BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONSIDERING THE APPLICATION OF WILLAMETTE RESOURCES, INC. FOR A METRO REGIONAL TRANSFER STATION FRANCHISE	))))	ORDINANCE NO. 00-886 Introduced by Mike Burton, Executive Officer

WHEREAS, Willamette Resources, Inc. (WRI) has applied for a Metro Regional Transfer Station Franchise; and

WHEREAS, WRI's application is complete and in conformance with the requirements of chapter 5.01 of the Metro Code; and

WHEREAS, the Executive Officer finds the proposed new Regional Transfer Station to be consistent with the Regional Solid Waste Management Plan; and

WHEREAS, Metro staff has analyzed the application and recommended approval of the applicant's request for a Solid Waste Facility Franchise; and

WHEREAS, The ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The application of Willamette Resources, Inc. for a Regional Transfer Station is approved.

2. The Executive Officer is authorized to enter into a new Regional Transfer Station Franchise agreement with WRI that shall be substantially similar to the franchise attached as Exhibit A.

3. The existing Local Transfer Station Franchise originally issued to Willamette Resources, Inc. shall be terminated as of the effective date of the Regional Transfer Station Franchise.

ADOPTED by the Metro Council this ____ day of _______, 2000.

____
David Bragdon, Presiding Officer

ATTEST:

____
Recording Secretary

Approved as to Form:

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Daniel B. Cooper, General Counsel

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EXECUTIVE SUMMARY
ORDINANCE NO. 00-886
FOR THE PURPOSE OF CONSIDERING THE APPLICATION OF WILLAMETTE RESOURCES, INC. FOR A METRO REGIONAL TRANSFER STATION FRANCHISE

PROPOSED ACTION

- Approve Ordinance No. 00-886 authorizing the Willamette Resources, Inc. (WRI) facility located in Wilsonville to begin operating as a regional transfer station.

WHY NECESSARY

- WRI has submitted a Regional Transfer Station application to Metro. The Metro Council approves all solid waste facility franchises [Metro Code 5.01.067(a)].

DESCRIPTION

- WRI presently operates its Wilsonville facility as a Local Transfer Station and Materials Recovery Facility. As a Regional Transfer Station, WRI would no longer be restricted to delivering 50,000 tons of solid waste for disposal annually. Regional Transfer Stations are required to accept public customers, provide free public drop-off of source separated recyclables, accommodate periodic household hazardous waste collection events, and achieving a 25 percent minimum material recovery rate.

ISSUES/CONCERNS

- Presently, WRI's Conditional Use Permit restricts private haulers to weekend use of the facility. Such a restriction conflicts with Metro's intent to require that any facility franchised as a Regional Transfer Station be open to the public during most weekday operating hours.

- The actual amount of transportation savings may be different from that projected by the applicant. Any savings realized by commercial users of the applicant's facility would translate into benefits to ratepayers only if they are factored into collection rates by local governments.

- As solid waste tonnage shifts from Metro facilities to private facilities, less revenue will be generated. As less revenue is generated, a more in depth policy review of cost cutting or revenue enhancements must be undertaken.

BUDGET/FINANCIAL IMPACTS

- If WRI operates as a regional transfer station for the second half the current fiscal year, Metro will have a revenue shortfall of approximately $165,700 in FY 00-01. Because the FY 00/01 budget did not assume the proposed facility would be franchised as a regional transfer station, the Environmental Management Department plans to use undesignated funds to offset this revenue shortfall.

- Granting WRI's request for a Regional Transfer Station Franchise will have a budget impact on Metro only for the remainder of the current fiscal year. The effect of WRI's anticipated diversion of solid waste from Metro has already been factored in to the FY 01/02 budget.

REVISED STAFF REPORT, February 1, 2001

IN CONSIDERATION OF ORDINANCE NO. 00-886, FOR THE PURPOSE OF CONSIDERING THE APPLICATION OF WILLAMETTE RESOURCES, INC. FOR A METRO SOLID WASTE REGIONAL TRANSFER STATION FRANCHISE

February 1, 2001 Presented by: Terry Petersen

Ordinance No. 00-886 and its corresponding staff report were presented to the Council for a first reading on November 30, 2000. The ordinance is for the purpose of considering the franchise application of Willamette Resources, Inc. (WRI) to become authorized to operate as a regional transfer station. Subsequent to the first reading, refinements were made to both the proposed franchise document and the staff report following further staff work and discussions held with the applicant. The changes to the proposed franchise are set forth in a redline version included as Attachment A to this Revised Staff Report.

BRIEF DESCRIPTION OF ORDINANCE

Willamette Resources, Inc. (WRI) presently operates under Metro authorization as a local transfer station and material recovery facility. WRI is located in Wilsonville within Metro Council District 3. (See Attachment B for a map of location of WRI and other major solid waste facilities in the Metro Region.) As a local transfer station, WRI is also franchised to direct-haul solid waste to Columbia Ridge Landfill and is restricted to delivering no more than 50,000 tons of solid waste annually to disposal sites. Approval of Ordinance No. 00-886 will authorize the Executive Officer to issue a Regional Transfer Station Franchise to WRI. The primary effect of this action would be to remove the 50,000 ton annual solid waste disposal cap[1] while obligating WRI to perform additional functions required of all regional transfer stations under Metro Code Section 5.01.125(d). The new required functions are accepting public customers, providing free public drop-off of source separated recyclables, accommodating periodic household hazardous waste collection events, and achieving a 25 percent minimum material recovery rate. Though it is not required by its present Metro authorization, WRI already provides free public drop-off of source separated recyclables, achieves greater than a 25 percent recovery rate, and accepts public customers on weekends.

