data will be transferred in this projection only. This will require that the AutoCAD specialist to develop their projects using the Metro HARN State Plane North NAD 83 projection. Projection parameters will be provided to the consultant. If the data does not align within the GIS upon receipt from the consultant and spatial transformations are required, the data will be rejected and will need to be corrected by the consultant.

Tri-Met will provide existing base mapping and Metro will provide aerial photography for the project. If the aerial photography will fit onto a single DVD than Metro will provide this. If the data is too large, the consultant will provide a portable hard-drive or other appropriate mass storage device in order to acquire all of the necessary imagery.

Specific task are listed below under each alternative.

3.1 Bus Rapid Transit (BRT) Alternative

The Bus Rapid Transit (BRT) alternative could include transit improvements along SE Macadam Avenue extending from Lake Oswego to Portland. These improvements could consist of park-and-ride lots, transit centers, stations, queue bypass lanes and traffic signal improvements. BRT design will require close coordination with the traffic engineering consultants.

3.1.1 Station and facility design – This task relates to the design of BRT transit stations, centers, stops, park-and-ride lots and structures and potentially an operating and maintenance facility. The consultant will develop general site layout plans for transit station, stops and transit centers with each alternative. Site layout plans will include bus/transit transfer locations, drop off zones, bus circulation, pedestrian and vehicular layouts. Site layouts will also be developed for structured and surface park-and-ride lots along with bus/transit, pedestrian and vehicular access routes. Designs of the transit facilities will be developed to accommodate the BRT buses in relationship to the surrounding land use.

Prototypical BRT Station. The consultant will design a prototypical BRT station that could be implemented on SE Moody Street, SE Bond Street, and SE Macadam Avenue. This station should be attractive and fit the environment while balancing rider needs. Presentation quality rendering of the prototypical station will be required for public meetings.

Lake Oswego Transit Center Transit Center. The Consultant will identify and design improvements necessary for BRT buses to access the existing Lake Oswego transit center. The consultant will build upon on-going work that the Lake Oswego is doing to identify the transit center location. Currently Lake Oswego is examining options to relocate their existing transit center or to integrate the potential transit option into their downtown and the potential Foothills redevelopment.

Park-and-Ride Facilities. The consultant will assist in the location and design of park-and-ride lots within the corridor to accommodate the BRT busses and potential riders. The design should also include any improvements required to accommodate the traffic entering and leaving the park-and-ride facilities.

3.1.2. Conceptual Design – This task relates to the development of conceptual designs for the alignments and associated improvements (i.e. walls, structures, grade crossings, roadways etc.). The consultant will develop conceptual drawings for each alternative that should include transit stations/stops/centers (access for buses, pedestrians and vehicles), structures (length, width, height, and type), alignment (width, clearances and relationship to right-of-way, buildings, railroads, roads and natural resources). Representative cross section will be developed to illustrate the designs for each alternative.

SE Bond/Moody Couplet. The Consultant will design improvements needed along SE Bond Street and SE Moody Street couplet. The Consultant will identify BRT improvements needed at the SE Macadam Avenue/SE Hood Street/SE Bancroft Street intersection. Improvements may include queue bypass lanes and will also work with the traffic consultant to assure that the traffic signals that are currently in place can be upgraded to allow for opticom preemption and signal sequencing technology.

Highway 43. The Consultant will prepare conceptual design alignments for the BRT improvements along Highway 43. Improvements could include queue bypass lanes, bus only lanes, and transit stations. The Consultant will also work with the traffic consultant to assure that the traffic signals that are currently in place can be upgraded to allow for opticom preemption and signal sequencing technology.

Willamette Shore Line Right of Way. The Consultant will prepare conceptual design alignment for BRT within the Willamette Shore Line Right of Way. The Willamette Shore Line right of way may have restrictions associated with it that prohibit use of the right of way for options other than rail transit, therefore, BRT may not be possible along the entire Willamette Shore Line corridor. This option could include use of portions of the right of way for bus improvements.

3.2 River Transit Alternative

Metro evaluated a potential River Transit Alternative from Oregon City to Portland as part of the South Corridor Transportation Alternatives Study. The Consultant will build upon the work already done and provide a conceptual design alignment for River Transit from Lake Oswego to Portland.

The River Transit alternative will include construction of new docks in the North Macadam area and the River District and reconstruction of docks in Lake Oswego, and Sellwood. In addition, this alternative will include park and ride facilities, and relocation of the Lake Oswego Transit Center close to the River.

3.1.1 Station and facility design – This task relates to the design of River Transit stations, centers, docks, park-and-ride lots and potentially an operating and maintenance facility. The consultant will develop general site layout plans for transit station/stops and transit centers with each alternative. Site layout plans will include boat/bus/transit transfer locations, drop off zones, bus circulation, pedestrian and vehicular layouts. Site layouts will also be developed for structured and surface park-and-ride lots along with bus/transit, pedestrian and vehicular access routes. Designs of the transit facilities will be developed to accommodate River Transit in relationship to environmental factors and the surrounding land use.

Prototypical River Station. The consultant will design a prototypical River Transit station that could be implemented along the River that will support or enhance the character of the land uses surrounding the stations as well as the overall vision for the Willamette Riverfront. This station should be attractive and fit the environment while balancing rider needs. Presentation quality rendering of the prototypical station will be required for public meetings.

River Transit Vehicles. The Consultant will provide expertise in identifying potential River Transit vehicles that will be compatible with the character of the surrounding land uses, neighborhoods, and vision for the Willamette Riverfront.

Lake Oswego Transit Center Transit Center. The Consultant will identify and design improvements necessary to relocate the existing Lake Oswego Transit Center from its existing on-street location to a location closer to the River. The consultant will build upon on-going work that the Lake Oswego is doing to identify the transit center location. Currently Lake Oswego is examining options to relocate their existing transit center or to integrate the potential transit option into their downtown and the potential Foothills redevelopment.

Park-and-Ride Facilities. The consultant will assist in the location and design of park-and-ride lots within the corridor to accommodate the River Transit. The Park and Ride facilities will be located in locations that minimize the adverse environmental impacts. The design should also include any improvements required to accommodate the traffic entering and leaving the park-and-ride facilities.

3.1.2. Conceptual Design – This task relates to the development of conceptual designs for the alignments and associated improvements (i.e. walls, structures, docks, roadways etc.). The consultant will develop conceptual drawings for each alternative that should include transit stations/stops/centers (access for buses, pedestrians and vehicles), docking facilities (size and type), and access (roadway improvements in relationship to right of way impacts, grade crossings and natural resources). Representative cross section will be developed to illustrate the designs for each alternative.

Willamette River. The Consultant will identify constraints with implementing River Transit operations on the Willamette River. The Consultant will also identify improvements needed to operate River Transit on the Willamette River.

