

BEFORE THE METRO COUNCIL

RECOGNIZING THE CONTINUATION OF A) RESOLUTION NO. 06-3729
PUBLIC/PRIVATE SYSTEM OF WASTE)
TRANSFER STATIONS IN THE REGION, AND) Introduced by: Michael Jordan,
DIRECTING THE CHIEF OPERATING OFFICER) Chief Operating Officer, with the
TO EXPLORE OPPORTUNITIES TO IMPROVE) concurrence of David Bragdon,
THE REGIONAL SOLID WASTE DISPOSAL) Council President
SYSTEM)

WHEREAS, Metro is a regional government providing a variety of services for the urbanized portions of Clackamas, Multnomah and Washington counties of Oregon; and

WHEREAS, solid waste planning and disposal are two of the principal responsibilities of Metro; and

WHEREAS, solid waste planning is guided primarily through the Regional Solid Waste Management Plan (RSWMP) currently under revision; and

WHEREAS, one of the key RSWMP issues identified to date is ensuring adequate public services are provided through the regional solid waste system in the decade ahead; and

WHEREAS, on July 21, 2005 the Metro Council adopted Resolution No. 05-3601A entitled: Authorizing Issuance of Request for Proposals 06-1154-SWR for Competitive Sealed Proposals to Provide Consulting Services regarding Disposal System Planning for Alternative Service Delivery and thereby authorized an analysis of alternative transfer station system options and a determination of the valuation of the publicly owned transfer facilities; and

WHEREAS, a Disposal System Planning Consultant was retained to conduct the analysis utilizing the Metro Council's values for the solid waste system as the basis for evaluating different transfer system ownership options; and

WHEREAS, the year long analysis concluded that a publicly owned transfer system best met Council values; and

WHEREAS, when the analysis was expanded to include risk and cost factors associated with each ownership option it was concluded that a mixed system of continued Metro ownership of two transfer stations together with additional privately owned stations was the highest ranked option (see Exhibit A attached hereto); and


WHEREAS, the analysis also identified opportunities where the current system could be improved such as in the areas of the transparency of rates associated with private transfer stations, the allocation of waste amongst facilities, potential public ownership of additional facilities and additional long term planning issues as summarized in Exhibit B, attached hereto; now therefore

BE IT RESOLVED:

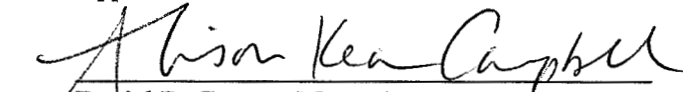
1. The Metro Council acknowledges that continued ownership of the Metro South and Metro Central transfer stations is in the region's best interests.

2. The Chief Operating Officer is directed to explore disposal system planning opportunities to improve the solid waste recycling and disposal system as illustrated in Exhibit B.
3. The Chief Operating Officer is instructed to develop and define disposal system-related policies, goals and objectives and incorporate them into the integrated RSWMP for Council consideration.
4. The Chief Operating Officer will provide periodic updates and present policy, program and project choices associated with activities identified in Exhibit B.

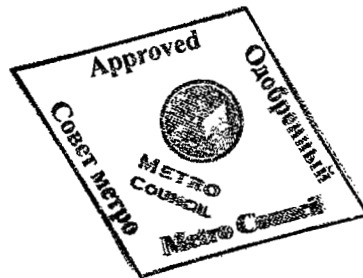
ADOPTED by the Metro Council this 12th day of October, 2006.


David Bragdon, Council President

Approved as to Form:


for Daniel B. Cooper, Metro Attorney

M:\rem\od\projects\Legislation\2006\063729 DSP adopting report RES.doc



Summary of Results
Metro Transfer System Ownership Study

Major Objectives – Council Values

1. Maximize ongoing business value and/or public use value of Metro Stations.
2. Ensure all participants pay fees and taxes (polluter pay principle)
3. Ensure the system is making progress toward compliance with RSWMP sustainability goals.
4. Preserve current and future access to disposal services for self-haul customers (location and hours)
5. Ensure equitable distribution of wet and dry waste delivery options for all communities (current and future)
6. Ensure funding is available for Metro general government
7. System endorsed and supported by all system participants