SUMMARY OF CHANGES TO THE PROPOSED WRI FRANCHISE

Below, a brief explanation is provided of each substantive change made to the proposed WRI franchise since it was presented for a first reading on November 30, 2000. Editorial changes and clarifications to the franchise that are not substantive are not included in the explanation. The ordinance remains unchanged. The section and paragraph numbers

[1] Though Metro has not independently established a maximum tonnage for this facility, the City of Wilsonville has restricted WRI to a maximum annual tonnage of 196,000 tons of incoming solid waste. Until and unless lifted, this limit will also be incorporated into the franchise by reference.

given below are the numbers used in the original proposed franchise with the exception of paragraph 8.3.

<u>Paragraph 1.10</u>: The purpose of this change is to make it clear that the applicant owns the property on which the facility is situated.

<u>Paragraph 4.3</u>: This change has been made so that if, at some time in the future, the Council approves an upward revision of the required minimum recovery rate in the Code, such a change will automatically become an effective provision of the franchise.

<u>Paragraph 4.7</u>: This change clarifies that the franchisee's obligation to accept recyclable materials at no charge applies only to deliveries from the general public. The franchisee may charge commercial customers that deliver large loads of recyclables.

<u>Paragraph 7.4</u>: This change clarifies that the same rate shall be charged to all customers delivering substantially the same kinds and amounts of solid waste to the facility during the same time period.

<u>Paragraph 7.5</u>: Because this is a reporting requirement, it has been moved to the "Minimum Reporting Requirements" section (section 8.3). It has also been revised as explained under Section 8.3, below.

<u>Paragraph 7.6</u>: The original franchise language indicated that Metro's rate setting authority might be exercised with respect to a single franchisee in response to rate setting behavior contrary to the public good. However, such behavior on the part of a single franchisee would typically be cured through modification or revocation of that particular facility's franchise. Rate setting is more properly implemented as an industry-wide measure in response to a systemic problem in the industry.

The revision of this section of the franchise clarifies that Metro does not intend to set rates at this time, but is reserving its rate setting authority to be exercised should the Council determine that a lack of competitive forces has resulted in anti-competitive pricing such as overcharging or predatory pricing. Rate setting would then be applied industry-wide rather than to individual firms.

<u>Paragraph 7.7</u>: Language has been added to make clear that excise taxes are due on all solid waste delivered by the franchised facility to a disposal site.

<u>Paragraph 8.2</u>: The original version of the franchise makes reference to the collection and reporting of information on "generators" and "haulers." However, in practice, transfer station facilities may be unaware of who the actual generators are and do not distinguish between solid waste delivered by

generators, solid waste hauling companies, or others. For this reason the terms "generators" and "haulers" have been changed to "customers."

At the request of Clark County, Washington, the reporting requirements regarding the origin of solid waste accepted has been expanded to include information on solid waste tonnage originating from within Clark County.

Paragraph 8.3: This section (formerly Section 7.5) has been re-worded for greater clarity. Also, the original provision stipulating advance notification to Metro of rate changes has been deleted in favor of monthly reporting of rates. This has been done in order to allow the franchisee the necessary ability to react quickly to changes within a competitive market environment.

Paragraph 12.1: This language has been modified to make it clear that, as the Metro Code and other relevant regulations are modified and updated over time, the activities of the franchised facility shall be governed by the regulations as amended rather than as they were written at the time the franchise was approved.

Paragraph 12.7: The effect of the facility on system costs is more accurately reflected in Metro's own system models than through an estimate that might be provided by the franchisee. This provision has therefore been judged unnecessary and deleted.

Paragraph 13.2: System cost is only one factor used to determine whether or not a facility's operations result in a net benefit to the region. Additional factors may include improved access to household hazardous waste events and additional recycling and recovery opportunities. This language has been modified to take account of the broader issue of net system benefit.

EXISTING LAW

Metro Code Section 5.01.045(c) requires a Metro franchise for any person to operate a regional transfer station. Only the Metro Council can approve solid waste facility franchises [Metro Code 5.01.067(a)].

BACKGROUND

WRI's application is the first submitted following a recent change in Metro policy allowing consideration of additional transfer stations within the region. (See Attachment B for pictures of the facility and its current operations.) The application of WRI is being considered by the Council at the same time as Recycle America. The Columbia

Environmental application has been deemed incomplete because it lacks local land use approval and a permit from the state Department of Environmental Quality.

Changes to the Regional Solid Waste Management Plan and the Metro Code

Given changes in the region and in the solid waste industry since adoption of the Regional Solid Waste Management Plan, Metro determined that it was desirable to have a framework in which Council could consider the merits of expanding the existing system of three transfer stations. Ordinance No. 00-865, adopted in June 2000 provides a broader framework for Council decisions regarding new transfer stations. Under the amended Regional Solid Waste Management Plan, consideration of new privately owned transfer stations can occur only under specified circumstances. Ordinance No. 00-865 does not by itself authorize any new transfer stations. Rather, it provides a vehicle by which the private sector can apply to operate a new transfer station, and a framework in which Council can approve or deny an application. Any decision on a specific facility is to be based on Council deliberations pursuant to the application and consideration of the evaluation criteria in Metro Code Chapter 5.01, the Regional Solid Waste Management Plan (RSWMP), and Administrative Procedure.

The Metro Council also amended Metro Code chapter 5.01 by adopting Ordinance No. 00-866 in June 2000. The amendment created two distinct classifications of transfer stations: local, which are limited to less than 50,000 tons of solid waste disposed annually; and regional, which are authorized to annually dispose of 50,000 or more tons of solid waste. Regional transfer stations are also obligated to accept all public customers, provide free public drop-off of source separated recyclables, and accommodate periodic household hazardous waste collection events. Both local and regional transfer stations must recover at least 25 percent from mixed non-putrescible waste and self-hauled waste.