Access Improvements. The Consultant will prepare conceptual design alignments for roadway improvements needed to accommodate River Transit. This could include roadway improvements to access the docks in Lake Oswego, North Macadam, and Sellwood to accommodate bus transfers and drop off zones. In addition to auto and transit access to River Transit, the Consultant will identify improvements for pedestrian and bicycle access to the River.

Docking Facilities along the Willamette River. The Consultant will prepare conceptual designs for new docking facilities in the Lake Oswego and North Macadam areas.

3.3 Streetcar Alternative

The Willamette Shore Line right of way was purchased by a consortium of government agencies (ODOT, Metro, TriMet, Multnomah and Clackamas Counties, and the cities of Portland and Lake Oswego) for the purpose of future rail transit along the corridor. Streetcar is one of the alternatives that will be evaluated as part of the Alternatives Analysis.

The Streetcar Alternative could extend from the Willamette Shore Line railway terminus in Lake Oswego to the Streetcar terminus at SE Gibbs Street in Portland.

3.3.1 Station and facility design – This task relates to the design of transit stations, centers, stops, park-and-ride lots and structures and potentially an operating and maintenance facility. The consultant will develop general site layout plans for transit station, stops and transit centers with each alternative. Site layout plans will include bus/transit transfer locations, drop off zones, bus circulation, pedestrian and vehicular layouts. Site layouts will also be developed for structured and surface park-and-ride lots along with bus/transit, pedestrian and vehicular access routes. Designs of the transit facilities will be developed to accommodate the appropriate mode in relationship with the surrounding land use.

Prototypical Streetcar Station. The Consultant will develop a prototypical design for a Streetcar Station and produce a presentation quality rendering for public review and meetings.

Station Locations. The Consultant will assist in identifying location of stations and the necessary improvements (such as access for buses, pedestrians, and bicyclists) associated with each station.

Park-and-Ride Facilities. The consultant will assist in the location and design of park-and-ride lots within the corridor to accommodate Streetcar, busses, autos, and pedestrians and bicyclists. The design should also include any improvements required to accommodate the traffic entering and leaving the park-and-ride facilities.

Lake Oswego Transit Center Transit Center. The Consultant will identify and design improvements necessary for Streetcar to provide access the existing Lake Oswego transit center. The consultant will build upon on-going work that the Lake Oswego is doing to identify the transit center location. Currently Lake Oswego is examining options to relocate their existing transit center or to integrate the potential transit option into their downtown and the potential Foothills redevelopment.

3.3.2 Civil Design – This task relates to the development of conceptual designs for the alignments and associated improvements (i.e. walls, structures, tunnels, grade crossings, roadways etc.). The consultant will develop conceptual drawings and cross-sections for each alternative that should include transit stations/stops/centers (access for buses, pedestrians and vehicles), structures and/or tunnels (length, width, height, and type), alignment (width, clearances and relationship to right-of-way, buildings, railroads, roads and natural resources). Representative cross section will be developed to illustrate the designs for each alternative.

Double Track Full Length Option. The Consultant will develop conceptual design alignments of a potential double track alignment for the full length between Lake Oswego and Portland, where feasible. The Consultant will identify the necessary improvements needed to build a double track alignment.

Mixed Double and Single Track Option. The Willamette Shore Line right of way ranges from 17 feet to 60 feet in width. Therefore, there may be locations where a double track option is not feasible. The Consultant will develop conceptual design alignments for a potential double and single track Streetcar option.

Streetcar on Macadam through John's Landing. A potential Streetcar alignment could include deviation from the Willamette Shore Line right of way to a location on or adjacent to SE Macadam Avenue. This option could include a tunnel between SE Macadam Avenue and the Willamette Shore Line right of way. The Consultant will identify and develop necessary improvements along this alignment to accommodate Streetcar operations.

Streetcar on Highway 43. The consultant will design potential Streetcar alignment on Highway 43 between Lake Oswego and Portland.

Sellwood Bridge. Currently, Multnomah County is studying the feasibility of replacing or rehabilitating the existing Sellwood Bridge in preparation for an Environmental Assessment. Potential issues with the Sellwood Bridge include number of lanes, bicycle/pedestrian improvements, alignment location, type of bridge, connection with Highway 43, right of way impacts, funding and construction. The consultant will identify issues and opportunities associated with the potential Streetcar alignment and potential Sellwood Bridge alignments and configurations. In addition, the Consultant will identify potential connection opportunities with the Sellwood Bridge.

3.4 Light Rail

The Willamette Shore Line right of way was purchased by a consortium of government agencies (ODOT, Metro, TriMet, Multnomah and Clackamas Counties, and the cities of Portland and Lake Oswego) for the purpose of future rail transit along the corridor.

As part of the South/North Transit Corridor Project, a light rail alignment was proposed along SE Macadam Avenue in John's Landing connecting Portland to Milwaukie over the Sellwood Bridge. The Consultant will prepare conceptual design alignment for light rail along the Willamette Shore Line right of way between Lake Oswego and Portland.

3.4.1 Station and facility design – This task relates to the design of transit stations, centers, stops, park-and-ride lots and structures and potentially an operating and maintenance facility. The consultant will develop general site layout plans for transit station, stops and transit centers with each alternative. Site layout plans will include bus/transit transfer locations, drop off zones, bus circulation, pedestrian and vehicular layouts. Site layouts will also be developed for structured and surface park-and-ride lots along with bus/transit, pedestrian and vehicular access routes. Designs of the transit facilities will be developed to accommodate the appropriate mode in relationship with the surrounding land use.

Prototypical Light Rail Station. The Consultant will develop a prototypical design for a Light Rail Station and produce a presentation quality rendering for public review and meetings.

Light Rail Station Locations. The Consultant will assist in identifying location of stations and the necessary improvements (such as access for buses, pedestrians, and bicyclists) associated with each station.

Park-and-Ride Facilities. The consultant will assist in the location and design of park-and-ride lots within the corridor to accommodate Light Rail, busses, autos, and pedestrians and bicyclists. The design should also include any improvements required to accommodate the traffic entering and leaving the park-and-ride facilities.

Lake Oswego Transit Center Transit Center. The Consultant will identify and design improvements necessary for Light Rail to provide access the existing Lake Oswego transit center. The consultant will build upon on-going work that the Lake Oswego is doing to identify the transit center location. Currently Lake Oswego is examining options to relocate their existing

transit center or to integrate the potential transit option into their downtown and the potential Foothills redevelopment.

3.4.2 Civil Design – This task relates to the development of conceptual designs for the alignments and associated improvements (i.e. walls, structures, tunnels, grade crossings, roadways etc.). The consultant will develop conceptual drawings and cross-sections for each alternative that should include transit stations/stops/centers (access for buses, pedestrians and vehicles), structures and/or tunnels (length, width, height, and type), alignment (width, clearances and relationship to right-of-way, buildings, railroads, roads and natural resources). Representative cross section will be developed to illustrate the designs for each alternative.