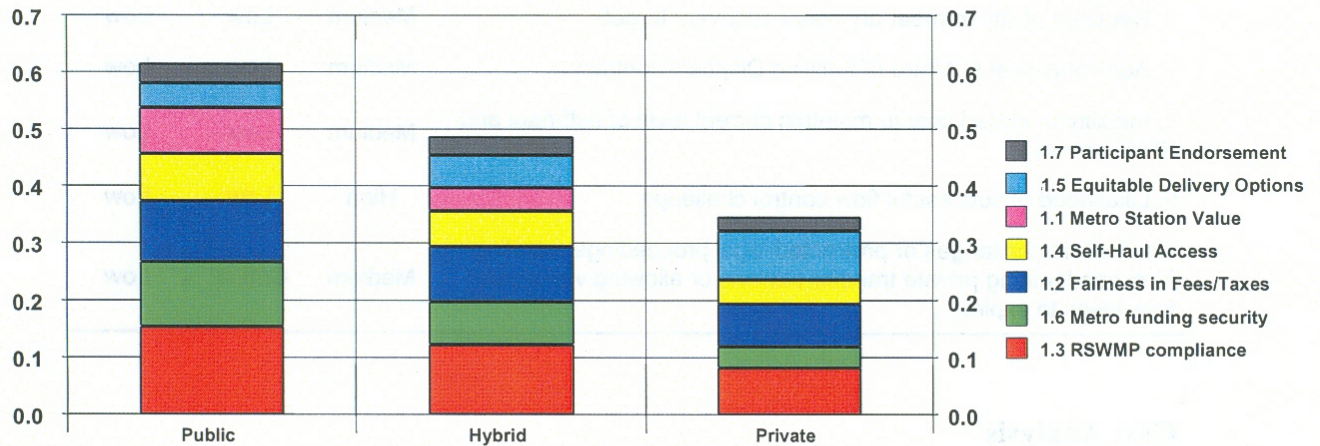


EXHIBIT 4-9
 Objectives Contributions to Value Score

Other Policy Drivers

- Competition
- Metro as regulator and competitor
- Rate transparency and fairness
 - Uniform rates for all haulers at a facility
 - Ensure rates reflect cost of providing service
- Maximize cost saving potential in Metro’s disposal contract
- Land use compatibility
 - Local comp plans
 - 2040 plan
- Flexibility to use alternative transport modes

Risk Analysis

EXHIBIT E-1
Risk Assessment

Risk	Risk Signature		
	Private	Public	Hybrid
1. More difficult politically to collect regional system fee and excise taxes	High	Low	Low
2. Metro's credit rating could worsen if it is perceived to be less able to collect taxes	High	Low	Low
3. It could be more costly and more difficult administratively for Metro to respond to future changes in state-mandated Waste Reduction requirements	High	Low	Low
4. It could be more costly and more difficult administratively for Metro to deliver new WR/R initiatives	High	Low	Low
5. Potential increase in vertical integration and potential resulting increases in transfer station tip fees	High	Low	Low
6. Reduced ability to meet dry waste recovery targets	Medium	Low	Low
7. Additional cost to Metro of fulfilling Disposal contract	Medium	Low	Low
8. Inability or added cost to maintain current level of self-haul and HHW service	Medium	Low	Low
9. Likelihood of successful flow control challenge	High	Low	Low
10. Political challenges or protracted legal proceedings resulting from condemning private transfer stations or allowing wet waste franchises to expire	Medium	Critical	Low

Cost Analysis

Summary of Results

	Private	Public	Hybrid
Cost – Estimated long-run percent change in system cost.	Low: 1.4% High: 2.2%	Low: 0.1% High: 0.7%	Low: -0.5% High: 0.1%

Opportunities for Improving the Solid Waste System

Below are brief explanations of each of the projects shown on the accompanying chart *Opportunities for Improving the Solid Waste System*. Descriptions are organized by taking projects from the chart beginning in the upper left corner, then left-to-right and top-to-bottom, as if reading a book.

Transfer Station Ownership

Response to Questions & Comments – Metro staff continue to obtain comments from stakeholders regarding the findings of the Disposal System Planning study, and staff will continue to relay stakeholder feedback to the Metro Council.