Effects of New Transfer Stations on the Solid Waste System as a Decision Criterion

The Regional Solid Waste Management Plan, adopted by the Metro Council in 1995, provides a policy to guide decisions regarding the authorization of additional transfer stations. Goal 3 of the Plan states, "The costs and benefits to the solid waste system as a whole are the basis for assessing and implementing alternative management practices." Objective 3.1 goes on to define "system cost" (defined in Metro Code Section 5.01.010 as the sum of the dollar amount expended for collection, hauling, processing, transfer and disposal)" as the "primary criterion" for evaluation "rather than only considering the effects on individual parts of the system." Applying Goal 3 to the question of authorizing new transfer stations, Metro should decide in favor if the net savings are positive and there are no significant offsetting negatives, all else being equal.

The Application Process

WRI representatives met with Metro staff for a pre-application conference on September 15, 2000. WRI submitted a formal Regional Transfer Station Application on October 11,

2000. Accompanying the written application was a $500 application fee in conformance with Code Section 5.05.035(a). An initial review of the application found it to be incomplete. At a meeting held on October 30, 2000 and via letter on the same date, WRI was formally notified of the additional information required in order to complete the application. The requested information was hand delivered to Metro on November 6, 2000. Additional information was provided by the applicant throughout the application process.

Public Comment

Notice of WRI's application and an opportunity to submit written comment was provided by Metro to all Metro-area local governments, Solid Waste Advisory Committee (SWAC) members, and other interested parties. Comments were received as follow:

- The City of Tualatin - Tualatin requested that any potential traffic impacts be kept to a minimum. Staff finds that WRI's proposal will not significantly impact traffic in Tualatin because most of the new waste to be delivered to the facility will be transported on Interstate 5 rather than on Tualatin streets.

- The City of Wilsonville - Wilsonville also expressed concern over potential traffic impacts and informed Metro that its Planning Department will require administrative review of the household hazardous waste collection events proposed to be held at the facility. Additionally, Wilsonville wants to ensure that it receives community enhancement fees.

EVALUATION OF CRITERIA

Section 5.01.070(f) of the Metro Code lists five criteria that the Council must weigh in determining whether to authorize the issuance of a Franchise. The Council is not limited to considering only these five criteria. For example, Metro Council regularly considers the fiscal impact on Metro in any of its decisions, even though this is not one of the criteria in the Code.

In the following section, REM staff provides comment and analysis on each of the five criteria, plus a fiscal impact analysis. This section is intended to assist the Council in its consideration and weighing of each criterion as it deliberates over a decision on this ordinance.

(1) The applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;

In its application, WRI addressed the issue of consistency with the Regional Solid Waste Management Plan (RSWMP) primarily as it relates to reload facilities. WRI argues that greater than expected population growth has created a need for additional reload capacity in the region. However, "reload facility" is defined in Code as a facility that performs only the transfer of solid waste without resource recovery or other processing. Since WRI is seeking authority to operate as a full service transfer station rather than a reload, the primary issue determining consistency with the RSWMP is the effect of the proposed expanded activity on the existing solid waste system.

Under Metro Code, a new transfer station franchise may be authorized when a net benefit to the regional solid waste system can be demonstrated. Based on changes adopted by the Metro Council in June 2000, the RSWMP now allows for additions to the existing system of three transfer stations, as necessary, to maintain solid waste transfer and disposal service levels that provide reasonable access for residents, businesses and haulers.

The following criteria were considered in evaluating whether the WRI application is consistent with the RSWMP. These criteria are adopted in the RSWMP and stipulated in Section 12 of Administrative Procedure No. 101:

12.3.2.1 *The proposed facility will provide a net benefit to the regional solid waste system.*

Staff Finding: Net benefit is a function of many factors such as the potential for net system cost savings (which includes the potential effects on Metro tip fees), increases in the level of services to under-served areas, and anticipated increases in recovery. These factors are discussed individually in subsequent sections of this report and are the foundation for the Executive Officer's recommendation.

The applicant has chosen to demonstrate the net benefit criterion through a finding that the proposed facility would reduce system cost. This method of demonstrating a net benefit is allowed under the Plan and is consistent with Administrative Procedures. For the findings, see the "System Cost Overview" section of this report. Based on these cost estimates, projections of solid waste flows, and the potential for increased service and recovery, staff finds that this criterion will likely be met.

12.3.2.2 *The proposed facility will be located where it will provide more uniform access to resident, businesses, and solid waste haulers within the under-served areas.*

12.3.2.3 *The proposed facility will improve system efficiencies in those areas of the region that are under-served.*

Staff Finding: The applicant identifies the new service areas for both wet and dry waste and their relationship to areas within the Metro region identified as being under-served (see Map in Attachment C). The information provided by the applicant identified its new wet waste service areas as being generally located within those portions of Washington County identified by Metro as being under-served. Therefore, based on the criteria for demonstrating consistency with the RSWMP, it appears that some system efficiencies would be realized by providing improved access to a regional transfer station facility, which would benefit residents, businesses and solid waste haulers, especially, within these areas. (See Attachment C for maps which identify under-served areas of the Metro region in 1994 and projected to 2015.)

The WRI facility itself is located outside the area identified as being under-served by the existing transfer stations. A facility located in the center of the under-served area (Beaverton) would provide much more uniform access. However, siting a larger transfer station in Beaverton is highly unlikely. Both of these criteria are marginally met.