Double Track Full Length Option. The Consultant will develop conceptual design alignments of a potential double track Light Rail alignment for the full length between Lake Oswego and Portland, where feasible. The Consultant will identify the necessary improvements needed to build a double track alignment.

Mixed Double and Single Track Option. The Willamette Shore Line right of way ranges from 17 feet to 60 feet in width. Therefore, there may be locations where a double track option is not feasible. The Consultant will develop conceptual design alignments for a potential double and single track Light Rail option.

Light Rail Adjacent to Macadam through John's Landing. As previously mentioned, during the South/North Corridor Study a light rail alignment adjacent to SE Macadam Avenue was proposed that deviates from the Willamette Shore Line right of way. A potential Light Rail alignment could operate on the existing Willamette Shore Line right of way and the proposed light rail alignment adjacent to SE Macadam Avenue.

Sellwood Bridge. Currently, Multnomah County is studying the feasibility of replacing or rehabilitating the existing Sellwood Bridge in preparation for an Environmental Assessment. Potential issues with the Sellwood Bridge include number of lanes, bicycle/pedestrian improvements, alignment location, type of bridge, connection with Highway 43, right of way impacts, funding and construction. The consultant will identify issues and opportunities associated with the potential Light Rail alignment and potential Sellwood Bridge alignments and configurations. In addition, the Consultant will identify potential connection opportunities with the Sellwood Bridge.

3.5 Diesel Multiple Unit (DMU)

The Willamette Shore Line right of way was purchased by a consortium of government agencies (ODOT, Metro, TriMet, Multnomah and Clackamas Counties, and the cities of Portland and Lake Oswego) for the purpose of future rail transit along the corridor. A DMU could be a viable alternative for rail transit within the corridor. The Consultant will prepare conceptual design alignment for DMU operations along the Willamette Shore Line right of way.

3.5.1 Station and facility design – This task relates to the design of transit stations, centers, stops, park-and-ride lots and structures and potentially an operating and maintenance facility.

The consultant will develop general site layout plans for transit station, stops and transit centers with each alternative. Site layout plans will include bus/transit transfer locations, drop off zones, bus circulation, pedestrian and vehicular layouts. Site layouts will also be developed for structured and surface park-and-ride lots along with bus/transit, pedestrian and vehicular access routes. Designs of the transit facilities will be developed to accommodate the appropriate mode in relationship with the surrounding land use.

DMU Vehicles. The Consultant will provide expertise in identifying potential DMU vehicles that will be compatible with the character of the surrounding land uses and neighborhoods.

Prototypical DMU Station. The Consultant will develop a prototypical design for a DMU Station and produce a presentation quality rendering for public review and meetings.

DMU Station Locations. The Consultant will assist in identifying location of stations and the necessary improvements (such as access for buses, pedestrians, and bicyclists) associated with each station.

Park-and-Ride Facilities. The consultant will assist in the location and design of park-and-ride lots within the corridor to accommodate DMU vehicles, busses, autos, and pedestrians and bicyclists. The design should also include any improvements required to accommodate the traffic entering and leaving the park-and-ride facilities.

Lake Oswego Transit Center Transit Center. The Consultant will identify and design improvements necessary for DMU operations to provide access the existing Lake Oswego transit center. The consultant will build upon on-going work that the Lake Oswego is doing to identify the transit center location. Currently Lake Oswego is examining options to relocate their existing transit center or to integrate the potential transit option into their downtown and the potential Foothills redevelopment.

3.5.2 Civil Design – This task relates to the development of conceptual designs for the alignments and associated improvements (i.e. walls, structures, tunnels, grade crossings, roadways etc.). The consultant will develop conceptual drawings and cross-sections for each alternative that should include transit stations/stops/centers (access for buses, pedestrians and vehicles), structures and/or tunnels (length, width, height, and type), alignment (width, clearances and relationship to right-of-way, buildings, railroads, roads and natural resources). Representative cross section will be developed to illustrate the designs for each alternative.

Double Track Full Length Option. The Consultant will develop conceptual design alignments of a potential double track DMU alignment for the full length between Lake Oswego and Portland, where feasible. The Consultant will identify the necessary improvements needed to build a double track alignment to accommodate a DMU option.

Mixed Double and Single Track Option. The Willamette Shore Line right of way ranges from 17 feet to 60 feet in width. Therefore, there may be locations where a double track option is not feasible. The Consultant will develop conceptual design alignments for a potential double and single track to accommodate a DMU option.

DMU Operations Adjacent to Macadam through John's Landing. As previously mentioned, during the South/North Corridor Study a light rail alignment adjacent to SE Macadam Avenue was proposed that deviates from the Willamette Shore Line right of way. The Consultant will identify and design a DMU alignment that will utilize the proposed Light Rail alignment on the Willamette Shore Line right of way and adjacent to SE Macadam Avenue.

Sellwood Bridge. Currently, Multnomah County is studying the feasibility of replacing or rehabilitating the existing Sellwood Bridge in preparation for an Environmental Assessment. Potential issues with the Sellwood Bridge include number of lanes, bicycle/pedestrian improvements, alignment location, type of bridge, connection with Highway 43, right of way impacts, funding and construction. The consultant will identify issues and opportunities associated with the potential DMU operations alignment and potential Sellwood Bridge alignments and configurations.

3.6 Multi-Use Trail

Currently, the Willamette Greenway Trail exists along the Willamette River between Power Marine Park and Cottonwood Bay, with a few gaps in the trail system in between. There is a large gap in the trail system between South Waterfront Park and Cottonwood Bay and between Power Marine Park and Lake Oswego. The Consultant will develop conceptual design alignments for a multi-use path between Lake Oswego and Portland.

3.6.1 Access – This task relates to the design of Multi-Use Trail to connect and access important pedestrian and bicycle destinations in the corridor such as transit stations/stops, Willamette River, South Waterfront, Willamette Park, Sellwood Bridge, Lake Oswego Town Center, Urban Trails, Riverview Cemetery and the OHSU Tram, as well as commercial centers and residential neighborhoods. Designs of the Multi-Use Trail will be developed to accommodate the appropriate alignment in relationship with the surrounding land use.

Transit Stations/Stops. The Consultant will develop conceptual Multi-Use Trail that provides safe and efficient access between the Multi-Use Trail and existing and proposed transit stations and stops.