Council Resolution – Metro staff prepared the attached resolution for the Metro Council's consideration in providing direction to the COO to improve the region's disposal system.

RSWMP

Disposal System Goals & Objectives – Goals and objectives for the disposal portion of the solid waste system will be integrated into the broader Regional Solid Waste Management Plan, which also provides guidance to the region on waste reduction and recycling, household hazardous waste management, and system financing.

Waste Transportation Rebid

Transportation Options Study – Portland is in the enviable geographic position of having multiple transportation modes available for moving cargo long distances: truck, barge, and train. With today's higher-priced fuel and an increasing focus on the environmental impacts of burning fuel, as well as the 2009 expiration of Metro's long-haul contract, a more general study of the viability of different modes for transporting solid waste will provide information that will allow development of a transportation services procurement that addresses the objectives of the Metro Council.

Establish RFP Parameters/Procurement of Contractor/Select Contractor – If Metro chooses to procure a long-haul garbage hauler through competitive bidding after the CSU contract expires, a number of tasks will be required: establishing the parameters of the RFP, evaluation of proposals, and, finally, negotiations with the successful proposer.

Initiate New Contract – A new (or renewed) long-haul contract must be in effect by January 1, 2010.

Transfer Station System Optimization

10% Bid – The Disposal System Planning consultants’ report identified opportunities for introducing more competition into the waste transfer system. One opportunity is to bid out the right to dispose of the 10% of waste not guaranteed contractually for delivery to Waste Management. There is no deadline for putting the 10% out for bid, though it is anticipated that Metro will need to develop a method for allocating the rights to this waste if additional firms request portions of the 10%.

Waste Allocation – Metro limits the wet waste tonnage that local transfer stations in the region can accept. A review of this system of tonnage caps could form the basis for the development of a new, better-functioning disposal system.

Rate Transparency – Transfer prices are not regulated in the Metro region, yet certain pricing practices among private companies seem non-competitive. Additional controls on transfer rates could improve rate transparency.

Renew NSLs – Metro issues limited duration non-system licenses to haulers authorizing the delivery of waste to *non-designated* facilities. Many so-called NSLs will come up for renewal at the end of 2007. Particularly if the 10% of non-Waste Management waste goes to bid, the Metro Council may wish to reevaluate its policies with respect to NSLs.

Forest Grove Transfer Station – The regional transfer station franchise that Metro granted Waste Management to operate Forest Grove Transfer Station will expire December 31, 2007. The Metro Council may wish to incorporate new policies into its decision about renewing the Forest Grove franchise agreement.

Other Private Transfer Station Franchises – Local Transfer Station franchises (Pride, WRI, Troutdale) will expire on December 31, 2008. This timing provides the opportunity to implement disposal system policies established by the Metro Council.

Greening the System

Facility Standards – With stakeholders, SW&R staff plan to develop operating standards for regulated solid waste facilities to provide “greener” services, e.g., through renewable energy use, procurement of products made from renewable or recycled material, and better storm water management.

Long-term Transfer Station System Planning

New Facility Entry Standards –Metro has placed moratoriums on the development of new wet and dry waste facilities in the region. Reviewing the current criteria for allowing construction of new facilities could provide a clearer set of entry standards and provide a basis for eliminating the two moratoriums.

Disposition of Metro South – For now, a transfer station appears to be the highest and best use of the Metro Central and Metro South properties. With discussions of future high-end retail development near Metro South, it would be prudent to scope plans to reposition the Metro South property in the event that the neighborhood changes its current industrial focus.

Dry Waste System

Enhanced Dry Waste Program – Metro staff are currently working with stakeholders to develop the program details for enhancing recovery from dry waste by ensuring that all dry waste be processed for recyclables first prior to landfilling.

MRF Standards – Metro SW&R staff are currently developing operating standards for dry waste processing facilities to protect health and safety, and to promote good operating practices in the urban region.