12.3.2.4 *The proposed facility will provide a full range of public services that serve a broad or regional market.*

Staff Finding: As a condition of the franchise, the franchisee shall accept authorized solid waste originating within the Metro boundary from any person who delivers authorized waste to the facility. WRI is currently restricted by the City of Wilsonville from accepting public customers except on weekends, however, the applicant is working with the City to lift this restriction. The applicant has indicated that it intends to accept non-affiliated commercial haulers and public customers during the Metro-specified times of 8:00 AM – 6:00 PM Monday through Friday and 9:00 AM – 5:00 PM on Saturday and Sunday, once the restriction is lifted by Wilsonville. The applicant will also maintain a free public drop-off area for source-separated recyclable materials at the facility and, pending approval by the City of Wilsonville, provide an area for periodic collection of household hazardous waste at the facility. This criterion is expected to be met.

12.3.2.5 *The proposed facility will preserve and enhance the region's material recovery capacity.*

Staff Finding: Metro Code and the proposed franchise require that the franchisee recover at least 25 percent by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. The applicant has maintained a recovery rate between 30 percent and 40 percent since it began operations in 1995 and has indicated that it intends to continue to maintain a rate in excess of the required 25 percent minimum. The applicant has indicated an additional 2,300 tons will be recovered if the franchise is approved.

The proposed facility is in a part of the region that has relatively few material recovery facilities. As a result it would provide a much needed recovery service for the region. This criterion is met.

(2) ***The applicant has demonstrated that the proposed Activity will result in lower net System Costs, if such a showing is required by section 5.01.060;***

Metro Code stipulates that such a showing is required of applicants that propose to engage in direct-haul. Administrative Procedures require that the REM department generate findings regarding the effect on net system costs for all regional transfer station applications.

System Cost Overview

As part of revising the RSWMP to address the need for authorizing additional transfer station capacity in the Metro region, a planning-level analysis of the potential system impacts of two new transfer station facilities was conducted. Metro retained the firm R.W. Beck to assist with this analysis.[2] The two facilities selected for these studies were Allied's WRI facility in Wilsonville (the applicant) and Waste Management's Recycle America facility in Troutdale. The R.W. Beck report concluded that allowing these two facilities to operate as regional transfer stations would result in overall net system savings to the Metro region compared to the existing system in which these facilities operate as local transfer stations. The report estimated total savings for both facilities in the year 2000 of $972,000 and $1,282,000 in year 2010 (2000 dollars).[3]

The WRI facility is currently franchised by Metro as a local transfer station and is limited to dispose of no more than 50,000 tons of solid waste per year. In 2000, the applicant received approximately 66,500 tons of solid waste and disposed of 47,300 tons. The applicant estimates that it will receive an additional 130,000 tons of solid waste per year if authorized to operate as a regional transfer station. The system cost analysis is based on the applicant's projected annual increase of 57,971 tons of wet waste and 6,030 tons of dry waste for a total of 64,001 additional tons. The applicant states that the projected growth in tonnage is based on a conservative estimate and that several companies operating near the WRI facility will likely begin using their facility if a regional transfer station franchise is approved. The estimated wet tonnage is within the same order of magnitude as projected by Metro's Solid Waste Flow Simulation Model and appears to reasonably reflect the additional amount of wet tonnage expected to be received. Both the applicant and Metro have acknowledged that the Model, in the case of the WRI facility, tends to over-predict the amount of dry waste received if the existing tonnage caps are removed. Therefore, the dry (drop box) tonnage estimated by the applicant was used for this analysis and appears to reasonably reflect the amount of commercial dry tonnage expected to be received.

Metro has also acknowledged that the confidence level for the Model to project self-haul tonnage is far less accurate than for projecting commercial wet and dry tonnage. This is due, in part, to the different economic factors affecting the behavior of self-haul customers versus commercial customers in choosing to travel to one facility over another. Although the WRI facility currently accepts self-haul customers, the applicant has stated that it is not possible to assess any cost savings associated with the additional self-haul tonnage that would be received. Therefore, the system cost analysis is based on the additional amount of wet and dry commercial tonnage expected to be received (64,001 tons) and does not include self-haul tonnage.

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[2] System Impact Assessment. R.W. Beck. April 25, 2000.
[3] The system cost savings in the R.W. Beck report are not the same as the applicant's analysis primarily because of differences in projected tonnage of solid waste anticipated to be processed at WRI.

System Cost Components

Metro Code defines system cost as "the sum of the dollar amounts expended for collection, hauling, processing, transfer and disposal of all Solid Waste generated within the District." Rather than re-calculate all costs for the system, the methodology outlined by Metro is intended to estimate the difference in net system cost that would result from the additional tonnage anticipated to be received if the franchise is granted. Fiscal impacts on Metro are considered under the "Metro Fiscal Impacts" section of this report and in the Appendix.

1) Using Tipping Fees as an Estimate of Transfer and Disposal Costs

As described above, a basic assumption used in the system cost analysis is that all costs to process, transfer and dispose of solid waste are included in a facility's tipping fee. The implication of this assumption is that any increase or decrease in the processing, transfer and disposal costs will be reflected in the applicant's tip fee. Therefore, if the applicant's tip fee is the same as the tip fee charged by the facility that had previously received the waste, there would be no change in this component of the system cost. However, if an applicant's tip fee increases or decreases, there would be a respective increase or decrease in the transfer and disposal component of the system cost.

The applicant's proposed tipping fees for wet and dry waste are $62.50 plus a $5 transaction charge. These proposed tipping fees are the same as to the tipping fees at Metro's transfer stations where this waste is expected to be diverted from. Consequently, there will be no change in the component of system cost that includes transfer and disposal.