Pedestrian Bicycle and Pedestrian Destinations. The Consultant will identify pedestrian and bicycle access locations to major destinations within the corridor such as the Willamette River, South Waterfront, Willamette Park, Sellwood Bridge, Lake Oswego Town Center, Urban Trails, Riverview Cemetery and the OHSU Tram. In addition, the Consultant will identify major access locations to commercial and residential centers such as South Waterfront, John's Landing, SE Macadam Avenue, and Lake Oswego Town Center, where appropriate.

Park-and-Ride Facilities. The Consultant will prepare conceptual design alignments to connect to the potential park and ride facilities. The design will accommodate safe and efficient pedestrian and bicycle traffic entering and leaving the park-and-ride facilities.

Lake Oswego Transit Center Transit Center. The Consultant will identify and design improvements necessary for Multi-Use Trail to provide access the existing Lake Oswego Town Center. The Consultant will build upon on-going work that the Lake Oswego is doing as part of Transportation Management Plan for Downtown Neighborhoods, the Downtown transit Advisory Committee and the Foothills Design District.

3.6.2 Civil Design – This task relates to the development of conceptual designs for the alignments and associated improvements (i.e. walls, fences, structures, tunnels, grade crossings, pathways etc.). The consultant will develop conceptual drawings and cross-sections for each alternative that should include access to the major pedestrian and bicycle destinations mentioned above, structures and/or tunnels (length, width, height, and type), alignment (width, clearances and relationship to right-of-way, buildings, railroads, roads and natural resources). Representative cross section will be developed to illustrate the designs for each alternative.

Bicycle and Pedestrian Facilities on Highway 43. The Consultant will develop conceptual design alignments that provide for bicycles and pedestrians on Highway 43, where feasible. This option could include bike lanes and sidewalks along Highway 43 between Lake Oswego and Portland, including bike lanes and sidewalks on both sides of the street or a separated facility adjacent to Highway 43. The Consultant will design an alignment that is safe and compatible with the existing transportation system and meets the needs of the potential users.

Multi-Use Trail adjacent to the Willamette Shore Line Right of Way. The Consultant will develop conceptual design alignment for a Multi-Use Trail adjacent to the Willamette Shore Line Right of Way, where feasible between Lake Oswego and Portland. The Consultant will prepare a conceptual design alignment for a Multi-Use Trail adjacent to the Willamette Shore Line Right of Way. The Consultant will include the necessary improvements needed to make a Multi-Use Trail adjacent to the rail right of way a viable transportation and recreational alternative. This alignment will be safe and comfortable for the potential users as well as the surrounding neighborhoods.

Combination of a Multi-Use Trail and use of the Local and Regional Street System. As previously mentioned, right of way widths may constrain the potential options. The Consultant will identify potential alignment options that will fit within the existing right of way and identify potential right of way purchase opportunities to make a successful alternative. Where additional right of way cannot be purchased, the Consultant will identify roadways that may be used for pedestrians and bicycles access and is compatible with the surrounding neighborhoods.

Product:

1. Data being provided to Metro that is to be exported from CAD will be provided in such a way as to minimize data conversions. This requires that the CAD specialist using a naming methodology for their CAD layers that is compatible with Metro's GIS software and provide a Data Dictionary in order to understand the grouping and naming of the data layers.

Another component of minimizing data conversion is the structure of the digital design files. For each alternative, all design elements that define the components that make the alternative unique will be provided in a single AutoCAD file. If there are five alternatives, Metro will be provided with five files that contain the all of the design work for that unique alternative. Metro will not 'query out layers' from a large single AutoCAD file.

The supported CAD formats include:

- AutoCAD drawing files (.dwg) up to AutoCAD 2004
 - All American Standard Code for Information Interchange (ASCII), binary, and partial drawing interchange files (.dxf) that comply with DXF standards up to AutoCAD 2004
 - MicroStation design files (.dgn) up to version 8
2. The consultant will develop plan drawings for each alternative that moves forward to the EIS phase. These drawings will include the alternative in relation to existing roadways, buildings, railroad tracks and natural resources. Plans will include the location and size of park and rides lots (structured or surface), new structures (ramps, bridges, docks etc) and potential ROW impacts. Plans will also include cross sections to help describe the alternative. Drawings should be at a scale of 1"=400' with some detailed areas shown at 1"=200'. These detailed areas will include merge or transition points.
 3. The Consultant will provide a detailed Technical Memorandum/Report that describes the alignment and the opportunities and constraints associated with each of the potential alternatives.

4.0 Develop Systems Engineering

Tri-Met usually develops operating plans for transit alternatives. The Consultant may be required to assist in the development of a conceptual operating plan for each of the transit alternatives. This plan will include the development of operating scenarios for transit, determination of potential transfer locations and loads, identification of potential bus routing, determination of through routing of buses/transit and development of fleet size based on assumed transit vehicle types. Based on the operational needs, the consultant will assist in the determination of the appropriate wayside equipment for each alternative (i.e. signal systems needed for pre-emption, electrical substation etc). This task will also include the assessment of maintenance and operational needs associated with the increased level of transit in the corridor

Product:

System operation plan.

5.0 Capital Cost Estimate

The consultant will prepare capital cost estimates using FTA's Standard Cost Categories. FTA developed the SCC format for reporting, estimating and managing capital costs for all New Starts projects.

FTA's SCC format is structured to accommodate all possible project elements in the following ten categories:

1. Guideway and Track Elements
2. Stations, Stops, Terminals, Intermodals
3. Support Facilities: Yards, Shops, Admin Bldgs
4. Sitework & Special Conditions
5. Systems
6. ROW, Land, Existing Improvements
7. Vehicles
8. Professional Services
9. Unallocated Contingency
10. Finance Charges

Product:

- Capital Cost Technical Memorandum
- Completed FTA Standard Cost Category (SCC) Forms

Attachment 2
Resolution 05-3647
Scope of Work Local Traffic Impacts

1.0 General Task Description

The purpose of this task is to identify and quantify the local traffic impacts that would occur with each of the Lake Oswego to Portland Transit and Trail alternatives, and to identify and discuss appropriate measures to mitigate the impacts. Metro staff will be responsible for assessing the regional (systemwide) traffic impacts associated with the alternatives.

The Contractor will prepare a work plan and budget outlining the general and specific details of their proposal. The work plan will indicate the general approach to each task, the staff members who will be doing the work (by task), the approximate number of hours of work proposed for each staff member (including persons employed by the subcontractors) for each task, and the proposed budget by task.

The consultant will participate in and prepare graphic materials for approximately eight public meetings, including project advisory committee meetings and open houses.