Opportunities for Improving the Solid Waste Disposal System

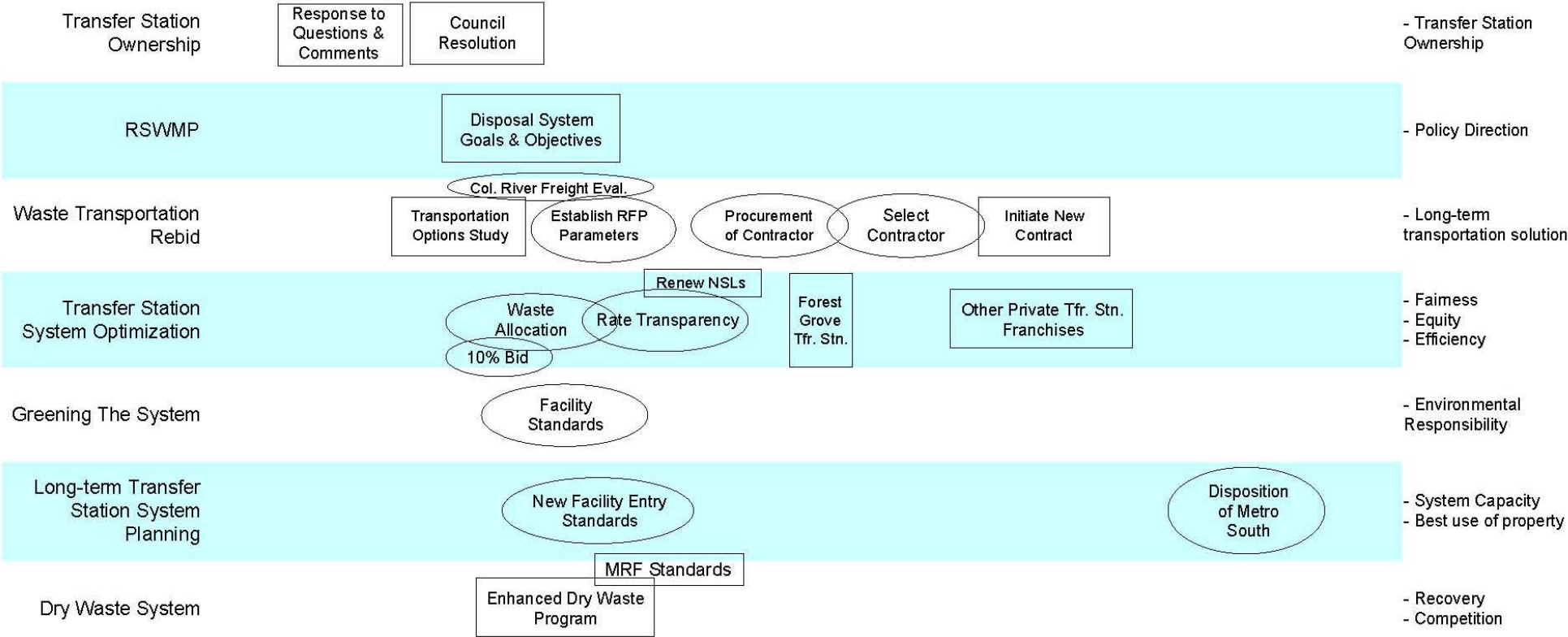
Rectangles enclose projects that are already underway or that *must* be completed by a time certain

 Ovals indicate *optional* projects, or those around which timing or necessity is less certain

Time Frame for Bringing About Change



Desired Outcome



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3729, FOR THE PURPOSE OF RECOGNIZING THE CONTINUATION OF A PUBLIC/PRIVATE SYSTEM OF WASTE TRANSFER STATIONS IN THE REGION, AND DIRECTING THE CHIEF OPERATING OFFICER TO EXPLORE OPPORTUNITIES TO IMPROVE THE REGIONAL SOLID WASTE DISPOSAL SYSTEM

Date: September 28, 2006

Prepared by: Mike Hoglund and Paul Ehinger

BACKGROUND

Solid waste planning and disposal are two of the principal responsibilities of Metro. The solid waste planning function is guided primarily through the Regional Solid Waste Management Plan (RSWMP). RSWMP is intended to provide a 10-year framework for waste disposal and recycling as specified in ORS 268.390. Metro is in the process of updating the RSWMP document.

A key RSWMP issue is to ensure that adequate public services are provided through the regional transfer station system in the next decade. Disposal System Planning (DSP) rose out of this issue. During the summer of 2005, the Metro Council indicated interest in obtaining information on how the Region's solid waste management system could be improved. They were particularly interested in determining whether the system could be improved by changing the current system of public and private ownership of the region's transfer facilities. The primary purpose of DSP was to answer the question: What is the best way to deliver safe, environmentally sound and cost-effective waste transfer and disposal services to the public and private users in this region?