It should be emphasized that, although there is no change in system cost because of disposal, it is assumed that Metro's tip fee will remain at the current rate of $62.50 per ton. For a number of reasons (see attached Appendix: *Metro Fiscal Impact Assessment*), Metro's per-ton costs will increase as tonnage shifts from Metro to new regional transfer stations. One reason is that the price per ton that Metro pays its contract operator of the Metro transfer stations increases as tonnage declines. Based on the current contract price schedule, the per-ton price will increase from $6.56 to $6.64, which would translate into a cost increase of about $46,000 per year, as tonnage shifts to WRI.[4] Another reason is that there will be less tonnage over which to spread fixed costs. These cost increases will be covered in the short term by capitalizing on the fact that revenues currently exceed budget requirements and by drawing down Metro financial reserves. However, at some time in the future, when these offsetting revenues are no longer available, the Metro Council will have to consider increasing the tip fee in order to fully cover operating costs, or adopt offsetting budget reductions. At that time, the transfer and disposal cost

[4] These per-ton contract prices will likely increase when the Metro operations contract is re-bid in 2003. The current prices are from bids received when Metro received significantly more tonnage than will be the case if new regional transfer stations are approved.

increases that are caused by tonnage being diverted to the WRI transfer station will be passed on to ratepayers and this will offset system cost savings in the future.

It was noted above that as waste shifts from Metro to other transfer stations, there is less tonnage over which to spread fixed costs, and this may result in an increase of Metro's tip fee in the future. However, there is an opposite effect on the new transfer stations receiving waste. They have *more* tonnage over which to spread their fixed costs, and this should allow them to reduce their tip fee. However, staff notes that the applicant does not propose any decrease in their tip fee if this Ordinance is approved. The Council may wish to investigate further into the underlying reasons for this, as this may block some of the system savings from reaching the ratepayers.

2) Transportation Costs

For purposes of the system cost analysis, the change in transportation costs experienced by waste haulers has been broken down into two components. These are "on-route" and "off-route" savings. "Off-route savings are computed based on the difference in the time it takes to transport or haul the waste from the collection route to the transfer station. "On-route" savings include all other efficiencies that accrue to haulers due to the additional route time that is gained as a result of shorter hauls to the transfer facility. The methodology used by Metro, and this applicant, to estimate transportation savings produces very conservative estimates of the savings since it does not consider the reduction in costs due to shorter hauls back to where the collection vehicles are stored at night. Depending on the location of the garage, these savings can exceed the estimated "off route" savings.

(a) Off-Route Transportation Costs

Off-route transportation costs are costs incurred after a truck leaves a collection route to deliver waste to a transfer or disposal facility and then returns to the next collection point. Based on the system cost analysis provided by the applicant, a $223,963 off-route saving is projected for the first 12 months of operation. The applicant has identified new service areas and determined that round trip travel times to WRI were 10 and 16 minutes less than the travel times to Metro Central and Metro South transfer stations, respectively. An analysis conducted by Metro staff, using Metro's origin and destination database[5], estimates that the methodology used by the applicant provides a reasonable estimation of the potential savings in off-route transportation costs. The potential savings are also supported in the R.W. Beck report that identified total estimated savings in off-route transportation costs of $320,000 with the addition of two additional regional transfer stations. Approximately $132,000 of the $320,000 was estimated to be due to the WRI facility. Based on the Beck report and the information provided by the applicant, and given the level of accuracy in transportation modeling, WRI's estimate of $223,963 appears reasonable.

[5] Metro Transportation and Growth Management Department.

(b) On-Route Transportation Cost

Allied Waste, the corporate parent of WRI, has based its estimate of on-route savings on the actual savings obtained by related hauling companies when WRI became a local transfer station in December 1998. WRI's sister company was able to reduce the number of trucks used for collection from seven to five, while operating a 33,000 ton per year facility. Based on the applicant's estimated yearly operating cost per collection truck of about $145,000 ($70 per hour times 8 hours per day, times five days per week, times 52 weeks per year), it was able to have a savings of approximately $290,000 in related on-route transportation costs. With an additional 64,000 tons, the applicant proposes a savings in on-route costs of about $167,000. Extrapolating the initial $290,000 savings for a 33,000-ton per year facility to a 64,000-ton per year facility ($562,000) suggests that WRI is predicting that the additional customers served by the proposed facility will account for 30 percent of the extrapolated savings. This appears conservative since a company that was purchased by WRI's parent company will deliver almost 20,000 tons of the new waste. Since these collection vehicles will use the transfer station as a base of operations, one should expect savings that are proportionate to the previously realized savings.

The applicant did not provide other supporting data regarding estimated on-route savings, since the applicant will not own most of the new routes. This makes it difficult to estimate savings. However, the proposed on-route savings appear to be achievable, and, therefore, are not an unreasonable estimate of transportation savings, since a case can be made that the savings by WRI's sister company may equal the total estimated off-route savings.

3) Conclusion: Transportation cost savings occurs in the collection of waste before it arrives to the transfer station. It is up to the local rate setting authority to evaluate the local cost structure and to pick-up the transportation savings for the local ratepayers. Because collection rates are set by local governments, and because these rates are based on certified costs, there is a high probability that savings realized by commercial users of the applicant's facility would translate into benefits to ratepayers because local ordinances require that they be factored into collection rates set by local governments. Based on the foregoing analysis, the applicant's estimate of system cost savings of $392,000 reasonably reflects the potential system cost savings for the first 12 months of operation if this facility is franchised as a regional transfer station.

> ***(3) Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of the District's residents;***

The WRI facility is permitted by the Department of Environmental Quality and has operated as a material recovery facility (MRF) since September 1995, and as a local transfer station since December, 1998 without adversely affecting the health, safety, or welfare of the District's residents (see Attachment B for photographs of the facility and its operation). During the time WRI has been in operation, Metro has never received a complaint regarding WRI. WRI estimates that it will receive an additional 64,000 tons of solid waste if its application is approved. That will raise its total throughput to approximately 130,000 tons. This figure is still well below the 196,000 tons the facility was designed and permitted to accept. Based on these factors, staff has determined that granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of the District's residents.