The Alternatives Analysis began in August 2005. To date, the Project Advisory Committee, made up of citizens representing South Waterfront, John's Landing, Unincorporated Multnomah County, Unincorporated Clackamas County, First Addition, and Downtown Lake Oswego have adopted a purpose and need and evaluation criteria for the project. The Technical Advisory Committee and the Project Advisory Committee are currently narrowing down the wide range of potential alternatives. Currently, the potential alternatives in addition to the 2025 No-Build could include:

- Bus Rapid Transit (BRT)
- River Transit
- Streetcar
- Light Rail
- DMU Rail Service
- Bicycle/Pedestrian Trail

2.0 General Task Descriptions

The activities performed under this task include a preliminary traffic analysis of the alternatives to support the Alternatives Analysis process and identify potential alternatives to move forward into a Draft Environmental Impact Statement (DEIS). Tasks outlined below include analysis for the base year and 2025 p.m. peak hour analysis (a.m. or midday analysis may be requested if needed). Each traffic simulation and queuing and level of service analysis will include a No-Build scenario. The following describes the traffic analysis by alternative:

BRT

The Contractor will:

- Conduct intersection level-of-service analysis at other major intersections on Highway 43/Macadam Avenue/State Street potentially impacted by the BRT alternative. This analysis would utilize the Highway Capacity Manual intersection analysis software or another generally accepted software package. The Consultant will provide LOS and queuing analyses four three sections of roadway.
 - Highway 43/SE Macadam Avenue (Ross Island Bridge to Bancroft/Hood)
 - Highway 43/SE Macadam Avenue (Bancroft/Hood through Taylor's Ferry)
 - Highway 43/State Street (Terwilliger through North Shore)
- Evaluate localized traffic impacts related to park-and-ride facilities and bus operations.
- Identify impacts to on-street and off-street parking supply adjacent to the alignment.
- Identify property access changes required by the alternative.
- Coordinate with local jurisdiction traffic engineers.

River Transit

The Contractor will:

- Conduct intersection level-of-service analysis at other major intersections on Highway 43/Macadam Avenue/State Street potentially impacted by the alternatives. This analysis would utilize the Highway Capacity Manual intersection analysis software or another generally accepted software package.
- Evaluate localized traffic impacts related to park-and-ride facilities and bus operations.
- Identify impacts of the alternatives to on-street and off-street parking supply adjacent to the alignment.
- Identify of property access changes required by the alternative.
- Coordinate with local jurisdiction traffic engineers.

Streetcar

The Contractor will:

- Conduct intersection level-of-service analysis at other major intersections on Highway 43/Macadam Avenue/State Street potentially impacted by the BRT alternative. This analysis would utilize the Highway Capacity Manual intersection analysis software or another generally accepted software package. The Consultant will provide LOS and queuing analyses four three sections of roadway.
 - Highway 43/SE Macadam Avenue (Bancroft/Hood through Taylor's Ferry)
 - Highway 43/State Street (Terwilliger through North Shore)
- Evaluate localized traffic impacts related to park-and-ride facilities and bus operations.
- Identify impacts of the alternatives to on-street and off-street parking supply adjacent to the alignment.
- Identify of property access changes required by the alternative.
- Coordinate with local jurisdiction traffic engineers.

Light Rail

- Conduct intersection level-of-service analysis at other major intersections on Highway 43/Macadam Avenue/State Street potentially impacted by the LRT/DMU alternative. This analysis would utilize the Highway Capacity Manual intersection analysis software or another generally accepted software package. The Consultant will provide LOS and queuing analyses for three sections of roadway.
 - Highway 43/SE Macadam Avenue (Bancroft/Hood through Taylor's Ferry)
 - Highway 43/State Street (Terwilliger through North Shore)
- Evaluate localized traffic impacts related to park-and-ride facilities and bus operations.
- Identify impacts of the alternatives to on-street and off-street parking supply adjacent to the alignment.
- Identify of property access changes required by the alternative.
- Coordinate with local jurisdiction traffic engineers.

Data: The following is a brief description of the traffic-related data that will be available to the consultant.

1. Base year (2000) and forecast year (2025) trip generation inputs, which include population, households, housing by type, retail employment and total employment.
2. A description of the year 2000 and 2025 roadway system in the study area, which includes link speeds, capacities and the number of lanes. Also, a large-scale plot of the travel model network, which shows all zones, links, modes and centroid connectors in the study area.
3. Physical geometric configurations and signal operation data required for analysis of existing conditions at key intersections and/or grade crossings.
4. Copies of relevant planning documents from Clackamas County, City of Milwaukie, City of Portland, Multnomah County, Metro and Tri-Met.
5. Conceptual design drawings of each alternative. The design consultant will prepare the conceptual design drawings.
6. A description of Metro's traffic and transit-patronage forecasting methods.
7. Year 2025 PM peak one hour simulated traffic assignments, including link volumes and turning movements at key intersections to be analyzed.
8. Estimated daily and peak-hour auto, bus and pedestrian volumes at the major transit stations, park-and-ride lots and transit centers.

This list of data items may change as the design of the alternatives evolves.

3.0 Products

Products of the traffic impact analysis task will include the following:

1. The Consultant will provide Metro with Memorandums that report the local traffic impacts analysis. The local traffic analysis will be used to narrow the wide range of alternatives and be summarized in the Lake Oswego to Portland Evaluation Report. This will describe the intersection level-of-service methods, the traffic simulation and queuing methods and other methods employed to complete the tasks described above.
2. The products will also include the analysis worksheets and computer simulations prepared for this study.

1.0 General Task Description

The purpose of this task is to assist Metro staff in the implementation of the Communications and Public Involvement Plan for the project, which is included as Section 4 of this scope of work. The majority of the work program will be carried out by Metro and other agency staff, however specific assistance from the Contractor is required as detailed below.

2.0 General Task Descriptions

Task 1: Facilitated Community Discussions

Development of specific alignments, station locations and associated facilities will require small group discussions within the three main project segments – John’s Landing, the Unincorporated areas and Lake Oswego. Facilitated discussions will be used to reach community members from a variety of backgrounds throughout the three. Discussions will allow staff to get ideas from a larger segment of the corridor population, refine alternatives to be assessed, share findings and help narrow the choices to be considered. Discussions will be open to all community members. As much as possible, discussions will be hosted jointly by the project and the neighborhood, business, community or interest groups.

To facilitate scheduling these meetings, Metro staff will maintain a calendar of community meetings in the study area. Meeting promotion will be primarily achieved through collaboration with the host groups. Project advisory committee vice chairs will help promote participation, present and/or facilitate discussion at these meetings.

Contractor assistance will be required in the following areas:

- Development of facilitated meeting, or charette process. The contractor will make recommendations to Metro as to the type and style of facilitated meetings to be used to refine project alternatives.
- Facilitate up to 20 small group meetings, including scheduling and logistics. Metro and agency staff will also attend these meetings and will provide assistance. The 20 meetings estimate is used to describe the total level of effort and could be 20 meetings with 20 separate groups, or one meeting with a follow-up meeting for 10 groups or some other combination.
- Summarize the results of the meetings including lists of attendees, lists of community concerns and recommended changes to specific alternatives.