Solid Waste and Recycling department (SW&R) staff developed a work plan that was approved by the Metro Council. The work plan envisioned the use of two consultant teams and significant in-house resources to complete the work plan. A system consultant was to be hired to evaluate system alternatives and another was to be hired to estimate the value of the two publicly owned solid waste facilities.

A request for proposals was issued for the system consultant who would conduct an analysis of ownership alternatives. The alternatives were to range from a completely publicly owned system to a fully private system. A consulting team of two firms, CH2M Hill and Ecodata, was selected to be the "system consultant" to conduct the alternative analysis. Mr. Dan Pitzler of CH2M was the project manager for the consulting team. Dr. Barbara Stevens, a nationally recognized expert in the economics of solid waste systems provided significant support in the area of economic analysis.

The Office of Metro Attorney (OMA) provided support to the project by reviewing legal issues. Based on advice from OMA, a real estate appraiser was hired by OMA to provide an opinion on the value of the two Metro transfer stations. This data was not used in analyzing alternatives so that the values could remain confidential in the event that a sale of one or more of the facilities was to take place.

METRO TRANSFER SYSTEM OWNERSHIP STUDY

Metro's system consultant conducted a detailed analysis of the region's solid waste disposal system and how changing the ownership structure of the facilities providing solid waste transfer and disposal

services would impact the system. The purpose of the study was to provide information for the Metro Council to decide what Metro's role should be in the disposal system.

The approach to the study consisted of five major elements. These elements were:

1. Documentation and consideration of stakeholder input.
2. Analysis of the economics of the Metro solid waste system.
3. Definition of system alternatives and identification of system objectives.
4. Evaluation of the system alternatives to characterize their performance at meeting system objectives, cost, and the risks associated with each alternative.
5. Legal analysis of system issues.

Disposal System Economics

Dr. Barbara Stevens of Ecodata reviewed the economics of the Metro disposal system and provided some key observations to help guide the study. The economic analysis considered the entire solid waste system, including the collection system since it is one integrated system economically. The analysis resulted in the following conclusions:

- It is estimated that collection accounts for 81 percent of the total cost of residential disposal, and a very high percentage of the total cost of commercial disposal. As the largest component of system cost, changes in the collection system are likely to have a greater impact on increasing or decreasing system cost than any other system component.
- Tipping fees at the two Metro transfer stations are used in setting collection rates, which is good, particularly since Metro competitively procures transfer station operation services. This injects an important element of competition in a market that otherwise would not have many characteristics of a competitive market. Metro may want to take steps to improve the pricing information that they send to the local governments who regulate collection rates.
- In recent years, national solid waste firms have increased market share in the local solid waste industry. These large national firms are frequently vertically integrated, thus earning profits on transfer, transport and/or disposal services in addition to collection. This provides them a competitive advantage over collection companies that do not provide those services.
- Economies of scale are significant in transfer; thus, adding transfer stations to the system, and thereby reducing throughput at existing stations, increases per-ton costs at those stations. Also, handling small loads (i.e., self-haul) increases per-ton costs compared to handling large loads. The Metro region currently has unused transfer capacity, and increases in unused capacity could lead to higher costs.
- Transfer is the smallest cost component of the collection, transfer, transport and disposal system costs that comprise total system costs.
- The private sector typically earns its highest profit margins on disposal. This fact provides significant incentive for vertically integrated firms to maximize the amount of waste going to their own landfills.

System Values

The Metro Council outlined the following values associated with the disposal system:

1. Protect public investment in solid waste system
2. "Pay to Play" - ensure participants pay fees/taxes
3. Environmental Sustainability - ensures system performs in a sustainable manner
4. Preserve public access to disposal options (location/hours)

5. Ensure regional equity- equitable distribution of disposal options
6. Maintain funding source for Metro general government
7. Ensure reasonable/affordable rates

These values were revised to better facilitate the analysis of transfer station ownership alternatives. One value (ensure reasonable/affordable rates) was eliminated, as it was captured in the economic analysis, and one value was added: *System endorsed and supported by all system participants*.