(4) Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;

The applicant has obtained a conditional use permit from the City of Wilsonville authorizing it to operate as a transfer station and to receive up to 196,000 tons of solid waste annually. The facility occupies 14 acres and is located in an industrial zone. It is well screened by landscaping and has been operating as a local transfer station since December 1998 without problems. Increasing the intensity of use from a local transfer station to a regional transfer station is unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.

(5) The applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

With the exception of one technical violation of its in 1999 of its Metro Solid Waste Franchise, unrelated to health or safety issues, the applicant has been in continuous compliance with all applicable regulations throughout the history of its operation. By such action the applicant has demonstrated a strong likelihood of compliance with all the types of regulations listed above.

FISCAL IMPACT

The effect of approving this ordinance on Metro's fiscal position is discussed in this section and in the Appendix, *Fiscal Impact Assessment*. The Council is not required by Metro Code Chapter 5.01 to consider fiscal impacts in its deliberations on this ordinance. However, the Council has historically requested that this information accompany ordinances, and the Council may choose to factor the fiscal impacts in its deliberations and weighing of the criteria that are required by Metro Code.

Consideration of the fiscal impacts takes on an additional significance in the context of this ordinance. This is because the main purpose of approving this ordinance is to make it possible for the region to realize efficiencies and cost savings through transport efficiencies and other ancillary benefits of better accessibility. However, because Metro's fiscal position will change if this ordinance is approved, the ability of the region to realize these system benefits depends largely on ***future*** policy choices by the Council on how to handle the fiscal impact.

Much of the negative fiscal impact is due simply to a non-traditional rate structure that Metro staff would recommend changing for other reasons during the next two years anyway. Specifically, Metro currently allocates less of the costs of regional programs (e.g., waste reduction) to the Regional System Fee, and more of these costs to the Metro transfer station tip fee, than has historically been the case. The Regional System Fee is paid by users of all facilities, while the Metro tip fee is paid only by users of the Metro transfer stations. As a result, the fiscal impact is amplified when solid waste shifts away from Metro's transfer station, because the tonnage base for recovering the costs of regional programs is reduced. If Metro's rate structure is restored to the structure that prevailed only two years ago—when virtually all of the costs of regional programs were allocated to the Regional System Fee—the fiscal impacts can be reduced significantly. This means, with a change in its rate structure, Metro can recover the negative fiscal impacts resulting from approval of this ordinance, and the region will still realize a significant net benefit.

Conclusion: There is a fiscal impact to Metro if this ordinance is approved. However, this fiscal impact is greatly magnified by the existing rate structure. This rate structure should be analyzed for revision regardless of the Council's decision on this ordinance. If Metro's historical rate structure is restored prior to FY 02/03, the fiscal impacts of approving this ordinance can be neutralized through rate adjustments beginning in FY 02/03. Approval of this ordinance will result in a significant reduction in system costs even with these minor increases in Metro rates. For this reason, the findings of the fiscal assessment do not alter staff's recommendation that this ordinance be approved. (A more complete discussion of options is included in the Appendix: Fiscal Impact Assessment).

BUDGET IMPACT

Granting WRI's request for a Regional Transfer Station Franchise will have a budget impact on Metro only for the remainder of the current fiscal year. The effect of WRI's anticipated diversion of solid waste from Metro has already been factored into the FY 01/02 budget. WRI's application is one of three transfer station franchise applications recently submitted to Metro. Recycle America and Columbia Environmental have also applied to become a regional transfer station. If other facilities are also approved as a regional transfer station and divert additional waste from Metro's transfer stations, the budget impact would be cumulative.

Assuming that WRI operates as a regional transfer station for the second half the current fiscal year, Metro will have a revenue shortfall of approximately $293,000 in FY 00-01. Because the FY 00/01 budget did not assume the proposed facility would be franchised as a regional transfer station, the Environmental Management Department plans to use undesignated funds to offset this revenue shortfall. Projections in future budgets will factor this change into the overall impact.

OUTSTANDING QUESTIONS

1.) Rate Setting

Pursuant to Metro Code, rate setting must be established, or the authority must be reserved, in the Franchise, or else the Franchisee is exempt from rate setting. Section 7.5 reserves this authority. This reservation begs two questions: why not establish rate setting now, and under what conditions might Metro engage in future rate-setting? These question are addressed below

<u>Why not at this time?</u>

Economic regulation usually takes the form of intervention to change the structure of a market in the public interest. For example, monopolies are widely believed to curtail production, or push prices above the level that would prevail under competition. In this case, intervention usually takes the form of breaking up the monopoly to re-establish competitive conditions. However, in other cases, monopolies can be more efficient than an open market. The most common examples are utilities, where competition can lead to duplication/congestion of pipelines and cables in the public right-of-way. Solid waste collection franchises also fall in this category. In these cases, the government often accepts the monopolistic conditions, but imposes conditions that simulate the desired outcomes of a competitive market: to control pricing and provide acceptable service/product levels.

We have no evidence of actual instances of anti-competitive pricing—for example, overcharging or predatory pricing in the regional solid waste disposal industry. This is likely because there are a sufficient disposal options—in particular, Metro's transfer stations—to make the market work. Furthermore, Metro's tip fee puts an effective ceiling on the amount any facility can charge. Accordingly, full economic regulation is not warranted at this time because there is adequate competition in the market place.