Task 2: Visual Simulations

To help study committees and stakeholders visualize the alternatives being studied, static and/or animated visual simulations will illustrate potential alignments for transit and trail alternatives. On a segment-by-segment basis, these simulations will point out different conditions and show possible impacts. Simulations will be integrated with study web pages as much as possible.

The Contractor will perform the following tasks:

- Provide Metro with rationale for selecting either static or animated visual simulations to illustrate neighborhood compatibility of transit and trail alternatives
- Provide Metro with an estimate of the number of static and/or visual simulations that can be provided within a budget cap of \$20,000.
- Perform visual simulations in accordance with the first two elements of this task after reaching agreement with Metro on the approach.

3.0 Products

Products of the Financial Analysis and Political Strategy task will include:

1. Up to 20 facilitated meeting summaries.
2. Up to 7 presentations before the TAC (2), PMG (2), LOPAC (2) and Steering Committee (1).
3. Hardcopy and digital static and/or animated visual simulations.

4.0 Overall Communications/ Public Involvement Plan

4.1 Overview

Currently Highway 43 serves as the primary north/south route in the study corridor. Existing traffic volumes on Highway 43 create substantial congestion during the peak hour of travel and this is expected to continue to increase.

Past studies in the corridor have concluded that significant roadway improvements are not feasible due to physical constraints. Current and previous studies have concluded that the transportation system management, transportation demand management, transit and bicycle and pedestrian improvements are more suitable for this corridor.

The Lake Oswego to Portland Transit and Trail Alternatives Analysis (LOAA) is a federal transportation alternatives analysis in which Metro is the lead agency. Metro Councilors Rex Burkholder and Brian Newman serve as co-chairs of the Project Steering Committee with representatives of local governmental and organizational partners from the cities of Portland and Lake Oswego, Multnomah and Clackamas Counties, TriMet, the Oregon Department of Transportation, Portland Streetcar Inc. the Eastside Transit Alternatives Analysis Project Advisory Committee Chair and Lake Oswego to Portland Transit Alternatives Analysis Project Advisory Committee Chair. The study will develop and evaluate transit and trail alternatives in the corridor and select a preferred or several promising alternatives to be advanced into the federal environmental analysis process.

4.2 Objective

The purpose of public involvement during this analysis is to support the identification of alternatives for the study as well as the evaluation and refinement of identified alternatives and to guide the study towards a mutually agreed upon interagency recommendation for transit and trail improvements in the corridor. The community participation process is designed to ensure that community concerns and issues are identified early and addressed in the analysis process. For purposes of this study, community includes those who live, work or otherwise have a stake in the affected areas. Different levels and types of participation will be used throughout the process to ensure stakeholders have an opportunity for full participation.

4.3 Corridor Outreach Assessment

From an outreach perspective the Lake Oswego to Portland corridor is unique. It divides naturally into three very distinct geographic areas, each with very different issues and concerns.

- John's Landing – South waterfront area to the north of the Sellwood Bridge
 - Critical issues: safety, coordination with ongoing economic development, congestion relief
- Unincorporated areas of Multnomah and Clackamas counties – south of the Sellwood Bridge and north of Lake Oswego along Highway 43
 - Critical issues: stability of residential areas, congestion relief
- City of Lake Oswego

- Critical issues: coordination with local land use and economic development efforts, congestion relief

Stakeholders identified in these areas include residential property owners, business owners, long-term leaseholders, retail interests, neighborhood associations, local governments and other regional interest groups such as bicycle and trail advocates.

In addition to these three areas, several neighboring communities are potentially impacted and interested in the outcome of this analysis. These areas include: Sellwood, South Waterfront, the City of West Linn and the City of Oregon City. Every effort will be made to keep these communities informed, provide opportunities for participation at key decision points throughout the process and identify and suggest prioritization of related issues impacting these communities.

Recommended outreach methods will vary throughout the corridor to meet stakeholder needs along the three segments. In the John's Landing and City of Lake Oswego, we will be able to rely heavily on existing community groups and neighborhood/business associations as well as concurrent study groups: Milwaukie Light Rail Transit Project DEIS, Sellwood Bridge Environmental Assessment, South Waterfront South Portal Study, Lake Oswego Downtown Transit Advisory Committee, Lake Oswego Transportation Management Plan for Downtown Neighborhoods and Lake Oswego Foothills Design District Project Summary and Refinement Plan. In the unincorporated areas in between, we will work with existing neighborhoods and community networks connected with Riverdale School District.

Outreach efforts will also take into account numerous past plans and studies done in all three areas that may provide additional knowledge and direction to this study.

4.4 Stakeholder Interviews

To begin identifying critical issues and effective opportunities for engaging stakeholders in the study area, 32 interviews were conducted with stakeholders in John's Landing, the unincorporated areas, the City of Lake Oswego and with interest groups such as the bicycle and pedestrian community and OHSU. The interviews used open-ended questions to identify community concerns and potential solutions of residents and business owners in the study area.

4.5 Project Advisory Committee

Dave Jorling, a resident of the First Addition neighborhood and member of the Lake Oswego Downtown Transit Alternatives Advisory Committee was elected chair of the project advisory committee. In order to accommodate the differing needs of the three segments of the study area, three vice chairs were also chosen from the 21-member project advisory committee. The vice chairs will represent the views and provide vital liaison roles with their respective geographical areas as defined below:

- John's Landing – vice chair is Vern Rifer, a member of the John's Landing Condominium Association

- Unincorporated areas – David Reinhart, a Willamette Shoreline right-of-way resident
- Lake Oswego – Rick Saito, a Foothills property owner, President of the North Macadam Development Council and Chair of the North Macadam Urban Renewal Advisory Committee

4.6 Public Involvement Methods

The following communication/outreach methods will effectively enable us to support the technical work during the analysis:

4.6.1 Web Site

Metro's web site will include background and evolutionary information pertaining to the Lake Oswego to Portland study. This will include information about alternatives and evaluation, opportunities for public engagement and a schedule of meetings. The web site will use accessible technology and offer the opportunity to submit comments and request further information about the study. The web site will be updated regularly throughout the process and will be linked to appropriate study partner websites.

Prior to the selection of an alternative(s) to forward to the environmental analysis process, Metro anticipates fielding an online instrument. The questionnaire will provide interested stakeholders with a quick and easy, though unscientific way to offer feedback on a preferred alternative.

Given that 70 percent or more of Metro area households have access to the Internet, it is an important means of communication with the broader public, especially those who might not wish or be able to attend meetings or public hearings.