These values were discussed with the Metro Council and the Council assigned importance weights to each value statement. An analysis of ownership alternatives was then conducted to assess the extent to which each alternative met the Council values.

Alternative Analysis

The initial phase of the development of alternative ownership structures involved meeting with a variety of stakeholders. Their input was used to help identify the critical components of the system that might be impacted by an ownership change. They were also consulted to help determine key risk factors that should be evaluated. The stakeholder groups and a summary of their comments are included at the end of this section of the staff report.

The system consultant developed three alternative scenarios of facility ownership in the Metro region. The three scenarios were developed to demonstrate the impact that various ownership options would have on the solid waste disposal system. One option included a hybrid of public and private ownership of facilities, similar in most respects to the existing system. Changes were proposed to improve the way the hybrid system would operate when compared to the current system. The other two alternatives were a private alternative with no public ownership of facilities and a public alternative where Metro would own all of the wet waste transfer capacity in the region.

The advantages and disadvantages of private, public, or a hybrid transfer system were analyzed from a variety of perspectives, including:

- An analysis of how well each option met the Metro Council's stated values
- The estimated cost of each alternative
- The risk associated with the implementation of each alternative

The results of the value modeling analysis indicated that a fully public system best met the Metro Council's stated values. The results of a sensitivity analysis indicated that this result is not sensitive to the relative importance assigned to each Council value.

One additional sensitivity analysis was performed that incorporated challenges associated with implementation. That analysis showed that as more importance is placed on the difficulties associated with acquiring existing private transfer stations, the hybrid system eventually outranks the public system.

For each of the alternatives analyzed, costs in the disposal system are not expected to increase or decrease by more than about two percent.

The results of the assessment indicate that there is more risk associated with implementing the private system than the public or hybrid system. However, the only risk scored as critical are the challenges associated with implementation in the public system. These include either not renewing franchises and licenses, or possibly having to condemn private facilities in order to place them in public ownership. The hybrid system has relatively low risk.

Legal Analysis

Additionally, the Metro Solid Waste & Recycling Department sought the comments of the Office of Metro Attorney in three areas: (1) limitations on the use of the proceeds from any sale of the solid waste transfer facilities that Metro owns; (2) issues related to Metro's contract with Waste Management for the disposal of solid waste if Metro chose to divest its solid waste transfer facility assets; and (3) issues related to changes in transfer station operations that might occur following the defeasance of the transfer station revenue bonds in 2009.

OMA provided its advice in a May 10, 2006 memorandum. Concerning limitations on the use of transfer station sale proceeds, OMA advised that under state law the proceeds of any sale of the transfer station facilities would also be limited to solid waste purposes. OMA further advised that the Metro Charter would likely be construed to require that any sale proceeds from the sale of an asset purchased with funds derived from rates subject to the Charter limitation must be applied either to reduce the costs of the services provided or be returned to the users of the service.

Concerning issues related to Metro's contract with Waste Management, OMA stated that with or without ownership of the transfer stations, Metro remains obligated under its contract with Waste Management to fulfill the terms of the agreement. Accordingly, if Metro chose to divest itself of its transfer stations, OMA advised that such an action by itself would not automatically divest Metro of its contractual obligations to Waste Management.

Regarding matters following bond defeasance, OMA advised that Metro would no longer be required to follow the bond covenant that Metro set rates raising revenues that equal 110 percent or more of the annual debt service of the bonds. In addition, Metro would no longer be limited as to the length of contracts that it could have for operation of the transfer station. Finally, once the transfer station bonds are retired, certain federal rules would no longer be applicable, and Metro would no longer have to limit the means of payment of the transfer station operator so that the variable portion of any payment does not exceed the fixed-payment portion.