<u>When Is Rate-Setting Warranted?</u>

As mentioned above, rate-setting takes the form of an intervention to change the structure of a market in the public interest. As such, rate-setting would be applied industry-wide, not to individual firms.

When might rate-setting might be warranted? Future discussions on this subject may want to start from the following considerations:

Potential "Triggers"	Market condition*	Response	Public interest
One firm controls a significantly larger portion of the market than any other firm.	Market dominance	Barrier against a firm's market share exceeding some maximum.	Protect against monopoly pricing.
Entire market served by only a few vertically-integrated firms (oligopoly).	Monopoly or oligopoly power	Barrier against a firm's market share exceeding some maximum; or allow oligopoly but set rates for the industry.	Protect against monopoly/oligopoly pricing.
Metro's share of the transfer station market drops below some minimum.	Metro's market power is diminished to the point Metro is unable to set rates by price-leadership	Set rates for the industry; or limit market share to simulate a competitive market.	Protect against monopoly pricing.

* Assuming not contestable.

At present, none of these "triggers" conditions exist. Furthermore, we have no evidence of actual instances of anti-competitive activity and by most other measures the disposal industry satisfies the conditions for a relatively competitive market. Accordingly, full economic regulation is not warranted at this time.

2.) Public Access

Presently, WRI's Conditional Use Permit restricts private haulers to weekend use of the facility. Such a restriction conflicts with Metro's intent to require that any facility franchised as a Regional Transfer Station be open to the public during most weekday operating hours. The applicant is in the process of working with the City of Wilsonville to eliminate this restriction.

EXECUTIVE OFFICER'S RECOMMENDATION

Based on the information submitted by the applicant and staff's analysis of the information, there appears to be sufficient reason to approve the applicant's request. The net system cost savings are marginal and insignificant in the context of the total system cost for solid waste disposal in the Metro region. However, improved waste recovery service is a primary reason to approve the request. In addition, enhanced public access and establishment of a stable household hazardous waste location are benefits to the region.

The Executive Officer recommends that the franchise agreement contain conditions not included in previous franchises. These additional conditions are:

(1) the ability of Metro to modify the franchise should the net system benefit change radically;
(2) a prohibition on unjust rate discrimination;
(3) reporting to Metro of all rates, pricing structure and changes, including rebate program information; and
(4) allowing Metro to set industry rates under certain conditions.

Provided these conditions are included in the franchise and in consideration of the facts set out in this staff report, the Executive Officer recommends approval of Ordinance No. 00-886, authorizing the Executive Officer to execute a Regional Transfer Station Franchise with Willamette Resources, Inc. substantially similar to the franchise document attached as "Exhibit A" to Ordinance No. 00-886.

Appendix
Fiscal Impact Assessment

The main cause of any fiscal impact is the shift of revenue bases (tons and transactions) from Metro transfer stations to the new regional transfer station. When solid waste is delivered to WRI, Metro loses the transaction fees and tip fees that would have been levied on that tonnage had it gone to Metro. However, Metro's costs also drop with the shift in tonnage. For example, no expenses are incurred for transfer, transport and disposal if the tons do not show up at the transfer stations. However, Metro's costs and revenues do not drop dollar-for-dollar. In fact, Metro loses revenue somewhat faster than it sheds costs when tons are shifted to private facilities. The net difference between cost reductions and revenue reductions is the fiscal impact.

If this ordinance is approved, REM staff expects approximately 64,000 tons per year to shift from Metro transfer stations to WRI. The shifts in revenue tonnage are documented in the following table.

Revenue Tonnage
(First full year)

Facility Ownership	Status Quo	Ordinance Approved	Change*
Metro	701,702	637,702	-64,000
Private	571,292	632,820	61,528
Total	1,272,994	1,270,522	-2,472

* tonnage shift to WRI

It is assumed that all tons delivered to Metro for disposal are revenue-generating tons, including recyclable materials that are ultimately recovered from solid waste. However, Metro obtains revenue from a private facility only on solid waste that is landfilled. Thus, the drop of about 2,472 in revenue tons equals the amount of material that is expected to be recovered at WRI and exempt from Metro fees.

As mentioned above, Metro's revenues fall faster than costs when tonnage is shifted to private facilities—in this case, WRI. The following table quantifies this effect ***if no other changes are made to Metro rates, the rate structure or the budget*** subsequent to approval of this ordinance.

Changes in Metro Cash Flow if the Ordinance is Approved *and* No Other Changes are Made
(First full year)

Cost Reduction	$2.3 million
Revenue Reduction	$2.9 million
Surplus (shortfall)	($0.6 million)

There are multiple causes for the differential change in costs and revenues. Each of these is described below.

1. *Delivery to an exempt facility.* Metro exempts new private facilities from fees on everything except landfilled waste. In contrast, Metro levies fees on all solid waste that is delivered for disposal to its own transfer stations (Metro Central and Metro South). This means that fees are implicitly levied on any recyclable material that is ultimately recovered at Central and South. However, Metro will forego fees on recyclable material that is recovered at WRI. This contributes to the fiscal effect, and is part of the 2,472 ton drop in revenue base.

2. *More material recovery.* It is expected that more material will be recovered from the waste that is shifted to WRI than would have been recovered at Metro Central or South. This compounds the effect described in the previous paragraph, and makes up the balance of the 2,472 ton drop in revenue base.

3. *Structure of the transfer station operations contract.* Shifts of variable costs are largely fiscally neutral. For example, it costs Metro about $14 per ton to transport waste to Columbia Ridge Landfill. This same $14 is a component of the tip fee. If waste shifts to another facility, Metro does not collect the $14. But it also does not incur the $14 cost. This tonnage shift is fiscally neutral. However, the transfer station operations contract has a declining block rate structure. This means that the contractor's rate per-ton increases as the amount of tonnage decreases. Although this per-ton increase is small, it contributes to the phenomenon illustrated in the table above.