4.6.2 Transportation Hotline

The Metro Transportation Hotline (503) 797-1900 will be updated regularly to provide up-to-date information about public involvement opportunities and key decision points. The hotline will also offer community members a convenient method for requesting information about the Lake Oswego to Portland corridor and commenting on the study. The mailbox will be checked weekly.

4.6.3 Informational Materials

The first newsletter is expected to include a project timeline, background information, a description of the process and timeline for the project and dates for any upcoming meetings. Future newsletters will likely outline the study alternatives and results of the evaluation of alternatives.

We expect to prepare a number of fact sheets during the course of the study. The first fact sheet will act as a study primer to support the initial outreach activities and community meetings. Subsequent fact sheets will inform stakeholders about alternatives and evaluation.

Information will be translated into languages other than English or translators may be hired to supplement communications efforts if community outreach identifies potentially impacted non-English speaking residents.

4.6.4 E-newsletters / Metro Councilor Newsletters

Project information will be included in Metro Planning e-newsletters and Metro Councilor newsletters as available and appropriate throughout the study. Both newsletters will provide additional opportunities to announce scheduled meetings, share study results at key decision points and notify a broad public about public comment periods. Recipients and study partners will be invited to share the information with their mailing/e-news lists.

4.6.5 Mailing List

The study will maintain an active mailing list and will seek to expand the distribution of study materials through libraries, schools, senior centers, key recreational facilities and other public destinations. Metro will develop and maintain a study mailing list. This list will be developed by “borrowing” names from existing mailing lists (Transportation/Growth Management (TGM) studies, urban renewal groups, neighborhood groups, community groups, local governments, interested persons and other Metro studies and partner lists).

4.6.6 Media Outreach and Advertising

Media outreach, specific emphasis on community newspapers and corridor specific neighborhood publications, will ensure that the general public is informed about meetings, workshops, key decision points and opportunities for involvement. Outreach to the media will include reporter and editorial briefings, news releases at key decision points and meeting notices..

Media advertising will target the Lake Oswego Review, West Linn Tidings, Oregon City News, Sellwood Bee and the southwest zone of the Oregonian. In addition, a list of neighborhood and community newsletters and non-daily newspapers will be compiled so that Metro can share meeting dates and provide study-related articles for publication.

4.6.7 Facilitated discussions with community groups

Facilitated discussions will be used at key decision points to reach community members from a variety of backgrounds throughout the three segments of the study area. Discussions will allow staff to get ideas from a larger segment of the corridor population, refine alternatives to be assessed, share findings and help narrow the choices to be considered. Discussions will be open to all community members.

As much as possible, discussions will be hosted jointly by the project and the neighborhood, business, community or interest groups. To facilitate scheduling these meetings, a calendar of community meetings in the study area will be compiled. Meeting promotion will be primarily achieved through collaboration with the host groups. Project advisory committee vice chairs will help promote participation, present and/or facilitate discussion at these meetings.

On an ad-hoc basis, working groups for each study segment will be convened by the vice chair representing that segment. Meetings will be used to draw on local expertise related to each geographic area along the corridor. Citizens, businesses and other interested parties will be invited to participate.

4.6.8 Study-Sponsored Meetings

An open house and/or workshop will be held in each of the three segments of the corridor. These meetings will be held during the evaluation phase to share preliminary findings about alternatives and seek input about which alternatives merit further study. A newsletter or other materials will be developed to support community participation opportunities.

4.6.9 Animated Visual Simulations

To help study committees and stakeholders visualize the alternatives being studied, animated visual simulations will illustrate potential alignments along for transit and trail alternatives. On a segment-by-segment basis, the simulation will point out different conditions and show possible impacts. Simulations will be integrated with study web pages as much as possible.

4.6.10 Public Comment Report

Complete records of public comments received along with a catalog of ads, newspaper articles and publications will be compiled for distribution to the Project Steering Committee, Metro Council, partner councils, commissions and/or board members and other interested parties.

4.6.11 Public Hearings

The LOPAC will host a public forum/listening post to hear community feedback on the committee's preliminary recommendation to the Project Steering Committee. In addition, public hearings will be held before the Metro Council and partner elected bodies, prior to consideration of a preferred alternative(s). A minimum 45-day notice will accompany these hearings.

Attachment 4
Resolution 05-3647
Scope of Work
Financial Analysis and Political Strategy

1.0 General Task Description

The purpose of this task is to develop financial strategies to support the project alternatives under study, and to assist Metro in the development of political strategies to secure regional support and federal funding for the project. The Contractor will prepare funding scenarios for the alternatives based on capital costs developed through the Conceptual Design task as well as operating costs developed by Metro and TriMet based on output of the regional travel demand model and operating plans for each alternative. The Contractor will also provide assessments of the likelihood of federal funding through the emerging FTA Small Starts program and prepare strategies to secure local funding for the project.

The Contractor will prepare a work plan and budget outlining the general and specific details of their proposal. The work plan will indicate the general approach to each task, the staff members who will be doing the work (by task), the approximate number of hours of work proposed for each staff member (including persons employed by the subcontractors) for each task, and the proposed budget by task.

The consultant will participate in and prepare materials for project committees including the project's Technical Advisory Committee (TAC), Project Management Group (PMG) Lake Oswego to Portland Project Advisory Committee (LOPAC) and Steering Committee.

The project is currently narrowing down a wide range of potential alternatives. Currently, the potential alternatives in addition to the 2025 No-Build could include:

- Bus Rapid Transit (BRT)
- River Transit
- Streetcar
- Light Rail
- DMU Rail Service
- Bicycle/Pedestrian Trail

2.0 General Task Descriptions

Task 1: Financial Analysis

The Contractor will provide financial analysis of the alternatives under study based on the capital, operating and maintenance costs estimated by Metro and TriMet. For each alternative, the Contractor will provide a list of potential capital funding sources for the project including the following general categories:

- 1.1 Federal Funding, including Federal Transit Administration capital funding sources that include, but are not limited to:
 - a. New Starts (s. 5309)
 - b. Small Starts (s. 5338)
 - c. Bus Capital program
 - d. Surface Transportation Program (STP)
 - e. Congestion Management and Air Quality (CMAQ) program
 - f. Other targeted federal funding such as Job Access and Reverse Commute (JARC) that may be appropriate for specific alternatives or components of alternatives.
- 1.2 State Funding, including capital funding sources through the Oregon Department of Transportation or other agencies
- 1.3 Local Funding, including capital funding sources that focus specifically on funding options available to the cities of Lake Oswego and Portland that could include but not be limited to:
 - a. Urban renewal district funding through the Portland Development Commission or the Lake Oswego Urban Renewal Agency
 - b. The establishment of Local Improvement Districts or Benefit Assessment Districts
 - c. Voter-approved funding options
- 1.4 Operations and Maintenance Funding, including but not limited to the following:
 - a. TriMet municipal, self-employed and employer payroll taxes
 - b. Other potential TriMet operating revenue sources
 - c. Private operating subsidies including LIDs, BADs, or annualized value capture from increased development
 - d. Other local government operating subsidies
 - e. User-based operating subsidies
- 1.5 Summary of Task 1 Findings. The Contractor will provide a technical memorandum summarizing the findings of Tasks 1.1 to 1.4 for review by the TAC and PMG.