Stakeholder Communications

Stakeholders representing a wide range of parties that could be affected by changes to the solid waste disposal system were contacted to obtain their input. The groups contacted can be categorized as:

- **Private sector transfer station owners** - separate interviews were held with representatives of Allied Waste Systems, Pride Disposal, Waste Connections, and Waste Management.
- **Independent haulers** - a workshop was conducted with representatives of the following companies: Cloudburst Recycling, Deines Brothers Disposal, Flannery's Drop Box Service, Oak Grove Disposal, Portland Disposal and Recycling, West Slope Garbage Service; and a representative from the Oregon Refuse and Recycling Association.
- **Independent dry waste facility owners** – separate interviews were held with representatives of East County Recycling and Greenway Recycling.
- **Local government staff members** - a workshop was conducted with representatives from the following jurisdictions: Portland, Clark County, Troutdale, Milwaukie, Beaverton, Oregon DEQ, Gresham, Clackamas County, Washington County and Clackamas County. Separate interviews were also held with senior executives from Gilliam County and Oregon City.

- **Metro staff members** - a workshop was conducted with representatives from a number of Metro departments.
- **Customers at Metro transfer stations** – Intercept interviews were conducted with commercial customers (182 interviews) and a mail-in survey was provided to self-haul homeowner and business customers (341 responses).

These stakeholders expressed a wide range of views on their preferred ownership structure for the solid waste disposal system. While support for the existing ownership structure was the most prevalent view, support was expressed for each of the alternatives. The solid waste industry had widely varying views depending in large part on whether or not they owned a transfer facility and a landfill. For example:

- Companies that owned a disposal site and did not own the disposal contract with Metro generally favored a private system, since they appeared to anticipate that additional waste would flow to their landfills under the private ownership alternative.
- Independent haulers were of the unanimous opinion that public ownership was preferred for a number of reasons related to concerns about delivering waste to vertically integrated transfer station owners that are also their competitors in the collection business.
- Independent facility operators generally favored the current system and felt that independent operators have more incentive to recycle than facility owners that also own disposal facilities.
- Local government generally preferred either the hybrid or public alternatives and wanted to ensure that transfer station rates are transparent, that environmental standards are consistent, convenient transfer station access is provided for all, and that there would be continued focus on increased recycling/recovery and minimizing toxics.
- Metro staff generally preferred either the hybrid or public alternative.
- Metro customers were generally pleased with the service provided by Metro at its transfer stations.

Policy Issues

The primary focus of the initial phase of DSP was to identify how different ownership structures would impact the provision of disposal services in the region. During the course of the study the Council and stakeholders identified a number of other policy issues related to the disposal system. The proposed resolution calls for the COO to conduct additional investigations of these policy issues and report back to the Council. These issues include:

- How can Metro foster more competition in the disposal system?
- What is the best way to ensure rate transparency and fairness?
- How can Metro maximize cost savings in its disposal contract?
- What opportunities are available to minimize the environmental impacts of waste transport?

Attached as Exhibit B to the resolution is a schematic representation of the work program that the Solid Waste and Recycling Department Staff proposes to more fully investigate these other policy issues that were raised during DSP. The chart in the exhibit provides a graphical representation of the tasks to be addressed and the general timeframes for completing the tasks. Key events in the future, such as renewal dates of facility franchises or licenses are also identified since these may provide opportunities to implement policy changes that result from completion of tasks.

Each of the questions noted above is addressed in one or more tasks shown in Exhibit B. For example, costs and opportunities for reducing the environmental impacts of transporting solid waste from transfer stations to a disposal site will be examined during the Transportation Options Study task of the category labeled "Waste Transportation Rebid." After a review with the Metro Council, the information from this study will be used to procure transportation services that best meet the policy direction received from Council. Other policy drivers will be addressed in a similar fashion.

ANALYSIS/INFORMATION

1. **Known Opposition** - Some representatives of the solid waste industry may object to the findings of the system consultant's report and oppose continued Metro ownership of facilities.
2. **Legal Antecedents** - Metro Council Resolution No. 05-3601A, entitled: Authorizing Issuance of Request for Proposals 06-1154-SWR for Competitive Sealed Proposals to Provide Consulting Services regarding Disposal System Planning for Alternative Service Delivery.
3. **Anticipated Effects** - Metro staff will initiate planning activities to address policy issues identified by the council and move forward with procuring contracts necessary for continued functioning of the disposal system.
4. **Budget Impacts** - Expenditures of approximately \$227,000 were anticipated during preparation of the SW&R budget for DSP related activities during the 2006-07 fiscal year. Staff estimates that the work identified can be completed for the budgeted amount.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 06-3729.

M:\rem\od\projects\Legislation\2006\063729 DSP Stfrpt.doc