4. *Fixed costs.* Metro incurs certain fixed costs for operating the transfer stations (e.g. administration, renewal and replacement of equipment, scalehouse costs). By definition, fixed costs do not vary with tonnage. These costs are recovered through the transaction fee and a $2.55 per-ton component within the tip fee. The revenue from these sources is foregone when tonnage shifts from Metro transfer stations. A typical fix would be to increase the fee to recover the required costs over the smaller revenue base.

5. *Regional services in the transfer station rate base.* The loss of revenue to fund Metro's regional services is the main source of the fiscal impact noted above. This issue is similar to (4) above because the costs of Metro's regional services do not vary with tonnage. However, this fiscal impact is more fundamentally an issue about the current structure of Metro's solid waste rates than about the approval of regional transfer stations. In fact, under the current rate structure, Metro's fiscal position is

quite sensitive to any shift in tonnage, regardless of the cause. Under Metro's traditional rate structure, funding for regional services would be fiscally neutral with respect to tonnage shifts among disposal facilities. This is not the case now. Because of the importance of this issue, and because Council may wish to examine it regardless of the decision on this ordinance, it is discussed in more detail below.

Effect of the Rate Structure on Funding for Regional Services

In order to fix the ideas that follow, we begin with a brief review of Metro's rate structure. Metro has two basic solid waste rates: The Metro Tip Fee and the Regional System Fee. The tip fee is levied only on the tonnage that is delivered to Metro Central and Metro South (700,000 to 750,000 tons annually), and historically was designed to recover the full cost of the transfer stations. The Regional System Fee is levied on all tonnage that is generated in the region and ultimately landfilled (1.1 to 1.3 million tons annually), and historically was designed to recover the full cost of regional services (hazardous waste, waste reduction, etc.).

Under the historical rate structure, Metro's fiscal position was highly insulated from any shift in tonnage. This was because the tip fee was dominated by variable costs, while the Regional System Fee recovered fixed costs. Thus, if tons shifted from the transfer stations, Metro's revenue for transfer and disposal operations would drop, but costs also fell somewhat proportionally. But the tonnage shifts had little effect on revenues to pay for regional services because the Regional System Fee is universal—it is levied on all tonnage regardless of its disposal site.

However, at present, Metro is not operating under its traditional rate structure. This situation emerged in FY 99/00, after the Council approved contract amendments that changed Metro's cost structure (reducing Metro's transport and disposal costs), but decided to leave the tip fee and regional system fee unchanged at $62.50 and $12.90, respectively. At present, $12.90 is not sufficient to recover all of the regional program costs, and the shortfall is made up from tip fee revenues. More specifically, users of non-Metro facilities now pay $12.90 per ton toward regional programs, but users of Metro transfer stations pay an effective rate of approximately $17. Not only is this situation inequitable (users of Metro transfers stations pay proportionally more for regional services than users of non-Metro facilities) but it makes Metro's revenues highly sensitive to shifts in tonnage.

This effect is quantified as follows. Metro collects approximately $17 toward regional programs on each ton that is delivered to Metro Central or South. When that ton shifts to any other facility, Metro collects only $12.90 on the tonnage that is left after material recovery. Thus, Metro incurs a revenue loss of over $4 ($17 - $12.90 = $4.10) for every ton that shifts from Metro to non-Metro facilities, ***simply due to the rate structure.***[6] If

[6] The receiving facility, on the other hand, has a "cost gap" in its favor of almost $2 between its tip fee and its costs, as long as the Regional System Fee remains at $12.90 instead of the uniform $14.75 rate. (Recall

the Regional System Fee were the same over all tonnage—as has been the case historically— then the Regional System Fee would be about $14.75 and there would be no loss due to the shift (except for the revenue foregone on the increase in recycling and a small loss due to the fixed costs of the transfer stations).

In the case of WRI, approximately $256,000 of the gross annualized fiscal impact is due to the rate structure, based on the shift of 64,000 tons from Metro transfer stations ($4/ton 64,000 tons = $256,000).

If Metro responded to the $585,000 fiscal impact by simply raising its rates and making no other changes, these higher rates would translate into real cost increases for customers who continue to use Metro transfer stations, and this would negate most or all of the system cost savings that would be generated by approval of this ordinance.[7]

However, because the current rate structure renders Metro sensitive to tonnage shifts regardless of the reason, it is desirable that the Metro Council examine the rate structure independently of its decision on this ordinance. (Another reason to re-examine the current rate structure is to check if the Council's goal of fiscal equity is being achieved).

Conclusion

There is a fiscal impact to Metro if this ordinance is approved. However, this fiscal impact is greatly magnified by the existing rate structure. This rate structure should be analyzed for revision regardless of the Council's decision on this ordinance. If Metro's historical rate structure is restored prior to FY 02/03, the fiscal impacts of approving this ordinance can be neutralized through a minor rate adjustment beginning in FY 02/03.

Approval of this ordinance will result in a significant reduction in system costs even with these minor increases in Metro rates. For this reason, the findings of the fiscal assessment do not alter staff's recommendation that Ordinance No. 00-886 be approved.

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that the Regional System Fee is a cost to the private facilities because the fee is surcharged only on landfilled waste). Also, the assumption of the system cost analysis that the tip fee reflects the facility costs, masks this benefit in favor of the facility.

[7] This conclusion is based on the assumption that private facilities would not use the "cost gap" (mentioned in the previous footnote) to absorb the increase in the Regional System Fee, but rather would follow Metro's price increase in their own tip fees.