Task 2: Financial and Political Feasibility Analysis

In this task, the Contractor will analyze the potential capital, operations and maintenance funding sources for their political and financial feasibility and will recommend a preferred package for each alternative.

- 2.1 Assessment of Financial and Political Feasibility. For each alternative and/or funding source, the Contractor will provide the following:
 - a. Assessment of revenue potential

- b. Institutional opportunities and constraints
- c. Compatibility with authorizing legislation
- d. Application of funding scenarios to the alternatives
- e. Likelihood of implementation based on local political and public support
- f. Ability of alternative to maximize potential revenue sources
- g. Ability of an alternative to compete for FTA funding
- h. Analysis of the impact of potential project funding sources on other regional FTA New Starts and Small Starts funding priorities, i.e. Eastside Transit Project, Milwaukie Light Rail Project and Columbia River Crossing Project.

2.2 Summary of Task 2 Findings The Contractor will provide a summary of findings technical memorandum to be shared with the TAC and PMG for comment that includes the results of Task 2.1.

Task 3: On-going Strategy Development and Support

In addition to the above tasks, the Contractor will provide on-going strategy support to Metro staff relating to emerging guidance on the FTA Small Starts program and local financial and political opportunities on an as-needed basis. For cost estimation purposes, assume up to 10 hours per month of on-call assistance for the duration of the project.

3.0 Products

Products of the Financial Analysis and Political Strategy task will include:

1. Two technical memoranda summarizing the results of Tasks 1 and 2, and the spreadsheets used to perform the analyses.
2. Up to 6 presentations before the TAC (2), PMG (2), LOPAC (1) and Steering Committee (1).
3. Technical memoranda as required for on-going strategy support, included as part of Task 3.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING CHRISTOPHER P.	)	RESOLUTION NO. 05-3650
SMITH AS MULTNOMAH COUNTY CITIZEN MEMBER)	
TO THE METRO POLICY ADVISORY COMMITTEE	)	Introduced by David Bragdon,
(MPAC).	)	Council President.
)	
)	
)	
)	

WHEREAS, The Metro charter provides that three citizen members of the Metro Policy Advisory Committee (MPAC) shall be appointed by the Council President and confirmed by the Metro Council, and;

WHEREAS, The MPAC by-laws, Section 2 (e), provides that members and alternates representing citizens will be appointed by the Council President and confirmed by the Metro Council, and;

WHEREAS, The Council President has appointed Christopher P. Smith as citizen member for Multnomah County subject to confirmation by the Metro Council, and;

BE IT RESOLVED that Christopher P. Smith be confirmed as a member of the Metro Policy Advisory Committee (MPAC).

ADOPTED by the Metro Council this _____ day of _____, 2005

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

2343 NW Pettygrove Street
Portland, OR 97210

(503) 223-3688
(503) 213-5925
chris@chrissmith.us

Christopher P. Smith

Public Service

2005

Launched PortlandTransport.com

A blog on transportation issues in the metro area

2004

Mayor's Roundtable on the Central City

2004

Burnside Transportation and Urban Design Stakeholders Advisory Committee

2002-Present

Metro Transportation Policy Alternatives Committee

1991-Present

City Club of Portland

2002-Present - Member of Board of Governors. 2002-2005 - Chair of
Advocacy Board. 2000 - Chaired Measure 6 Study Committee. 1997-
2000 - Member of Density Study Committee

1998-Present

Portland Streetcar

Citizens Advisory Committee (CAC) Member. Since 2003 member of
Portland Streetcar Inc. Board of Directors, Chair of CAC

2000

Volunteer Staff Member - Committee for Our Oregon

Opposing Ballot Measures 8, 91 & 93.

1999-2001

Board Member of Citizens for Sensible Transportation

Regional advocacy for transportation policy and tactics to reduce
dependency on automobiles.

1997-2005

Chair of Northwest District Association (NWDA) Transportation Committee

Advocate for transportation needs of the Northwest Portland community.

1997-2005

Board Member and Officer of NWDA

1991-1996

Board Member of Artists Repertory Theatre

As Board Chair for two years led operational turn-around of not-for-profit
theater, retiring accumulated deficit and preparing for a successful
\$1.2M capital campaign.

(over)

Christopher P. Smith

Education

2003-2004	Portland State University	Portland, OR
Regional Leaders Seminar on Economic Development		
2000	Portland State University	Portland, OR
Legacy Program for Public Service Leaders		
1999	Kellogg School of Management	Chicago, IL
Executive Program in Communications Strategy		
1984-1987	Boston University	Boston, MA
MBA with honors		
1978-1982	Rensselaer Polytechnic Institute	Troy, NY
B.S. Computer & Systems Engineering		

Corporate Experience

Present	Xerox Corporation	Wilsonville, OR
Internet Technologist, Xerox Office Group		
Responsible for Internet technology for a \$5B business unit.		
1999	Tektronix, Inc.	Beaverton, OR
Corporate Director of Internet Technology and Operations		
1995-1998	Tektronix Color Printers	Wilsonville, OR
Director of Internet Strategy, Color Printer Division		
1984-1995	Tektronix, Inc.	Mass. & Oregon
Various marketing and technical positions		

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 05-3650 FOR THE PURPOSE OF APPOINTING CHRISTOPHER P. SMITH AS MULTNOMAH COUNTY CITIZEN MEMBER TO THE METRO POLICY ADVISORY COMMITTEE (MPAC).

November 22, 2005

Kim Bardes (x1537)

PROPOSED ACTION

To adopt a resolution naming Christopher P. Smith as a citizen member on the Metro Policy Advisory Committee (MPAC) representing Metro. Council approval constitutes confirmation as required by the Metro Charter and Metro Code Section 6.01.030.

BACKGROUND

Christopher P. Smith is an active and involved member of the community (see Exhibit A). He has served on many political organizations and advisory committees. He is currently working for Xerox Corporation and is responsible for internet technology for a \$5B business unit. Mr. Smith has a B.S. in Computer & Systems Engineering, an MBA from Boston University, with additional education in communications, public service and economic development.

I recommend the appointment of Christopher P. Smith to MPAC. I believe he will provide an important voice representing local citizens.

MPAC's bylaws specify that citizen appointments are to be for a term of not less than two years. Taking this into account, I recommend that this appointment to MPAC be for an unspecified term, subject to later review.